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**Trade Policy Review Body**

**TRADE POLICY REVIEW**

REPORT BY THE SECRETARIAT

CHILE

*Revision*

This report, prepared for the sixth Trade Policy Review of Chile, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Chile on its trade policies and practices.

Any technical questions arising from this report may be addressed to Angelo Silvy, Martha Lara (Tel. 022 739 6033) and Ana Cristina Molina (Tel. 022 739 6060).

Document WT/TPR/G/451 contains the policy statement submitted by Chile.

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**CONTENTS**

<b>SUMMARY .....</b>	<b>7</b>
<b>1 ECONOMIC ENVIRONMENT .....</b>	<b>13</b>
1.1 Economic structure and trends .....	13
1.2 Fiscal policy .....	16
1.3 Monetary and exchange rate policies .....	21
1.4 Balance of payments.....	24
1.5 Merchandise trade and investment flows.....	25
1.5.1 Composition of trade .....	25
1.5.2 Direction of trade.....	26
1.5.3 Trade in services .....	28
1.5.4 Foreign direct investment.....	29
<b>2 TRADE AND INVESTMENT REGIMES.....</b>	<b>34</b>
2.1 General framework .....	34
2.2 Trade policy formulation and objectives .....	36
2.3 Trade agreements and arrangements .....	37
2.3.1 WTO .....	37
2.3.2 Regional and preferential agreements.....	38
2.3.2.1 Regional agreements .....	38
2.3.2.1.1 The Americas.....	38
2.3.2.1.2 Asia and the Pacific.....	39
2.3.2.1.3 Europe.....	40
2.3.2.2 Preferential arrangements .....	40
2.3.3 Other agreements and arrangements.....	40
2.4 Investment regime .....	41
<b>3 TRADE POLICIES AND PRACTICES BY MEASURE.....</b>	<b>46</b>
3.1 Measures directly affecting imports .....	46
3.1.1 Customs procedures, valuation and requirements.....	46
3.1.1.1 Customs procedures and requirements.....	46
3.1.1.2 Trade facilitation .....	49
3.1.1.3 Customs valuation.....	50
3.1.2 Rules of origin .....	51
3.1.3 Tariffs .....	52
3.1.3.1 Structure .....	52
3.1.3.2 Price band system.....	54
3.1.3.3 Tariff bindings .....	55
3.1.3.4 Tariff quotas.....	56
3.1.3.5 Tariff concessions.....	56
3.1.3.6 Preferential tariffs .....	57
3.1.4 Other charges affecting imports .....	59

---

3.1.5	Import prohibitions, restrictions and licensing .....	60
3.1.6	Anti-dumping, countervailing and safeguard measures .....	61
3.1.6.1	Legal framework .....	61
3.1.6.2	Anti-dumping and countervailing measures.....	62
3.1.6.3	Safeguard measures.....	63
3.1.7	Other measures affecting imports .....	64
3.2	Measures directly affecting exports .....	64
3.2.1	Customs procedures and requirements .....	64
3.2.2	Taxes, charges, and levies .....	65
3.2.3	Export prohibitions, restrictions, and licensing.....	65
3.2.4	Export support and promotion .....	65
3.2.4.1	Export support.....	65
3.2.4.2	Export promotion .....	66
3.2.5	Export finance, insurance, and guarantees .....	68
3.3	Measures affecting production and trade.....	69
3.3.1	Incentives .....	69
3.3.1.1	Support for remote areas .....	70
3.3.1.2	Business support.....	71
3.3.2	Standards and other technical requirements .....	74
3.3.2.1	Legal and institutional framework .....	74
3.3.2.2	Technical regulations .....	75
3.3.2.3	Standards .....	77
3.3.2.4	Conformity assessment and certification.....	79
3.3.2.5	Accreditation .....	81
3.3.2.6	Metrology .....	82
3.3.3	Sanitary and phytosanitary measures .....	83
3.3.4	Competition policy and price controls.....	86
3.3.4.1	Legal and institutional framework.....	86
3.3.4.2	Enforcement.....	89
3.3.4.3	Price control .....	91
3.3.5	State trading, state-owned enterprises and privatization.....	92
3.3.5.1	State trading .....	92
3.3.5.2	State-owned enterprises .....	92
3.3.6	Government procurement .....	94
3.3.6.1	Overview .....	94
3.3.6.2	Legal framework and procedures.....	97
3.3.7	Intellectual property rights .....	102
3.3.7.1	Overview .....	102
3.3.7.2	Overall legal framework .....	105
3.3.7.3	Industrial property .....	106

3.3.7.3.1	Legislation.....	106
3.3.7.3.2	Patents, utility models and industrial designs.....	108
3.3.7.3.3	Layout designs or topographies of integrated circuits.....	111
3.3.7.3.4	Trademarks.....	111
3.3.7.3.5	Geographical indications (GI) and appellations of origin (AO).....	112
3.3.7.3.6	New plant varieties.....	112
3.3.7.3.7	Undisclosed information and trade secrets.....	113
3.3.7.4	Copyright.....	113
3.3.7.5	Enforcement.....	115
<b>4</b>	<b>TRADE POLICIES BY SECTOR.....</b>	<b>118</b>
4.1	Agriculture, forestry and fisheries.....	118
4.1.1	Agriculture and forestry.....	118
4.1.1.1	Main features.....	118
4.1.1.2	Measures affecting imports and exports.....	120
4.1.1.2.1	Measures affecting imports.....	120
4.1.1.2.2	Measures affecting exports.....	121
4.1.1.3	Domestic support measures.....	122
4.1.2	Fisheries.....	123
4.2	Mining and energy.....	127
4.2.1	Mining.....	127
4.2.1.1	Main features.....	127
4.2.1.2	Legal and institutional framework.....	129
4.2.1.3	Mining regime.....	130
4.2.2	Energy.....	132
4.2.2.1	Overview.....	132
4.2.2.2	Electricity.....	133
4.2.2.3	Hydrocarbons.....	136
4.3	Manufacturing.....	138
4.4	Services.....	139
4.4.1	Financial services.....	139
4.4.1.1	General characteristics and regulatory and prudential framework.....	139
4.4.1.2	Banking sector.....	144
4.4.1.2.1	General characteristics.....	144
4.4.1.2.2	Legal and institutional framework.....	145
4.4.1.3	Insurance.....	148
4.4.1.3.1	General characteristics.....	148
4.4.1.3.2	Legal and institutional framework.....	148
4.4.1.4	Pension funds.....	151
4.4.1.4.1	General characteristics.....	151
4.4.1.4.2	Legal and institutional framework.....	151

4.4.2 Telecommunications.....	152
4.4.2.1 General characteristics.....	152
4.4.2.2 Legal and institutional framework .....	153
4.4.3 Transport .....	155
4.4.3.1 Air transport.....	155
4.4.3.2 Maritime transport .....	158
<b>5 APPENDIX TABLES .....</b>	<b>161</b>

### CHARTS

Chart 1.1 Merchandise trade by main product, 2015 and 2022 .....	26
Chart 1.2 Merchandise trade by trading partner, 2015 and 2022.....	27
Chart 3.1 TDLC: contentious proceedings by category of conduct at 30 April 2022.....	91
Chart 4.1 Trade, GDP and employment in the agricultural sector, 2015-22 .....	118
Chart 4.2 Institutional framework of the agricultural sector .....	120
Chart 4.3 Mineral product exports and copper prices, 2015-22 .....	128

### TABLES

Table 1.1 Main economic indicators, 2015-22.....	14
Table 1.2 Non-financial operations of the Central Government, 2015-22 .....	19
Table 1.3 Main monetary indicators, 2015-22.....	22
Table 1.4 Balance of payments, 2015-22.....	24
Table 1.5 Trade in services, 2015-22 .....	28
Table 1.6 FDI flows by economic sector, 2015-21 .....	29
Table 1.7 FDI stock by economic sector, 2015-21 .....	30
Table 1.8 FDI flows by country of origin, 2015-21.....	31
Table 1.9 FDI stock by country of origin, 2015-21 .....	32
Table 2.1 Sectors in which FDI is restricted, 2023.....	42
Table 3.1 Goods subject to prior checks before being cleared to enter Chile, 2023.....	47
Table 3.2 Structure of MFN tariffs, 2014 and 2023 .....	52
Table 3.3 Summary analysis of the MFN tariff, 2023 <sup>a</sup> .....	53
Table 3.4 Products subject to price bands, 2023 .....	55
Table 3.5 Summary analysis of preferential tariffs, 2021.....	58
Table 3.6 Additional taxes, June 2023 .....	60
Table 3.7 ProChile: Funds awarded through competitions in 2022 .....	67
Table 3.8 COBEX: beneficiary companies, percentages and maximum amounts guaranteed .....	68
Table 3.9 CORFO foreign trade guarantee operations (COBEX), 2015-22.....	69
Table 3.10 Amounts disbursed by CORFO departments, 2022.....	72
Table 3.11 FOGAPE programmes: percentages and maximum amounts guaranteed according to the value of companies' sales, number of operations and amounts financed .....	73

Table 3.12 FNE: enforcement actions, 2015-23 .....	90
Table 3.13 FNE: Annual statistics on economic mergers, 2017-23.....	90
Table 3.14 List of state-owned enterprises, June 2023 .....	93
Table 3.15 Amounts transacted by government procurement purchasing procedure, 2015-22 .....	95
Table 3.16 Amounts transacted by foreign suppliers, 2015-22 .....	96
Table 3.17 Government procurement thresholds by agreement, 2023.....	96
Table 3.18 WIPO treaties to which Chile is party, 2023.....	102
Table 3.19 Intellectual property rights and administering institutions.....	103
Table 3.20 Applications for industrial property rights received by INAPI, 2015-22 .....	110
Table 4.1 Main indicators in the fisheries sector, 2015-22.....	124
Table 4.2 Types of fisheries regimes, 2022 .....	125
Table 4.3 Main legal instruments regulating the mining sector .....	129
Table 4.4 Manufacturing sector GDP, 2015-22.....	138
Table 4.5 Telecommunications indicators, 2014 and 2022 .....	152
Table 4.6 Main legal instruments regulating the air transport sector .....	155
Table 4.7 Main legal instruments on maritime transport and ports.....	158

### BOXES

Box 1.1 Chile: legal and administrative tax- and labour-related measures in the context of the COVID-19 pandemic, 2020-21 .....	17
Box 2.1 Legislative process in Chile, 2023 .....	35
Box 3.1 Principal laws governing the sanitary and phytosanitary system, 2023 .....	83
Box 3.2 Main points of Law No. 21.355 .....	106

### APPENDIX TABLES

Table A1.1 Merchandise exports by HS section, 2015-22 .....	161
Table A1.2 Merchandise imports by HS section, 2015-22 .....	163
Table A1.3 Merchandise exports by trading partner, 2015-22 .....	165
Table A1.4 Merchandise imports by trading partner, 2015-22 .....	166
Table A2.1 Chile's most recent notifications to the WTO, July 2023.....	167
Table A2.2 Chile's current trade agreements, July 2023.....	169
Table A3.1 Summary analysis of the MFN tariff excluding <i>ad valorem</i> equivalents, 2023.....	170
Table A4.1 Main agricultural exports and imports, 2015-22 .....	171
Table A4.2 Imports of products subject to price bands, 2015-22 .....	172
Table A4.3 List of agricultural support programmes notified to the WTO, 2022 .....	173
Table A4.4 Air rights agreements signed by Chile during the 2015-22 period .....	174

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## SUMMARY

1. Since its last review in 2015, Chile has continued to pursue a stable trade policy, based on open trade, both at the multilateral and regional levels. At the same time, and without deviating from its basic principles of openness, Chile's trade policy has been adapting to current global challenges, such as technological, energy and environmental challenges. This is reflected in the reforms made to its legislation and regulations, as well as the introduction of the institutional and procedural changes needed to implement these reforms.

2. The Chilean economy has benefited greatly from its openness and integration into the world economy. Chile's GDP per capita is one of the highest in Latin America, reaching USD 15,164 in 2022. The economy grew steadily between 2014 and 2019, with an average annual GDP growth rate of 2%. As was the case for the rest of the world, the Chilean economy was hit hard by the COVID-19 pandemic in 2020, which caused GDP to shrink by 6.1%. However, Chile's economy quickly returned to growth and, in 2021, real GDP was up 11.7%, exceeding pre-pandemic levels. This was partly the result of substantial fiscal transfers and the consequent uptick in domestic demand. In 2022, GDP growth returned to the average seen between 2014 and 2018, although inflation accelerated. The authorities responded by adopting a contractionary monetary and fiscal policy to restore macroeconomic balance and thus address the hike in inflation. In the light of the impact of these policies, real GDP is expected to contract slightly in 2023.

3. For more than a decade, Chile has been pursuing a fiscal policy aimed at achieving structural balance and fiscal stability in the medium term. This policy resulted in moderate central government deficits in the period 2015-19, of between 1.7% and 2.9% of GDP. A tax reform was approved in 2020, which included higher maximum effective tax rates. At the same time, the fiscal accounts deteriorated due to the adoption of support measures to mitigate the effects of the COVID-19 pandemic, worth an estimated USD 40 billion between 2020 and 2021, which, together with a fall in receipts due to the slowdown in economic activity, pushed the central government deficit up to 7.3% of GDP in 2020 and to 7.7% of GDP in 2021. In 2022, Chile returned to the path of fiscal consolidation; the spending cuts, which were accompanied by higher revenues, produced a central government surplus of 1.1% of GDP. The proposed new tax reform was introduced in 2023, which sets out, *inter alia*, to raise taxes, combat tax avoidance and evasion and informality, and increase fiscal efficiency.

4. Chile is implementing a monetary policy strategy with medium-term inflation targets and a flexible exchange rate policy. The inflation target projected over a two-year horizon is 3%. This strategy was not modified during the review period. A stable or moderately contractionary policy was adopted between 2015 and 2019. However, as of March 2020, the policy took an accommodative direction to counter the impact of the pandemic on the economy. This pushed up inflation and led to 11 successive increases in the monetary policy rate between July 2021 and October 2022. Consequently, after peaking at 14.1% in August 2022, inflation fell to 6.5% year-on-year in July 2023.

5. The balance of trade in goods was in surplus in each year of the period under review. This trade surplus trended upwards between 2015 and 2017, before declining in 2018 and 2019, mainly due to lower copper exports. The larger surplus recorded in 2020 (USD 18,917 million) was primarily the result of the sharp drop in imports caused by the COVID-19 pandemic and the increase in exports. In 2022, the rise in imports of goods shrank the trade surplus from USD 10,470 million in 2021 to USD 3,807 million. Chile has traditionally recorded a deficit in the balances of services and income. The deficit in the balance of services narrowed in 2020, but grew again in 2021 and 2022. As a consequence, the balance-of-payments current account recorded a deficit in each year of the period under review. The current account deficit fell to USD 4,952 million in 2020, but rose to USD 23,193 million (7.5% of GDP) in 2021 and to USD 27,102 million (9.0% of GDP) in 2022, reflecting the growth in imports.

6. Imports of goods grew faster (68.7% in USD) than exports (56.9%) during the period 2015-22. Goods exports mainly consist of agricultural products (wine, fruit, salmon and other fish, and forestry products), and primary and processed mining products. Mining products and base metals accounted for 52.7% of goods exports in 2022, and were concentrated in copper ore and refined copper, which together made up 45.3% of exports. The share of lithium exports in total exports grew from 1.3% in 2021 to 8.2% in 2022. Agricultural products (WTO classification) accounted for 21.9% of total exports in 2022. Among imports, the leading category was machinery

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and transport equipment, accounting for 30.4% of the total in 2022. The share of mineral products in total imports rose to 23.2% in 2022, mainly due to the increase in fuel prices. The main export markets in 2022 were China (39.4% of the total), the United States (13.9%), followed by the European Union (7.8%) and Japan (7.6%). China continued to be the main source of imports, with 25.3% of the total in 2022, followed by the United States (20.9%), the European Union (11.1%), Brazil and Argentina

7. Foreign direct investment (FDI) plays an extremely important role in the Chilean economy. During the period under review, Chile continued to receive large FDI flows. According to the information provided by the authorities, FDI inflows to Chile between 2015 and 2021 amounted to USD 80,345 million, and were distributed as follows: the electricity, gas and water sector (36.4%), the mining sector (20.2%), the financial services sector (19.3%) and the commerce sector (7.5%) Chile was also a dynamic investor abroad, with outward FDI of around USD 59,613 million between 2015 and 2021.

8. Chile is a founding Member of the WTO and grants at least most-favoured nation treatment to all its trading partners. Chile's trade policy has been reviewed five times within the GATT/WTO framework, most recently in 2015. During the review period, Chile participated actively in the work and discussions of the WTO, as well as various joint initiatives, including the Joint Initiative on Investment Facilitation for Development, which it co-coordinates. It also co-sponsored the Statement on Trade and Environmental Sustainability, and participated in the Informal Working Groups on Micro, Small and Medium-Sized Enterprises (MSMEs) and on Trade and Gender. Chile is not a party to the Information Technology Agreement or the Agreement on Government Procurement, although it has the status of observer in the Committee on Government Procurement. The Agreement on Fisheries Subsidies was in the process of domestic ratification at the time of writing this report.

9. During the period under review, Chile regularly submitted notifications under the various WTO Agreements. As of July 2023, it was almost entirely up to date, with a few exceptions. Since its last review, Chile has not taken part as a complainant or respondent in any case under the WTO dispute settlement mechanism, although it did participate as a third party in six cases. Chile is part of the Multi Party Interim Appeal Arbitration Arrangement.

10. Trade policy is formulated by the executive branch. During the review period, institutional changes were made in this area, including the creation of the Under-Secretariat for International Economic Relations (SUBREI), which took over responsibility for implementing and coordinating policy in the sphere of international economic relations from the former Directorate General of International Economic Relations (DIRECON). The General Directorate for Export Promotion (ProChile), attached to SUBREI, was also established.

11. Chile continues to pursue an open trade strategy based on both multilateralism and regionalism, which it considers complementary to multilateral initiatives. Chile has 32 trade agreements covering more than 60 economies and, in some cases, that go beyond market liberalization and include initiatives focused on issues such as digital markets, e-commerce, regional and global value chains, the environment, gender and MSMEs. During the review period, Chile concluded new agreements, initiated negotiations to extend and update existing agreements, and liaised with countries with a view to entering into new trade agreements.

12. Chile's current FDI policy seeks to increase incoming investment flows and reduce their concentration in the primary sector. The legal and institutional framework for foreign investment was modified during the review period, including the enactment of the law creating the Foreign Investment Promotion Agency (InvestChile). FDI does not require prior authorization and there are no restrictions on foreign equity participation in the vast majority of economic sectors. The foreign investment regime guarantees foreign investors the option to remit abroad the capital transferred and net profits generated by their investments. In addition, an exemption from VAT is granted for the import of capital goods intended for investment projects valued at over USD 5 million in certain sectors. This exemption also applies to domestic investors. Foreign investors enjoy national treatment, as guaranteed by law, and are subject to the same legal regime as domestic investors. Meanwhile, the new regime no longer allows for the tax invariability that was granted to foreign investors via contracts with the State, meaning that the same conditions now apply to foreign and domestic investors.



13. During the period under review, Chile continued its Customs modernization and trade facilitation efforts. Chile ratified the WTO Trade Facilitation Agreement (TFA) in November 2016, having notified all provisions of the Agreement under Category A with immediate effect upon the entry into force of the TFA. In 2017, Chile amended customs legislation to simplify customs processes and bring the legislation into line with the provisions of the TFA. The main reforms included: the possibility to withdraw goods from Customs without paying duties upon providing a payment guarantee; the establishment of tax warehouses as a customs destination; improvements to the temporary admission for inward processing regime; and the establishment of the Authorized Economic Operator (AEO) concept. The AEO programme was launched in January 2018. By June 2023, 9 importers, 8 exporters and 30 customs agents had been certified as AEOs. The Integrated Foreign Trade System (SICEX) is a single window that facilitates the electronic processing of import and export operations. The export module became operational in 2016, and work on implementing the import module has been under way since 2018. It is expected to be completed in 2024.

14. Chile maintains a flat tariff structure, with two *ad valorem* rates: 0% and 6%, without taking into account the tariff levels that would result from applying the price band system. A tariff of 6% is applied to almost 99.6% of the tariff lines, while the 0% rate is applied to just 38 lines at the eight-digit level of HS 2022 (mostly machinery and some means of transport). The average MFN tariff was 5.9% in 2023, if price bands are taken into consideration, and 5.8% for agricultural products. Chile uses a price band system based on international reference prices for imports of wheat, wheat flour and sugar, which is an automatic mechanism for adjusting tariffs in line with international price variations. Chile also continues to set an MFN tariff quota of 60,000 tonnes per year for refined sugar, with an in-quota tariff of 0% and an out-of-quota tariff that is applied using the price band system. Chile applies a zero tariff on all products originating from least developed countries (LDCs), except in the case of wheat, wheat flour and sugars. The average preferential tariff in the agreements negotiated by Chile ranges between 0% and 1%.

15. All goods, domestic and imported, are subject to VAT. In addition, from 1 January 2023, VAT is levied on all services, with the exception of services provided by natural persons that issue *boletas de honorarios* (invoices for services rendered); passenger transport services; education services; outpatient health services; and the income of professional partnerships. Imports of used goods are subject to payment of a 50% surcharge on the general tariff. Additional taxes are levied on certain domestic and imported products. This is the case for luxury products, alcoholic and non-alcoholic beverages and like products, tobacco and fuel.

16. Imports into Chile of certain goods are subject to prior checks, by means of authorizations, certifications, endorsements or approvals. Prior checks are carried out mainly to protect human, animal and plant health, for environmental or public safety reasons, and to comply with international agreements. Chilean legislation does not permit the imposition of quotas for imports or exports.

17. Chile is not a frequent user of trade defence measures. Between January 2015 and December 2022, Chile initiated eight anti-dumping investigations, most of which concerned steel products, with five resulting in the imposition of definitive duties. With regard to safeguards, Chile initiated five investigations and in only one case did it apply measures. During the same period, Chile did not initiate any subsidies investigations and notified the WTO that it had not adopted any countervailing duties. As of late June 2023, Chile was not applying any anti-dumping duties and had no investigations under way.

18. By law, exportation does not require the payment of duties. Moreover, goods exports are exempt from VAT, as are services provided to persons not domiciled or resident in Chile. Exporters of goods may recover any VAT paid when purchasing goods or using services for their export activities, in addition to any paid when importing goods used to manufacture products to be exported. Chile continues to operate a number of export promotion programmes, which essentially consist of tariff concessions in the form of a customs duty drawback scheme. From January 2015 to December 2022, an amount equivalent to USD 40.7 million was returned to exporters under this scheme. The Directorate-General of Export Promotion (ProChile) offers various services and programmes to exporters, including co-financing, to bolster the range of goods and services for export, and to promote the internationalization of companies. The Chilean Economic Development Agency (CORFO) runs a programme that guarantees a percentage of the loans used to finance the investments or working capital of companies that export or are involved in foreign trade.

19. Chile continues to pursue various incentive programmes in order to promote investment and the economy in remote areas of the country; support MSMEs; boost competitiveness and production diversification; and foster innovation and new technologies. Incentives may include tax concessions, financing, technical training or business management support. There are numerous business support programmes, the majority of which are administered by CORFO. In many cases, resources are awarded through calls for tenders, which are launched regularly. In addition, through the General Investment Guarantee Fund (FOGAIN), CORFO provides risk coverage to financial institutions that grant loans to companies. MSMEs are also eligible to access the Small Business Guarantee Fund (FOGAPE). During the period under review, Chile notified the WTO Committee on Subsidies and Countervailing Measures of programmes for regional support, free trade zones and financing to promote the development of artisanal fisheries and small-scale aquaculture. The free trade zones located in the cities of Iquique and Punta Arenas enjoy tax and customs benefits. Firms engaged in all types of activities, with the exception of mining, fishing and financial services firms, may benefit from the free zone regime.

20. The procedures for the preparation, adoption and application of technical regulations and conformity assessment are not centralized, rather they are the responsibility of the respective empowered ministries or agencies, which are required to publish such measures on their websites. Technical regulations and conformity assessment procedures should be based, as far as possible, on international standards and should accord to imported products treatment no less favourable than that accorded to like products of national origin. Between January 2015 and early March 2023, Chile submitted 535 notifications to the WTO Committee on Technical Barriers to Trade, of which 328 were new notifications and the remainder addenda or corrigenda. The objective of the majority of the technical regulations notified was protection of human health or safety, and they mainly concerned foodstuffs, household appliances, building materials, vehicles, toys, pharmaceutical products and cosmetics. With regard to sanitary and phytosanitary (SPS) measures, the drafting process begins when the need to update an existing measure is identified or when a sanitary event occurs that requires a new regulation. Draft SPS measures are drawn up by technical committees and are based, in general, on international standards. Most of the SPS measures notified to the WTO over the period 2015-22 are based on international standards. If a risk assessment reveals the need for more stringent regulations than the international ones, the regulations are drafted internally. Between January 2015 and December 2023, Chile submitted 444 notifications to the WTO's SPS Committee.

21. During the period under review, Chile's legal framework regarding competition underwent reforms aimed at aligning national regulations with international standards. The reforms introduced include: the establishment of a preventive and mandatory control system for mergers that exceed certain thresholds; the tightening of sanctions against collusive practices, including the reintroduction of criminal liability for offenders; new compensation mechanisms for damages; additional powers for competition authorities; and institutional and procedural improvements. The acquisition of a stake of more than 10% of the capital of a competing company, above a certain threshold, must now also be notified. With the establishment of a regime of prior and mandatory control of mergers, it is expected that greater legal certainty will be given to all those involved in these operations and that the interest of consumers will be protected. From June 2017 to March 2023, the National Economic Prosecutor's Office (FNE), charged with investigating mergers, received 241 prior notifications of concentrations and initiated 218 investigations.

22. Chile is an observer in the WTO Committee on Government Procurement and has accepted commitments on government procurement under the trade agreements it has concluded. The Government Procurement and Contracts System is based on a best practices mechanism. The primary legislation governs central government agencies, regional and provincial governments, and municipalities. Meanwhile, procurement by state-owned enterprises and for public works is governed by the relevant regulations. There is no provision in Chile's legislation for margins of preference for national suppliers. Nor is there any discrimination whatsoever between products, services or suppliers on the basis of origin. The procurement policy seeks to simplify, digitalize and interconnect government procurement management processes with a view to making savings and better use of time. In 2022, procurement by the Chilean Government (excluding state-owned enterprises) was equivalent to 5.0% of GDP. In value terms, 70% of procurement contracts were awarded by tender, the mandatory method to be used for transactions above a certain threshold, except in exceptional cases where private tendering or direct contracting is justified. Low-value procurement uses framework contracts and the *Compra Ágil* module, adopted in 2020.

23. Since its last review, Chile has introduced significant legislative reforms aimed at strengthening its intellectual property system, and aligning it with international commitments and international best practices. In particular, in 2021, substantial reforms were introduced to industrial property legislation in order to update it. These changes, which came into force in May 2022, relate, *inter alia*, to the introduction of provisional patent applications, exceptions to patentability, the expiration of unused trademarks, the registration of trademarks for industrial property, a broader definition of trade secrets, and changes to the regulations applicable to geographical indications and appellations of origin. The possibility of imposing prison sentences for infringement of industrial property rights was also introduced.

24. Agricultural remains a key sector for Chile, in terms of its contribution to employment and exports. The main crops are cereals and fruit, which are the main export products. Fruit production has a comparative advantage thanks to off-season production in relation to northern hemisphere markets. Agricultural policy is organized around various key areas, including the climate emergency, sustainability, food sovereignty, competitiveness based on innovation and foreign trade. Chile notified the WTO that it had not granted any export subsidies for agricultural products during the period 2015–22. The agricultural sector support policy is mainly aimed at small and medium-sized producers. Chile has notified the WTO of several domestic support programmes implemented during the period 2015–22, mainly under the Green Box. In April 2022, the *Siembra por Chile* programme was set up, with a view to ensuring food security and mitigating the recent rise in input prices.

25. Chile is among the world's top 10 largest capture fisheries producers. Fishery products are its third largest export item after mining products and fruit. Most of the exports in value terms came from aquaculture (particularly salmon) and the rest from capture fisheries. Access to these activities is regulated through permits in the case of fisheries, and through concessions in the case of aquaculture. Chilean nationals, foreign nationals with permanent residence in Chile, and legal entities legally constituted in the country, may participate in these activities. The permit system covers three regimes: (i) the regime for fisheries in a state of full exploitation; (ii) fisheries under the recovery or incipient development regime; and (iii) the general regime for fisheries with closed access. Holders of fishery authorizations, licences and permits are subject to the payment of a licence fee for each vessel engaged in extractive fishing activities. Vessels registered in Chile must be used for industrial fishery activities.

26. Mining remains the backbone of the national economy. Chile is the world's top producer of copper and iodine, the second-largest producer of molybdenum and the fourth-largest producer of silver. Mining, led by copper, accounted for more than half of Chile's total merchandise exports in 2022. The State is the sole owner of all minerals in its territory, although it allows domestic or foreign companies to carry out activities in the sector through a system of mining concessions, or administrative concessions and special operating contracts in the case of hydrocarbons and lithium. The State has a large presence in the mining sector, through two state-owned enterprises: the National Copper Corporation (CODELCO) for large-scale mining; and the National Mining Company (ENAMI) for small and medium-scale mining. During the period under review, Chile adopted the National Lithium Strategy and created two CODELCO subsidiaries focused on lithium. Chile has a copper reserve for the domestic manufacturing industry to ensure its supply; in 2022, nine companies obtained supplies from this reserve. The National Mining Policy 2050, adopted in 2022, seeks to modernize the mining legal framework and achieve carbon neutrality in the sector by 2040. In May 2023, the National Congress approved a draft law establishing a new mining royalty for companies with annual copper sales above a certain limit, composed of an *ad valorem* tax of 1% on sales and an *ad valorem* tax of between 8% and 26% on mine operating income. At the time of writing, the law had yet to be passed. In 2018, Chile implemented the Copper Price Stabilization Fund for Small-scale Mining to mitigate the fluctuations in prices for small producers, with an initial contribution of USD 50 million. Through the Fund, ENAMI finances part of the difference between the international price and the "stabilization price" set by the Ministry of Finance, if the latter is higher.

27. During the review period, Chile significantly increased its capacity to generate electricity from renewable sources, mainly solar and wind, and continued to promote the incorporation of this type of energy into its energy matrix. The objectives of the national policy, Energy 2050, include ensuring that at least 80% of the electricity produced in the country comes from renewable sources by 2030 and 100% by 2050. To make progress in meeting these objectives, Chile adopted the Electricity Matrix Decarbonization Plan in 2019, supplemented by the Just Energy Transition Strategy in 2021, which sets out the process of decommissioning 28 coal-fired power plants in the country by 2040.

As of December 2022, eight had been closed. The National Green Hydrogen Strategy was approved in 2022, which aims to ensure that all new light and medium-sized vehicles sold in Chile by 2035 are electric. Similarly, the Framework Law on Climate Change was adopted in June 2022, which sets the objective of achieving carbon neutrality by 2050.

28. The manufacturing sector's main activities are the manufacture of food; fuels and chemicals, plastics and rubber; and machinery, equipment and metal products. Chile is a net importer of manufactured products, however exports outperformed imports during the period 2015-22. The MFN tariff applied to manufactured products is 6%, except for 38 duty-free tariff lines that mostly refer to transport equipment.

29. Chile has a diversified financial sector with a high degree of financial intermediation and a strong presence of financial conglomerates. During the review period, Chile continued to amend its rules on banking supervision and regulation to meet the Basel III criteria. During the same period, the supervision of the banking sector, insurance and the securities market fell to one entity, while pension funds continued to be supervised by a separate entity. In order to operate in the Chilean market, foreign banking and insurance companies must be set up as *sociedades anónimas especiales* ("special corporations") or establish branches with separate capital. In Chile, foreign insurance companies may directly market international maritime transport insurance, international commercial aviation insurance and insurance for goods in transit, on a reciprocal basis. Chile requires all financial institutions to apply a maximum interest rate on consumer credit. The Fintech Law was introduced in 2023, which establishes a general framework to incentivize the provision of financial services by technological means. Only legal persons entered in the Register of Financial Service Providers may provide services regulated by law. International companies must be domiciled in Chile.

30. The telecommunications sector, except for free-to-air television services, is entirely privately operated. The telecommunications policy seeks to promote equitable and inclusive access to telecommunications, so as to narrow the digital divide; improve the quality of telecommunications services; increase competition in the sector; and encourage investment in high-capacity, high-speed convergent infrastructure. The law enshrines free and equal access to the use of the radio spectrum, which is granted through concessions, permits or licences for use. The law also establishes pricing freedom as the general rule, except where the Competition Tribunal (TDLC) rules that the conditions to ensure pricing freedom in that market are not met. In the case of interconnections that allow network interoperability, tariffs are regulated.

31. Chile maintains an open skies policy that allows free entry to the market and the freedom to set prices. Foreign companies are permitted to engage in cabotage, without requiring reciprocity. Scheduled international services are allocated through a public tender process, for a period of five years. Domestic routes are not subject to any allocation or tendering process. Air transport companies are free to set the rates for domestic and international flights, but must register them with the Civil Aeronautics Board (JAC). Airports are state-owned but may be built and managed by private (domestic or foreign) companies under public works concessions awarded by public tender. All international airports, except one, are operated under concessions.

32. Maritime transport plays a key role in Chile's international trade, as it carried 89.5% of exports and 77.3% of imports in 2022. The country has 72 ports, 13 of which are state-owned. The law allows the operation of public ports and the provision of related services to be delegated to private entities, domestic or foreign, through a bidding process. International cargo transport services may be provided by both domestic and foreign companies on the basis of the principle of reciprocity. Maritime cabotage services are generally reserved to ships registered in Chile, and the State may grant subsidies to Chilean shipping companies when a service is required that is not available in the market. However, foreign vessels may undertake maritime cabotage activities under certain circumstances, as specified by law. Similarly, since 2019, Chile has allowed foreign-flag vessels with carrying capacity of more than 400 passengers to provide cabotage services for tourism purposes. Provisions were adopted in 2021 to streamline the implementation of the maritime single window (VUMAR), introduced in 2018.

## 1 ECONOMIC ENVIRONMENT

### 1.1 Economic structure and trends

1.1. The Chilean economy continues to depend heavily on the mining sector, particularly copper mining. The share of this sector in current GDP experienced significant changes during the period under review, which were mostly a reflection of the fluctuation in international prices of copper and other minerals. This is a common trend in Chile as previous reports have already indicated. During the period under review, in addition to this trend there was the impact of the pandemic, which affected other sectors of the economy, in particular services and construction, to a greater extent than mining. As a result, the share of the mining sector in current GDP was 14.2% in 2022, compared with 7.9% in 2015 (Table 1.1). Copper mining accounted for 10.9% of GDP in 2022 compared with 7.2% in 2015. However, the share of copper mining in mining GDP shrank during the period under review, down from 91.1% in 2015 to 76.8% in 2022. This was due to the fact that the drop in the volume of copper produced in 2022 was greater than the decline in production of other minerals.<sup>1</sup>

1.2. The manufacturing sector's share of GDP decreased during the review period from 10.4% in 2015 to 9.7% in 2022. The sector's output fell sharply during the pandemic, particularly in 2021. The share of agriculture in GDP also contracted slightly during the review period, from 3.3% in 2015 to 2.8% in 2021, mainly as a result of reduced activity due to the pandemic and recurrent droughts (Section 4.1). Services' share of GDP declined from 58.3% in 2014 to 54.3% in 2022, mainly because of the pandemic, which led to a decrease in the share of transport, business, and restaurant and hotel services.

1.3. After growing at an average annual rate of 2.2% between 2014 and 2018, real GDP growth slowed in 2019, when it was just 0.7% as a result of the decline in mining and industrial production. In 2020, the Chilean economy was hit hard by the COVID-19 pandemic, which caused all economic sectors to contract in terms of supply, as did all components of GDP by expenditure category, with GDP shrinking by 6.1% and aggregate demand by 9.4% (see below). In 2021, the Chilean economy experienced real GDP growth of 11.7%, which exceeded pre-pandemic levels and trend GDP growth (Table 1.1).<sup>2</sup> According to the authorities, the Chilean economy grew at an accelerated rate as a result of massive fiscal transfers and withdrawals from pension funds, which added liquidity equivalent to some 35% of GDP to the economy and which financed a large proportion of private consumption.<sup>3</sup> In addition to this, lending displayed countercyclical behaviour.<sup>4</sup> The economy's performance in 2021 was a reflection of its gradual re-opening and of the fact that households and companies had better adapted to the health situation and the evolution of that situation over the year. In 2022, growth returned to the average level observed between 2014 and 2018, mainly as a result of the contractionary monetary and fiscal policy adopted to restore macroeconomic balance and thus address the hike in inflation (see below). In the light of the monetary policy's strong contractionary impact and the end of the financial incentives granted during the pandemic, it is expected that real GDP will contract slightly in 2023.<sup>5</sup>

1.4. Chile's GDP per capita is one of the highest in Latin America. Although GDP contracted in 2020 as a result of the pandemic's negative effects, in 2021, it recovered significantly thanks to the high rate of real GDP growth. In 2022, GDP per capita increased to USD 15,164. The International Monetary Fund (IMF) estimates Chile's GDP per capita in purchasing power parity terms at USD 29,083 for 2022.<sup>6</sup>

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<sup>1</sup> Mining Council (2023), *Cifras Actualizadas de la Minería*. Viewed at: <https://consejominero.cl/mineria-en-chile/cifras-actualizadas-de-la-mineria/>.

<sup>2</sup> Central Bank of Chile (BCCCh) (2022), *Cuentas Nacionales de Chile 2018 – 2021*. Viewed at: [https://si3.bcentral.cl/estadisticas/Principal1/informes/AnuarioCCNN/pdf/ANUARIO\\_CCNN\\_2021.pdf](https://si3.bcentral.cl/estadisticas/Principal1/informes/AnuarioCCNN/pdf/ANUARIO_CCNN_2021.pdf).

<sup>3</sup> Ministry of Finance (2022), *Estado de la Hacienda Pública 2022*. Viewed at: <https://biblio.hacienda.cl/estado-de-la-hacienda-publica/escenario-macroeconomico>.

<sup>4</sup> Ministry of Finance (2022), *Estado de la Hacienda Pública 2022*. Viewed at: <https://biblio.hacienda.cl/estado-de-la-hacienda-publica/escenario-macroeconomico>.

<sup>5</sup> Information from the International Monetary Fund (IMF). Viewed at: <https://www.imf.org/en/Countries/CHL>.

<sup>6</sup> Information from the IMF. Viewed at: <https://www.imf.org/en/Publications/WEO/weo-database/2023/April/weo-report?c=228,&s=PPPPC,&sy=2022&ey=2022&ssm=0&scsm=1&sc=0&ssd=1&ssc=0&sic=0&sort=country&ds=&br=1>.

Table 1.1 Main economic indicators, 2015-22

	2015	2016	2017	2018	2019	2020	2021	2022
GDP at current prices (CLP billion)	158,623	168,765	179,315	189,435	195,752	201,429	240,371	262,593
GDP at current prices (USD billion)	242	249	276	295	278	254	317	301
GDP at constant prices (CLP billion, chain-linked volume at previous year's prices)	176,630	179,726	182,166	189,435	190,843	179,115	200,138	205,023
Real GDP (annual growth rate)	2.2	1.8	1.4	4.0	0.7	-6.1	11.7	2.4
GDP per capita (USD)	13,493	13,723	15,004	15,754	14,575	13,058	16,095	15,164
<b>Share of GDP by activity (% of GDP at current prices)</b>								
Crop and animal production and forestry	3.3	3.6	3.4	3.2	3.2	3.6	3.1	2.8
Fishing	0.4	0.6	0.8	0.7	0.8	0.5	0.6	0.7
Mining	7.9	7.4	9.0	8.9	8.2	11.6	14.4	14.2
Mining of copper	7.2	6.4	8.0	7.9	7.3	10.5	13.1	10.9
Other mining	0.8	0.9	0.9	1.0	0.9	1.1	1.3	3.4
Manufacturing	10.4	9.7	9.2	9.6	9.0	9.0	8.6	9.7
Food products, beverages and tobacco products	3.8	3.6	3.4	3.7	3.6	3.7	3.3	3.9
Food products	2.8	2.7	2.7	2.8	2.7	2.8	2.4	3.0
Beverages and tobacco products	1.0	0.8	0.7	0.9	0.9	0.9	0.9	0.8
Textiles, apparel, leather and footwear	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.1
Wood and furniture	0.8	0.7	0.7	0.6	0.6	0.6	0.6	0.6
Cellulose, paper and printed matter	0.9	0.8	0.8	1.0	0.7	0.6	0.7	0.7
Chemicals, petroleum products, rubber and plastics	2.4	2.0	1.8	1.8	1.7	1.8	1.8	2.4
Non-metallic mineral products and base metals	0.6	0.5	0.5	0.5	0.5	0.5	0.6	0.5
Metal products, machinery and equipment, other	1.8	1.8	1.8	1.7	1.7	1.7	1.5	1.6
Electricity, gas and water supply and waste management	3.0	3.1	3.1	2.9	3.2	3.3	2.5	2.1
Construction	6.5	6.5	6.1	6.5	6.8	6.0	5.9	5.9
Services	58.3	59.0	58.3	58.0	58.8	56.3	54.4	54.3
Commerce, restaurants and hotels	11.4	11.6	11.6	11.4	11.1	10.2	11.3	10.6
Commerce	9.5	9.7	9.6	9.2	8.9	9.0	9.8	8.8
Restaurants and hotels	1.9	1.9	2.0	2.1	2.2	1.2	1.4	1.8
Transportation	6.5	6.4	6.1	5.7	5.7	4.8	4.8	4.5
Communication and information services	3.2	3.0	2.9	2.8	2.8	2.7	2.6	2.6
Financial and business services	14.1	13.8	13.2	13.5	13.7	13.5	12.0	12.2
Financial services	4.3	4.3	4.2	4.4	4.2	4.7	3.5	3.0
Business services	9.8	9.5	9.0	9.1	9.5	8.9	8.5	9.1
Housing and real estate services	7.4	7.5	7.8	7.7	7.9	8.0	7.5	8.0
Personal services	11.1	11.8	11.9	12.2	12.7	12.1	11.8	12.1
Public administration	4.6	4.8	4.8	4.8	4.9	5.0	4.5	4.3
GDP at factor cost	89.9	90.0	89.9	89.8	90.0	90.2	89.4	89.8
Taxes on products	10.1	10.0	10.1	10.2	10.0	9.8	10.6	10.2
<b>GDP by expenditure category (real growth rate)<sup>c</sup></b>								
Domestic demand	2.7	1.9	2.9	5.0	0.9	-9.4	21.7	2.3
Total consumption		4.1	3.8	3.6	0.7	-6.6	19.3	3.1
Consumption of households and non-profit institutions serving households (NPISH) <sup>a</sup>	2.4	3.3	3.6	3.8	0.7	-7.4	20.8	2.9
Durable goods	1.3	5.5	11.0	6.1	-4.5	3.7	44.1	-16.0
Non-durable goods	2.4	2.6	3.5	2.4	-0.2	-0.1	18.6	-0.7
Services	2.6	3.5	2.1	4.5	2.6	-15.6	18.0	11.9
Government consumption	5.0	7.6	4.7	3.1	0.6	-3.5	13.8	4.1
Gross fixed capital formation	0.1	-2.4	-3.3	6.5	4.5	-10.8	15.7	2.8
Construction and other works	3.5	-2.2	-6.0	4.4	5.2	-10.1	11.2	2.5
Machinery and equipment	-6.0	-2.6	1.8	10.3	3.2	-12.1	23.2	3.3
Exports of goods and services	-2.3	0.6	-1.0	4.9	-2.5	-0.9	-1.4	1.4
Exports of goods	-1.9	0.5	-1.9	5.9	-2.2	2.9	-0.9	-1.4
Crop and animal production, forestry and fishing	4.9	15.3	-5.6	17.0	2.4	-3.0	8.7	5.2
Mining	-0.4	-3.1	-3.1	4.9	-2.4	3.9	-2.4	-3.8
Copper	-0.4	-3.2	-3.3	5.0	-1.2	1.3	-3.2	-5.6
Other	-0.6	-1.6	-1.5	2.8	-15.4	34.0	6.0	13.8
Industry	-5.2	2.2	0.7	4.9	-3.0	3.0	-0.8	1.7
Exports of services	-5.5	1.4	5.2	-2.5	-5.0	-30.7	-7.4	43.8
Imports of goods and services	-0.9	1.2	4.5	8.6	-1.7	-12.3	31.8	0.9
Imports of goods	-0.7	1.2	4.9	8.6	-2.1	-9.8	35.4	-1.6
Crop and animal production, forestry and fishing	4.6	1.5	11.2	13.7	0.3	20.4	-1.3	-8.4
Mining	-6.0	7.5	0.0	2.8	4.4	-9.0	13.7	-12.3
Industry	0.0	0.6	5.2	9.1	-2.9	-10.5	38.4	-0.3
Imports of services	-2.1	1.1	2.1	8.7	0.5	-26.1	9.1	21.8
<b>Employment</b>								
Unemployment rate (%)	6.4	6.6	6.9	7.3	7.2	10.6	9.1	7.8
Labour force, population aged 15 years and over (thousands of persons)	8,855	8,996	9,241	9,484	9,671	8,808	9,109	9,619
<b>Employment by branch of economic activity (% of total)</b>								
Crop and animal production, forestry and fishing	8.2	8.3	8.1	8.0	7.7	7.1	6.4	6.1
Mining and quarrying	3.0	2.5	2.4	2.5	2.6	2.6	2.6	3.0
Manufacturing	11.2	10.7	10.7	10.4	9.8	10.1	9.9	9.9
Electricity, gas, steam and air conditioning supply	0.5	0.5	0.5	0.5	0.5	0.6	0.6	0.5
Water supply; sewerage, waste management and remediation activities	0.5	0.6	0.6	0.5	0.6	0.8	0.7	0.7
Construction	8.6	8.9	8.4	8.4	8.6	7.9	9.0	8.8
Services	67.9	68.6	69.2	69.7	70.2	70.6	70.4	70.8
Commerce	19.1	19.4	19.4	18.9	19.2	18.8	19.1	19.1
Restaurants and hotels	4.2	4.6	4.5	5.0	5.0	3.8	4.1	4.4
Transportation and storage	6.4	6.5	6.5	6.7	6.4	6.1	6.1	6.2

	2015	2016	2017	2018	2019	2020	2021	2022
Information and communication	1.9	1.8	2.0	2.0	1.8	2.0	2.4	2.3
Financial and insurance activities	2.2	2.1	1.9	1.9	2.0	2.4	2.1	2.0
Real estate activities	0.8	0.9	1.0	1.0	0.9	0.9	1.0	1.2
Professional, scientific and technical activities	3.0	3.2	3.1	3.4	3.4	3.7	3.8	3.7
Administrative and support service activities	2.4	2.6	2.7	2.6	2.6	3.1	2.9	3.1
Public administration and defence	5.7	5.4	5.5	5.4	5.7	6.4	6.2	5.6
Education	8.4	8.4	8.5	8.8	8.9	9.0	8.6	8.3
Human health and social work activities	5.4	5.3	5.5	5.6	6.0	6.8	6.8	6.9
Arts, entertainment and recreation	1.2	1.2	1.2	1.3	1.4	1.0	0.9	1.0
Other service activities	2.9	2.7	3.0	3.1	3.0	3.4	3.6	3.6
Activities of households as employers	4.3	4.4	4.2	4.1	4.0	3.2	3.0	3.4
Activities of extraterritorial organizations and bodies	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.4	0.3	0.3
Nominal wage index (2016=100)	95.0	100.0	105.7	110.5	115.6	119.9	126.6	138.8
Real wage index (2016=100)	87.2	88.4	91.5	93.4	95.3	95.8	96.9	95.1
Nominal hourly wage index (2016=100)	94.4	100.0	105.7	110.6	115.7	120.0	127.2	139.1
<b>Other economic indicators</b>								
Population (million)	18.0	18.2	18.4	18.8	19.1	19.5	19.7	19.8
Exchange rate (CLP/USD)	654.25	676.83	649.33	640.29	702.63	792.22	759.27	872.33
Real exchange rate (annual growth rate)	-1.0	1.8	3.4	1.4	-4.8	-8.2	3.4	-3.5
Gross national savings (% of GDP)	22.8	21.1	19.9	19.6	19.8	19.9	18.8	17.47
Foreign savings (% of GDP)	2.8	2.6	2.8	4.6	5.2	1.9	7.5	9.0

a Private non-profit institutions.

Source: Central Bank of Chile.

1.5. Regarding GDP by expenditure category, household consumption saw relatively stable annual growth between 2015 and 2018, with an average rate of 3.3% in real terms. In 2019, there was a sharp downturn in private consumption, which grew by only 0.7%. The health crisis and the lockdown measures adopted to combat the COVID-19 pandemic resulted in a significant contraction in private consumption in 2020 of 7.4% in real terms. As a consequence of the fiscal and monetary measures introduced to address the negative effects of the pandemic, aggregate demand expanded rapidly, in particular expenditure on durable goods rose considerably, which pushed up private consumption by 20.8% in real terms in 2021. In the third quarter of 2021, expenditure on durable goods was 50% higher than the levels prior to the COVID-19 pandemic. The authorities consider that this rapid growth gave rise to a macroeconomic imbalance that resulted in a high fiscal and current account deficit, as well as strong demand pressure on prices.<sup>7</sup>

1.6. Gross fixed capital formation was seriously impacted by the pandemic and contracted by 10.8% in real terms in 2020, after having increased at a real average annual rate of 1.5% between 2015 and 2019. In 2021, investment was up by 15.7%. This growth continued in 2022, albeit at a more moderate rate (2.8% per year) and more in line with trend growth. Exports in goods and services fell slightly between 2019 and 2021, mainly due to the effects of the pandemic and fluctuations in the price of copper. In 2022, exports recovered, with an annual increase of 1.4% in real terms. However, imports, after falling sharply in 2020, rose rapidly (by 31.8% in real terms) in 2021 (Table 1.1).

1.7. As a consequence of the pandemic, the unemployment rate jumped from 7.2% in 2019 to 10.6% in 2020. This rate declined to 9.1% in 2021 and to 7.8% in 2022, partly due to the support programmes implemented and the economic recovery.

1.8. According to the IMF, the OECD and the Ministry of Finance, Chile is facing a period of low or negative growth in 2023 but is set to rebound in 2024. This is due, in part, to the economic adjustment resulting from the significant tightening of monetary policy, which translated into repeated increases in the key interest rate (see below) and the end of the expansionary phase of the fiscal policy adopted during the pandemic. The IMF considers that, after an impressive recovery from the COVID-19 pandemic, the Chilean economy is undergoing a necessary transition towards sustainable growth amid a challenging external environment, it therefore expects that year-on-year GDP growth will not recover until the last quarter of 2023.<sup>8</sup>

1.9. One of the challenges faced by the Chilean economy is the need to increase productivity. This was identified in studies by both the IMF and the OECD. According to the OECD, an increase in

<sup>7</sup> Ministry of Finance (2022), *Estado de la Hacienda Pública 2022*. Viewed at: <https://biblio.hacienda.cl/estado-de-la-hacienda-publica/escenario-macroeconomico>.

<sup>8</sup> IMF (2023), *El Directorio Ejecutivo del FMI concluye la Consulta del Artículo IV con Chile correspondiente a 2022*, Press Release No. 23/10, 20 January 2023.



productivity will require greater investment in research and development (R&D), fewer and simpler administrative procedures, such as for granting permits and licences, a review and modernization of the regulatory framework, a reduction in regulatory barriers and increased competition.<sup>9</sup> In a recent report, the IMF observed that, after increasing sharply during the pandemic, Chilean labour productivity has rapidly decelerated since 2022, driven by the recovery in employment. By the third quarter of 2023, Chilean labour productivity was almost 6% lower than it was in 2015.<sup>10</sup> The IMF report notes that the authorities' are of the view that a successful implementation of the Fintech Law (Section 4.4), measures to deepen capital markets, efforts to develop an institutional framework for lithium (Section 4.2) and progress on the climate agenda could foster productivity and potential growth.

## 1.2 Fiscal policy

1.10. The Ministry of Finance is responsible for formulating and implementing fiscal policy in Chile. This policy is formulated in accordance with the structural balance rule with certain flexibilities set out in the Fiscal Accountability Law.<sup>11</sup> The policy of structural balance was applied for most of the period under review, but had to be relaxed during the pandemic, when an expansionary fiscal policy was implemented. Although it is an exception to the spirit of the structural balance rule, this aberration is provided for in the Fiscal Accountability Law, which is aimed at ensuring fiscal stability in the medium term and, therefore, allows for the use of countercyclical measures to address critical situations or economic downturns or slowdowns.

1.11. In general, this fiscal policy of structural balance seeks to maintain structural surpluses and contingency funds which can serve as buffers in the future. The target surplus, initially set at 1% of GDP, was relaxed in 2008 and 2009 to 0.5% of GDP, and to 0% in 2010. The targets for 2011-15 were deficits of between 1% and 1.8% of GDP. Since 2014, annual targets as a percentage of GDP have not been applied, but rather the objective of restoring structural balance in the medium term has been set. In this regard, Decree No. 892<sup>12</sup> established the basis for fiscal policy for the period 2014-18 and provided that fiscal policy should be guided by the concept of structural balance, excluding the cyclical effect on public finances of fluctuations in economic activity, the price of copper and other external factors. Therefore, fiscal expenditure was decoupled from changes in short-term factors that may affect tax revenue, without endangering the stability of the fiscal accounts in the long term.

1.12. Law No. 21.210 (the Tax Reform Law) was promulgated on 13 February 2020. The main objectives of the Law were to amend the tax system and abolish existing regimes. It also created The Office of the Taxpayers' Ombudsperson (DEDECON). The reform maintained the rate of first category tax paid by companies at 25% (or 27% depending on the regime chosen), whereas the top rate of the complementary global tax increased from 35% to 40%. Nevertheless, the law established that the maximum effective rate for taxpayers subject to the nominal rate of 40%, who opt for the 27% first category regime, would be 44.45%.

1.13. Furthermore, the measures for micro-, small and medium-sized enterprises (MSMEs) (with up to 100,000 units of account (UF) in sales) were retained as an incentive for saving and investment, including a deduction from the amount of taxable income for reinvested profits. These measures were adopted thanks to the reform introduced by Law No. 21.210 with respect to Law No. 20.780<sup>13</sup>, which also amended "green taxes" to allow for a better application of: (a) the tax on stationary emission sources of carbon dioxide (CO<sub>2</sub>), as well as particulate material (PM), nitrogen oxides (NO<sub>x</sub>) and sulphur dioxide (SO<sub>2</sub>); and (b) the tax on new, light- and medium-duty motor vehicles in proportion to the environmental damage that the vehicle in question causes during its useful life, based on its NO<sub>x</sub> emissions, to its urban performance and to the sale price.

<sup>9</sup> OECD (2022), *Estudios Económicos de la OCDE, Chile: Hacia un Desarrollo Sostenible*, Executive Summary, 23 September 2022. Viewed at: <https://www.oecd.org/economy/panorama-economico-chile/>.

<sup>10</sup> IMF (2023), *Chile: 2022 Article IV Consultation-Press Release; Staff Report; Staff Supplement; and Statement by the Executive Director for Chile. Country Report No. 2023/036*, 20 January 2023. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2023/01/20/Chile-2022-Article-IV-Consultation-Press-Release-Staff-Report-Staff-Supplement-and-528410>.

<sup>11</sup> Law No. 20.128 of 30 September 2006 (and amendments thereto).

<sup>12</sup> Decree No. 892 of 3 July 2014, Ministry of Finance.

<sup>13</sup> Law No. 20.780 of 29 September 2014 (and amendments thereto).



1.14. In May 2023, the Mining Royalty Law was adopted, which amended the taxation of large-scale copper mining, that is, mining that produces more than the equivalent of 50,000 metric tonnes of copper. The new Law provides for two components, an *ad valorem* component, with a rate of 1% on sales, and an operating margin component, with rates of between 8% and 26%. Notwithstanding these rates, the Law includes clause establishing a maximum potential tax burden of 46.5%, taking into account income tax, additional tax and the mining royalty. The maximum tax burden will be 45.5% for mining operators with sales of up to 80,000 metric tonnes of copper. The authorities expect that the new Law will boost tax revenues up to 0.45% of GDP (that is, some USD 1,350 million). The new mining royalty is expected to bring in an additional USD 450 million which will be used to finance new funds to support subnational entities. Therefore, each year: USD 55 million will be allocated to mining communes (Mining Commune Fund); USD 170 million to low-income communes in the country through the Territorial Equity Fund; and USD 225 million to regional governments through the Productivity and Development Fund. In the latter case, the resources will be used to finance investments to promote production and regional development activities, and scientific and technological research.<sup>14</sup>

1.15. Also in 2023, the Government set out the guidelines for the proposed new tax reform, the Tax Pact, which seeks to lay the foundations for a new fiscal agreement that includes raising taxes, combatting tax avoidance and evasion and informality, increasing fiscal efficiency and promoting growth. The aim of this new reform will be to allow for the financing of the increase in the universal guaranteed pension, of the new pension system, and of the health care and the national care system reform, among other social plans. According to the authorities, the package of measures seeks to generate greater resources for the Treasury in the order of 2.7% of GDP.

1.16. The COVID-19 pandemic resulted in the adoption of fiscal support measures for substantial amounts. According to the Ministry of Finance, the greatest increase in expenditure occurred at the end of 2021. In line with estimates provided by the Ministry of Finance, between 2020 and 2021, the provisional fiscal expenditure associated with mitigating the effects of the pandemic amounted to around USD 40 billion, of which transfers to households through bonuses and subsidies totalled close to USD 35 billion. Support was also provided to companies, in particular MSMEs (Box 1.1). According to the Ministry of Finance, 2021 saw the largest ever increase in fiscal expenditure by the Central Government, which reached 33.4% in real terms, equivalent to 31.5% of GDP.

### **Box 1.1 Chile: legal and administrative tax- and labour-related measures in the context of the COVID-19 pandemic, 2020-21**

Chile adopted a series of tax measures, both legal and administrative, which sought to mitigate the effects of the pandemic on economic activity. These measures included:

- Stamp duty was temporarily reduced to 0% for all lending operations for six months, by means of Law No. 21.225.
- The issuance of Supreme Decree No. 420 of 30 March 2020 by the Ministry of Finance, establishing tax measures to support families, workers and micro-, small and medium-sized enterprises in difficulties caused by the spread of COVID-19 in Chile. These measures sought to mitigate the impact of the exceptional measures implemented to protect the health of the population, such as the restrictions on movement in certain areas, the closure of public places and lockdown, on the reduction in workers' income, on job losses and on smaller companies. The Supreme Decree establishes exceptional and extraordinary tax measures for the 346 communes in the 16 regions of the country, and authorizes the President of the Republic to, *inter alia*, set and amend the dates for filing returns and paying different taxes, change the frequency of the payment of land tax and extend the deadline for submitting the tax documents and records required by law.

- In 2020, various resolutions were issued, which introduced measures such as:
  - (a) the early payment of income tax refunds for SMEs and natural persons;
  - (b) the suspension of payments of corporate income tax advance payments due in March, April and May;
  - (c) the deferral of income tax payments for SMEs; the deferral of VAT payments; the deferral of land tax payable for April 2020 for companies with sales of less than 350,000 UF and for persons owning property with a taxable value of less than CLP 133 million; the acceptance of companies' expenses related to addressing the health emergency as tax deductible.

- Law No. 21.277 of 1 April 2020, authorizing access in exceptional circumstances to unemployment insurance benefits under Law No. 19.728 (the Employment Protection Law), allows workers to access unemployment insurance benefits and additional allowances in the case of furlough due to lockdown, or the temporary reduction of working hours. According to the Ministry of Finance, USD 2 billion (maximum resources) were committed, with the potential to benefit 4.5 million workers. The validity of the Employment Protection Law was extended until 6 September 2021 in the case of the suspension of a contract, and until 31 December 2021 in the case of the temporary reduction of working hours.

- An employment subsidy (reinstatement and protection). This subsidy was provided in two different forms, a reinstatement subsidy and a hiring subsidy, and was regulated through Supreme Decree No. 28 of 2011 of the Ministry of Labour and Social Security, and the subsequent amendments thereto, and through the Exempt Resolution of 28 September 2020 of the Under-Secretariat for Labour. The reinstatement subsidy financed the return to work of those workers who had been furloughed.

<sup>14</sup> Information from the Government of Chile. Viewed at: <https://www.gob.cl/noticias/conozca-los-ingresos-que-recibira-cada-region-con-el-royalty-minero-aprobado-en-el-congreso/>.

The subsidy was CLP 160,000 per month per worker, with a maximum limit of six months. For women, young persons aged between 18 and 24 years, men aged 55 years or over, persons with disabilities and recipients of a disability pension, the subsidy was CLP 200,000 per month. The hiring subsidy financed part of the wages of new hires during the first 30 days of a contract. The amount of the subsidy was equivalent to 50% of taxable monthly remuneration, capped at a maximum of CLP 250,000 for each new hire, with the exception of young persons aged between 18 and 24 years, women, men aged 55 years or over, persons with disabilities and recipients of a disability pension, for whom the subsidy was equivalent to 65% of gross monthly remuneration, with a ceiling of CLP 290,000.

- *FOGAPE COVID*. Law No. 21.229 of 2020, increasing the capital of the Small Business Guarantee Fund (FOGAPE) and temporarily relaxing the FOGAPE requirements, raised state guarantees under the FOGAPE to USD 3 billion, and increased the amount of financing allowed for the working capital of companies from 350,000 UF to 1 million UF in annual sales. The maximum amount for financing was three months of sales net of VAT for loans repayable in instalments, with terms between 24 and 48 months, and a grace period of at least six months. In the case of financing by banks, the nominal annual interest rate could not be higher than the monetary policy rate in force at the time the loan was granted, plus 3%.

- *FOGAPE Reactiva*. Law No. 21.307 of 2021, amending the Small Business Guarantee Fund (FOGAPE) with the aim of boosting the economic reactivation and recovery, extended the coverage of the FOGAPE to include investment and refinancing of debts of companies with annual sales of up to 1 million UF. *FOGAPE Reactiva* loans extended the deadline for payment and coverage of guarantees for up to seven years. These loans were granted until 31 December 2021 and aimed to support MSMEs, which, all together, received 96.6% of the total loans processed.

The 2021 bonus for micro- and small enterprises (MSEs), established by Law No. 21.354, was a state contribution of CPL 1 million for MSEs (natural and legal persons) affected by the COVID-19 pandemic. The beneficiary MSEs must have started operating before 31 March 2020 and to have an annual revenue no higher than 25,000 UF (as at 31 December 2020). MSEs that had to pay VAT received an additional relief bonus refunding the three-month average VAT tax debit declared on sales and services for the 12 months of 2019, capped at CLP 2 million. Both bonuses increased by 20% if the natural person or the owner of an individual limited liability company was a woman.

Sources: Parliamentary Technical Advisory Service, *Medidas tributarias en el contexto del COVID-19. Recomendaciones de la OCDE, experiencia extranjera y chilena*, May 2021. Viewed at: [https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/28678/2/Comparado\\_Medidas\\_tributarias\\_Covid\\_fial.pdf](https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/28678/2/Comparado_Medidas_tributarias_Covid_fial.pdf); Budget Directorate, *COVID-19: Evolución, efectos y políticas adoptadas en Chile y el mundo*. Viewed at: [https://www.dipres.gob.cl/598/articles-266625\\_doc\\_pdf.pdf](https://www.dipres.gob.cl/598/articles-266625_doc_pdf.pdf); and Ministry of Finance, *FOGAPE Reactiva*. Viewed at: <https://reporte.hacienda.cl/fogape-reactiva/#:~:text=Estos%20cr%C3%A9ditos%20se%20podr%C3%A1n%20otorgar,56%25%20del%20monto%20total%20movilizado.>

1.17. In April 2022, the Government launched the programme *Chile Apoya* (Chile Supports) to support individuals, boost job creation and address the rise in the cost of living. According to the authorities, in December 2022, 92% of the objectives had been achieved or were being pursued. The measures introduced included an infrastructure fund for local governments, with a total of USD 300 million earmarked for new labour-intensive and green investment projects carried out by municipalities, regional governments and public services. As part of this programme, and to boost activity, employment, private investment and local power, in August 2022, the initiative *Chile Apoya a tu Comuna* (Chile Supports Your Commune) was launched, with investment of around CLP 65 billion. A *Chile Apoya* winter bonus was also included, providing support in the amount of CLP 120,000 per person to address rising prices of food and, in winter, of energy and heating. Furthermore, the coverage was expanded of the programmes implemented by the Production Development Corporation (CORFO) and Technical Cooperation Service (Sercotec) (see Sections 3 and 4), which focus on activities related to tourism, culture and women's entrepreneurship. In order to provide support to 165,000 MSMEs, the CORFO financing programmes were stepped up, with the aim of granting more loans to unbanked MSMEs within four years starting in August 2022, and the terms of the guarantees granted by the FOGAPE were relaxed.<sup>15</sup>

1.18. The Financial Strategy on Climate Change, which was updated in March 2022, seeks to promote "green" financing, enhance this greened system and position Chile as a regional and global leader in green finance. The strategy is based on the development of the following three areas of action: (i) "greening" the system through the generation of information; (ii) promoting green financing; and (iii) enhancing this greened system and positioning Chile as a regional and global leader in green finance. To green the system through the generation of information, the strategy proposes to: (a) lay the foundations for the development of an environmentally sustainable activity classification system; (b) develop a framework for determining public and private climate change expenditure; and (c) promote the development of a metric that values national natural capital, taking into consideration ecosystems and ecosystem services in the context of economic and financial measures for public and private use. In May 2022, the Preparatory Committee of the Environmentally Sustainable Activity Classification System (Green Taxonomy) began to hold meetings, led by the Ministry of Finance. The Committee's objective is to examine and discuss certain structural elements required for the future development of a national Green Taxonomy, in order to create the information

<sup>15</sup> Government of Chile, *Programa Chile Apoya*. Viewed at: <https://www.gob.cl/chileapoya/#medidas>.

necessary for the alignment of financial flows towards a carbon neutral economy and sustainable development. Regarding the measurement of natural capital, the Ministry of Finance and the Ministry of the Environment have taken the lead in measuring the value of ecosystem services and integrating it into national accounts. Furthermore, the Ministry of Finance has proposed to continue to promote, develop and fine-tune green financial instruments and solutions, such as the issuance of thematic sovereign bonds and carbon pricing instruments.<sup>16</sup>

1.19. Despite the fact that Chile has historically been known for having a cautious fiscal policy based on a rule of structural balance and on the Fiscal Responsibility Law, the fiscal accounts have deteriorated in the last decade, including before the COVID-19 pandemic, as a result of higher spending and lower revenue relative to GDP from copper mining. This led to sustained fiscal deficits throughout the entire period under review and rising debt. The effective deficits of the Central Government fluctuated between 1.7% and 2.9% of GDP between 2015 and 2019 (between 1.5% and 2.7% for the General Government). The deficit grew considerable in 2020 to 7.3% of GDP for the Central Government (7.1% of GDP for the General Government) as, due to the pandemic and the ensuing contraction in economic activity, Central Government revenues dropped to just 19.8% of GDP, down 1.8 percentage points on the previous year. Although economic activity recovered in 2021 and Central Government revenues increased to 23.9% of GDP (26% for the General Government), Central Government expenditure further increased, accounting for 28.5% of GDP (33.5% for the General Government) (Table 1.2). Higher expenditure as a result of the pandemic led in turn to a deterioration in the total and structural fiscal deficit of the Central Government, which reached 7.7% and 10.7% of GDP in 2021, respectively.<sup>17</sup>

1.20. As a result of the larger deficit, the gross debt of the Central Government rose to 36.3% of GDP in 2021, its highest level since 1991 and up 8 percentage points on 2019, while the assets of the State Treasury declined by 4 percentage points compared with 2019, representing 5.3% of GDP.

**Table 1.2 Non-financial operations of the Central Government, 2015-22**

	2015	2016	2017	2018	2019	2020	2021	2022
Revenue	21.1	20.9	20.9	22.0	21.6	19.8	23.9	25.9
Net tax revenue	17.4	17.2	17.2	18.1	17.7	16.0	18.8	21.1
Income tax	7.4	6.8	7.0	7.6	7.3	6.2	7.8	10.3
Value added tax	8.4	8.3	8.4	8.6	8.4	7.9	9.5	9.3
Declared VAT	12.4	12.0	11.8	12.1	12.3	12.0	13.1	13.6
Special credit for construction companies	-0.2	-0.3	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2
Refunds	-3.8	-3.4	-3.2	-3.3	-3.7	-4.0	-3.5	-4.1
Taxes on specific products	1.5	1.5	1.5	1.4	1.4	1.4	1.1	0.8
Tobacco, cigars and cigarettes	0.6	0.6	0.5	0.5	0.5	0.5	0.5	0.4
Fuel	0.9	0.9	0.9	0.9	0.9	0.9	0.6	0.4
Extraction fees under the Fisheries Law	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Taxes on legal acts	0.2	0.3	0.3	0.3	0.3	0.2	0.2	0.3
Taxes on foreign trade	0.2	0.2	0.2	0.2	0.2	0.1	0.2	0.2
Other	-0.2	0.1	-0.2	0.0	0.1	0.2	-0.1	0.2
Gross copper revenues	0.4	0.4	0.5	0.6	0.4	0.5	1.8	0.7
Social contributions	1.4	1.4	1.5	1.5	1.5	1.5	1.2	1.0
Grants	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.1
Property income	0.4	0.5	0.4	0.5	0.6	0.4	0.2	1.4
Operating income	0.5	0.5	0.5	0.5	0.5	0.4	0.5	0.4
Other revenue	0.8	0.8	0.7	0.8	0.8	0.8	1.2	1.2
Expenditure	19.0	19.5	19.9	20.0	20.6	23.7	28.3	21.3
Compensation of employees	4.5	4.7	4.8	4.9	5.0	5.3	4.9	4.7
Consumer and producer goods and services	1.9	1.9	2.0	1.9	2.0	2.2	2.0	2.0
Interest	0.7	0.7	0.8	0.9	0.9	1.0	0.9	1.0
Subsidies and grants	7.7	8.1	8.4	8.4	8.8	11.0	16.8	9.4
Social benefits	4.1	4.0	3.9	3.9	3.9	4.2	3.7	4.1
Other	0.0	0.0	0.0	0.1	0.1	0.1	0.1	0.1
Gross operating balance (public saving)	2.0	1.2	0.9	2.0	0.9	-3.9	-4.4	4.7

<sup>16</sup> Ministry of Finance (2022), *Estado de la Hacienda Pública 2022. Finanzas Verdes*. Viewed at: <https://biblio.hacienda.cl/estado-de-la-hacienda-publica/finanzas-verdes>.

<sup>17</sup> Ministry of Finance (2022), *Estado de la Hacienda Pública 2022. Política Fiscal*. Viewed at: <https://biblio.hacienda.cl/estado-de-la-hacienda-publica/politica-fiscal>.

	2015	2016	2017	2018	2019	2020	2021	2022
Net acquisition of non-financial assets	4.3	4.0	3.8	3.7	3.8	3.4	3.3	3.5
Sale of physical assets	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Investment	2.4	2.3	2.2	2.0	2.1	1.8	1.8	1.5
Capital transfers	1.9	1.8	1.6	1.6	1.8	1.6	1.5	2.0
Total revenue	21.2	20.9	20.9	22.1	21.6	19.8	23.9	25.9
Total expenditure	23.3	23.6	23.7	23.7	24.5	27.1	31.6	24.8
Net lending/Net borrowing (effective surplus/deficit)	-2.2	-2.7	-2.8	-1.7	-2.9	-7.3	-7.7	1.1
<i>Memorandum item</i>								
<b>General Government</b>								
Total revenue	23.0	22.7	22.9	24.1	23.8	22.0	26.0	28.1
Total expenditure	25.1	25.4	25.5	25.6	26.5	29.1	33.5	26.8
Net lending/Net borrowing	-2.1	-2.7	-2.6	-1.5	-2.7	-7.1	-7.5	1.4
<b>Municipalities</b>								
Total revenue	3.6	3.8	3.8	4.0	4.2	4.1	3.8	3.9
Total expenditure	3.5	3.7	3.7	3.8	4.0	3.9	3.6	3.7
Net lending/Net borrowing	0.1	0.1	0.1	0.2	0.1	0.2	0.2	0.2
<b>Public debt (% of GDP)</b>								
Total public debt	16.1	21.4	24.9	23.8	26.7	36.1	32.4	38.6
Domestic debt	12.9	17.4	20.3	18.9	21.0	27.7	21.0	24.9
Foreign debt	3.2	4.0	4.6	4.9	5.7	8.3	11.4	13.7

Source: Central Bank of Chile.

1.21. In 2022, as economic growth recovered, the authorities resumed fiscal consolidation. This required an expenditure adjustment, which was partly offset by measures such as those included under the *Chile Apoya* plan. Central Government expenditure contracted by more than 20% in comparison with the previous year, as a result of the end of the temporary support measures introduced to mitigate the economic effects of the pandemic. Central Government expenditure accounted for only 24.8% of GDP (26.8% for the General Government), down 6.8 percentage points on 2021. Revenue, however, increased by 2 percentage points, accounting for 25.9% of GDP (28.1% for the General Government). This resulted in surpluses of 1.1% of GDP for the Central Government and 1.4% of GDP for the General Government. The gross debt of the Central Government grew during the period under review, rising from 16.1% of GDP in 2015 to 38.6% in December 2022. The estimated amortizations for 2023 amount to USD 6,802 million. At the end of 2022, Chilean debt had an average maturity of 11.4 years.<sup>18</sup>

1.22. Chile has two sovereign funds, the Economic and Social Stabilization Fund (FEES) and the Pension Reserve Fund (FRP), both of which were created under the Fiscal Responsibility Law of 2006. FEES was established to finance fiscal deficits that could arise in periods of low growth and/or of low copper prices. FEES also allows for the amortization of public debt and the financing of contributions to the FRP. In 2022, the Ministry of Finance decided that the FEES resources would be used in the event of exceptional macroeconomic risks that produce substantial fiscal deficits. Each year, FEES receives the positive balance that remains after deducting contributions to the FRP from the effective fiscal surplus, discounting, where appropriate, public debt amortizations and advance contributions made to the Fund in the previous year. The aim of the FRP is to supplement the financing of fiscal obligations in the area of pensions and social security.<sup>19</sup>

1.23. During the crisis caused by the pandemic, the authorities made large-scale use of FEES resources to finance assistance programmes for the population and companies. In 2020 and 2021, withdrawals from FEES amounted to USD 4,090 million and USD 6,197 million, respectively, and the market value of the Fund decreased from USD 12,233 million in 2019 to USD 2,457 million in 2021.<sup>20</sup> In 2022, the trend was reversed, and contributions totalling USD 5,998 million were made to FEES, the market value of which increased to USD 7,514 million. In the period between the creation of FEES and April 2023, total contributions amounted to USD 27,763.4 million and withdrawals to USD 24,245.1 million; total interest earned was USD 3,431.6 million and capital losses totalled

<sup>18</sup> Information from the Ministry of Finance. Viewed at: <https://www.hacienda.cl/areas-de-trabajo/finanzas-internacionales/oficina-de-la-deuda-publica>.

<sup>19</sup> Information from the Ministry of Finance. Viewed at: <https://www.hacienda.cl/areas-de-trabajo/finanzas-internacionales/fondos-soberanos>.

<sup>20</sup> The value of FEES peaked in 2017, when it stood at USD 14,739 million. Ministry of Finance, *Fondo de Estabilización Económica y Social, Informe abril 2023*. Viewed at: <https://www.hacienda.cl/areas-de-trabajo/finanzas-internacionales/fondos-soberanos/fondo-de-estabilizacion-economica-y-social/informes-mensuales/informe-abril-2023>.

USD 829.7 million, which put the value of FEES at USD 7,745.9 million (less USD 33.7 million for administrative costs).<sup>21</sup>

1.24. The FRP was set up on 28 December 2006, with an initial contribution of USD 604.5 million, in order to support the financing of obligations arising from the state-guaranteed basic solidarity pensions for old age and disability, as well as solidarity pension contributions. Currently, the FRP resources are used to supplement payments for the universal guaranteed pension and the disability solidarity pillar. Those resources are increased each year by a minimum amount equivalent to 0.2% of the previous year's GDP. As was the case for FEES, during the pandemic, withdrawals were made from the FRP in the order of USD 1,576.5 million in 2020, USD 2,959.8 million in 2021 and USD 268.9 million in 2022. Between its creation in December 2006 and the end of April 2023, the FRP received contributions totalling USD 10,008.7 million and withdrawals amounted to USD 6,220.7 million. The market value of the FRP was USD 6,816.6 million at the end of April 2023, compared with its highest value of USD 11,435.5 million in August 2020.<sup>22</sup>

### 1.3 Monetary and exchange rate policies

1.25. Pursuant to Article 3 of the Constitutional Organic Law of the Central Bank of Chile<sup>23</sup>, one of the Central Bank of Chile's objectives is to ensure the stability of the currency, which involves keeping inflation low and stable over time. Another objective is to promote the stability and efficiency of the financial system, and ensure the normal functioning of internal and external payments. To achieve its objectives, the Central Bank of Chile must, *inter alia*, regulate the amount of money in circulation and credit in the economy, to ensure that they are sufficient for individuals, companies and institutions to carry out their transactions.<sup>24</sup>

1.26. Since 1999, the Central Bank of Chile has implemented a monetary policy strategy with medium-term inflation targets and a flexible exchange rate policy. The inflation target established under this strategy is for inflation, regardless of its current level, to remain around 3% over a two-year horizon.<sup>25</sup> This is calculated on the basis of annual inflation, measured as the percentage change in the consumer price index (CPI) over a 12-month period. To meet the inflation target, the main instrument used by the Central Bank of Chile is the monetary policy interest rate, which is set at each monetary policy meeting. The Central Bank of Chile carries out different operations to influence the overnight interbank lending rate, so that it is around the monetary policy interest rate, which in turn has an impact on the demand for and supply of money. All this has a knock-on effect, albeit a delayed one, on prices in the economy. The instruments used by the Central Bank to keep the monetary policy interest rate at the desired level include open market operations, the purchase and sale of short-term promissory notes, and lines of credit and liquidity deposits (expanded facilities). Eight monetary policy meetings are held each year, at which it is decided whether to maintain, lower or raise the monetary policy interest rate, and four Monetary Policy Reports are presented, which contain an analysis of the national and international macroeconomic scenario, and growth and inflation forecasts.

1.27. During the period under review, there were three main phases in the implementation of the monetary policy. Between 2015 and 2016, of the policy was moderately contractionary, with the monetary policy interest rate reaching an average of 3.5% in 2016. This phase was followed by a more accommodative policy approach between 2017 and 2019, which led to a stable monetary policy interest rate of 2.5% between June 2017 and September 2018.<sup>26</sup> After this came a period of

<sup>21</sup> Ministry of Finance, *Fondo de Estabilización Económica y Social, Informe abril 2023*. Viewed at: <https://www.hacienda.cl/areas-de-trabajo/finanzas-internacionales/fondos-soberanos/fondo-de-estabilizacion-economica-y-social/informes-mensuales/informe-abril-2023>.

<sup>22</sup> Information provided by the authorities and the Ministry of Finance, *Fondo de Reserva de Pensiones, Informe abril de 2023*. Viewed at: <https://www.hacienda.cl/areas-de-trabajo/finanzas-internacionales/fondos-soberanos/fondo-de-reserva-de-pensiones/informes-mensuales/informe-abril-2023>.

<sup>23</sup> Law No. 18.840 of 10 October 1989 (and amendments thereto).

<sup>24</sup> Information from the Central Bank of Chile. Viewed at: <https://www.bcentral.cl/web/banco-central/el-banco/gobierno-corporativo/funciones-del-banco>.

<sup>25</sup> Central Bank of Chile, *La política monetaria del Banco Central de Chile en el marco de metas de inflación*. Viewed at: <https://www.bcentral.cl/contenido/-/detalle/politica-monetaria-del-banco-central-de-chile-en-el-marco-de-metas-de-inflacion>.

<sup>26</sup> Information from the Central Bank of Chile. Viewed at: [https://si3.bcentral.cl/Siete/ES/Siete/Cuadro/CAP\\_TASA\\_INTERES/MN\\_TASA\\_INTERES\\_09/TPM\\_C1?cbFechaInicio=2010&cbFechaTermino=2023&cbFrecuencia=MONTHLY&cbCalculo=NONE&cbFechaBase=](https://si3.bcentral.cl/Siete/ES/Siete/Cuadro/CAP_TASA_INTERES/MN_TASA_INTERES_09/TPM_C1?cbFechaInicio=2010&cbFechaTermino=2023&cbFrecuencia=MONTHLY&cbCalculo=NONE&cbFechaBase=).



moderate increases in the monetary policy interest rate, which rose to 3.0% in May 2019. The inflationary implications of a weaker economic cycle in 2019 resulted in a new series of decreases in the monetary policy interest rate, which stood at 1.75% in December 2019. As part of the policy to tackle the COVID-19 pandemic, it was decided to lower the monetary policy interest rate to its technical minimum of 0.5% in March 2020, and to implement a series of measures to maintain the proper functioning of markets and boost credit. Particularly important in this respect was the launch of the Conditional Credit Facility for Increased Loans (FCIC) which, together with other measures adopted by the Government, enabled sizeable credit flows to companies, at times when uncertainty was high at the beginning of the pandemic. The FCIC comprised three steps and its impact on companies has been documented in several boxes in the Monetary Policy Reports and in a document in the Financial Economic Series of the Central Bank.

1.28. In 2021, a high level of liquidity from pension fund withdrawals and universal tax transfers was injected into the Chilean economy. All this led to a significant increase in domestic spending, particularly household consumption, which gave rise to inflationary pressure that was inconsistent with the inflation target. In addition to this shock, there was the impact of the pandemic on transport costs and global distribution chains, as well as the effects of the conflict in Ukraine on the prices of various commodities. In this context, the Central Bank of Chile raised the monetary policy interest rate significantly. Between July 2021 and October 2022, the monetary policy interest rate increased 11 times, reaching 11.25%. The monetary policy interest rate then stabilized at this level and, as of June 2023, it remained at 11.25%. In its Monetary Policy Report of June 2023, the Central Bank indicated that, if the recent trends in the Chilean economy continue, in the short term, a process to reduce the monetary policy interest rate would be initiated. In line with the movements of the monetary policy interest rate, market interest rates fell markedly between 2019 and July 2021, before increasing significantly between July 2021 and October 2022, after which they stabilized. The interest rate increases were considered indispensable to efforts to combat inflation, as it was necessary to redress the macroeconomic imbalances caused by domestic overspending. According to the authorities, in addition to high inflation, these imbalances were evidenced by a large current account deficit and the widest activity gap in recent decades. As part of the correction of these imbalances, the activity gap was reduced and annual GDP growth fell from levels of around 11% to figures that may be slightly negative in 2023. The average spread between interest rates on loans and deposits has varied relatively little in the period under review, between 1.5 and 2.2 percentage points, which reflects the stability of the Chilean financial system and its high degree of intermediation, as was noted in the previous review (Table 1.3).

**Table 1.3 Main monetary indicators, 2015-22**

	2015	2016	2017	2018	2019	2020	2021	2022
<b>Monetary aggregates (CLP billion)</b>								
Monetary base (average)	9,203	9,919	10,393	11,189	12,122	18,437	27,529	21,376
Currency in circulation (average)	5,336	5,771	6,085	6,344	6,712	9,256	14,056	13,044
M1 (average)	26,153	27,793	30,132	33,451	37,475	53,143	75,765	65,346
M2 (average)	103,944	114,432	119,772	131,012	141,695	155,243	168,757	177,544
M3 (average)	173,566	191,444	205,256	218,886	242,960	264,427	284,469	307,647
Monetary base (balances, end of period)	9,152	10,342	11,106	11,296	12,335	30,256	21,456	17,641
Currency in circulation (balances, end of period)	5,858	6,275	6,528	6,740	7,575	12,180	15,210	11,608
M1 (balances, end of period)	29,419	30,319	33,566	36,856	43,633	68,573	79,301	59,295
M2 (balances, end of period)	112,193	120,006	126,093	140,228	153,395	162,782	180,223	187,458
M3 (balances, end of period)	183,811	199,819	209,343	232,348	257,728	265,669	304,810	314,838
<b>Interest rates (annual average)</b>								
Commercial loans (1-3 months)	5.7	5.6	4.6	4.2	4.1	3.1	3.5	10.7
Commercial deposits (1-3 months)	3.6	3.8	2.9	2.7	2.5	0.9	1.3	8.6
Interest rate spread between lending and deposits (1-3 months)	2.2	1.9	1.7	1.5	1.6	2.2	2.2	2.1
Monetary policy rate	3.1	3.5	2.7	2.5	2.5	0.8	1.2	8.5
<b>Inflation</b>								
Consumer price index (annual average)	91.8	95.3	97.3	100.0	102.3	105.4	110.1	123.0
Consumer price index (end of period)	93.4	95.9	98.1	100.6	103.7	106.7	114.4	129.0

	2015	2016	2017	2018	2019	2020	2021	2022
Inflation rate (% , end of period)	4.4	2.7	2.3	2.6	3.0	3.0	7.2	12.8
<b>Exchange rate (period average)</b>								
Exchange rates (CLP/USD)	654.25	676.83	649.33	640.29	702.63	792.22	759.27	872.33
Real effective exchange rate (index)	91.0	92.6	95.8	97.1	92.5	85.0	87.9	84.8
Variation in the real exchange rate (%)	-1.0	1.8	3.4	1.4	-4.8	-8.2	3.4	-3.5

Source: Central Bank of Chile and the IMF.

1.29. Chile continues to follow a floating exchange rate regime, under which the Central Bank of Chile is authorized to intervene in the exchange market. These interventions are carried out on an exceptional basis and in situations in which the normal functioning of the financial markets is called into question and there are risks for the rest of the financial system. Such interventions must be compatible with the inflation target, so that their monetary impact is always sterilized. Furthermore, the time frames and amounts involved are explicitly defined. The nominal exchange rate appreciated slightly between 2015 and 2018, resulting in an appreciation of the real exchange rate of around 6.6% (Table 1.3). This trend was reversed in 2019 and, until the end of 2022, the nominal exchange rate depreciated by 20% in nominal terms and by almost 13% in real terms compared with 2018. During the first half of 2023, the nominal and real exchange rate appreciated by around 8% and 10%, respectively.<sup>27</sup> The authorities indicated that this was due to a context in which local uncertainty had fallen from the high levels that it had reached between the end of 2019 and part of the second half of 2022.

1.30. After trending downwards between 2015 and 2017, inflation began to edge up, albeit very slightly, in 2018. In general, the change in the CPI remained below or was equal, as an annual average, to the inflation target of 3%. However, the CPI began to increase in 2021, topping 3%. This was due to the effects of the significant rise in domestic spending as a consequence of the liquidity provided to households, and higher oil and food prices, as well as global value chain disruption. Since 2021, inflation has remained high, peaking at 14.1% in August 2022.<sup>28</sup> In May 2023, the annual change in the CPI decreased to 8.7% and the change in core CPI was 9.9%. These levels continue to be well above the target of 3%. The forecasts contained in the Monetary Policy Report of June 2023 suggest that total inflation will reach 4.2% in 2023 and will settle at 3% towards the second half of 2024, before the end of the two-year monetary policy horizon. Core inflation is expected to close 2023 at 6.5% and also be around 3% in the second half of 2024.<sup>29</sup> According to the Central Bank of Chile, the economy has been making progress in addressing the macroeconomic imbalances that have accumulated in recent years. This has made it possible to reduce inflation in line with forecasts, further consolidating its convergence towards the target of 3%. At its monetary policy meeting in June 2023, the Central Bank of Chile stated that the monetary policy interest rate had remained contractionary for several quarters, which had contributed significantly to the decline in inflation. While the risks associated with this persist, they have become more balanced. The Central Bank of Chile considers that the most recent developments in the economy have set it on the right course. If these trends continue, the monetary policy rate

<sup>27</sup> For the nominal and real exchange rate, the figures available until June and May 2023, respectively, are considered.

<sup>28</sup> In the Monetary Policy Reports of December 2021, March 2022, June 2022 and September 2022, the Central Bank of Chile estimated the effects of internal and external factors on actual and/or expected inflation developments. Viewed, respectively, at: [https://www.bcentral.cl/documents/33528/3314166/IPoM\\_Diciembre\\_2021.pdf/565eddc6-6f73-054e-4b98-0608eef904f0?t=1655149278850](https://www.bcentral.cl/documents/33528/3314166/IPoM_Diciembre_2021.pdf/565eddc6-6f73-054e-4b98-0608eef904f0?t=1655149278850); [https://www.bcentral.cl/documents/33528/3456057/IPoM\\_marzo\\_2022.pdf/a3b89623-a366-ed9a-63bb-6d719102eab2?t=1655149272047](https://www.bcentral.cl/documents/33528/3456057/IPoM_marzo_2022.pdf/a3b89623-a366-ed9a-63bb-6d719102eab2?t=1655149272047); [https://www.bcentral.cl/documents/33528/3584036/IPoM\\_Junio\\_2022.pdf/74057e9c-e2f9-6291-e86e-70556c07e46f?t=1654784580843](https://www.bcentral.cl/documents/33528/3584036/IPoM_Junio_2022.pdf/74057e9c-e2f9-6291-e86e-70556c07e46f?t=1654784580843); and [https://www.bcentral.cl/documents/33528/3718177/IPoM\\_Septiembre\\_2022.pdf/85c3d8c9-6ffc-99d0-0534-bc6602dd7014?t=1662668094107](https://www.bcentral.cl/documents/33528/3718177/IPoM_Septiembre_2022.pdf/85c3d8c9-6ffc-99d0-0534-bc6602dd7014?t=1662668094107).

<sup>29</sup> Central Bank of Chile, *Informe de Política Monetaria*, June 2023. Viewed at: <https://www.bcentral.cl/documents/33528/4263112/IPoM-junio-2023.pdf/7f506eae-a28d-b93b-f160-518045201fee>.

will decrease in the short term. The magnitude and duration of this decrease will depend on the evolution of the macroeconomic scenario and its implications for inflation.<sup>30</sup>

#### 1.4 Balance of payments

1.31. The balance of trade in goods was in surplus in each year of the period under review. In general terms, the balance of trade in goods has historically been positive in Chile. Mining exports account for the largest share of total exports. The trade surplus trended upwards between 2015 and 2017, before declining in 2018 and 2019, mainly due to lower mining exports, principally of copper. The larger surplus recorded in 2020 was primarily the result of the sharp drop in imports caused by the COVID-19 pandemic, although exports also grew by around 7.6% in value terms, thanks in large part to an increase in copper exports. In 2022, exports grew, driven by shipments of industrial products. However, the strong recovery in goods imports led to a deterioration in the trade balance in goods. The surplus shrank from USD 10,470 million in 2021 to USD 3,807 million in 2022 (Table 1.4).

1.32. Chile has traditionally recorded a deficit in the balances of services and income. During the pandemic, the deficit in the balance of services narrowed, but grew again in 2021 and 2022. As a consequence of the deficit in the balances of services and income, the balance-of-payments current account recorded a deficit in each year of the period under review. In 2020, imports of goods and services fell sharply, which resulted in a considerable drop in the current account deficit, from USD 14,505 million in 2019 to USD 4,952 million in 2020. In 2021, as the economy recovered and imports increased, the current account deficit rose to USD 23,193 million (7.5% of GDP), and continued to grow in 2022 to USD 27,102 million (9.0% of GDP).

1.33. Chile is a major recipient of foreign direct investment (FDI), particularly in the mining sector. However, profit repatriation has resulted in an income balance that is deeply in deficit. Repatriated profits were higher than net FDI flows in each year of the period under review. Cumulative net inflows of FDI between 2015 and 2022 were some USD 104,133 million, peaking at nearly USD 20,865 million in 2022. Chile is also a major foreign investor, with flows of USD 33,120 million accumulated between 2020 and 2022.

**Table 1.4 Balance of payments, 2015-22**

(USD million)

	2015	2016	2017	2018	2019	2020	2021	2022
<b>I. Current account</b>	<b>-6,631</b>	<b>-6,534</b>	<b>-7,616</b>	<b>-13,265</b>	<b>-14,505</b>	<b>-4,952</b>	<b>-23,193</b>	<b>-27,102</b>
A. Goods and services	-1,995	-528	1,880	-2,933	-5,069	11,444	-1,848	-11,017
Goods	3,576	4,951	7,490	4,409	3,016	18,917	10,470	3,807
Exports	62,120	60,769	68,904	74,838	68,792	74,024	94,774	98,548
Imports	58,544	55,819	61,414	70,430	65,776	55,108	84,304	94,741
Services	-5,571	-5,479	-5,611	-7,341	-8,085	-7,472	-12,318	-14,824
Exports	8,557	8,600	9,194	9,226	8,462	5,554	5,973	8,529
Imports	14,128	14,079	14,804	16,567	16,547	13,027	18,291	23,353
B. Income (primary income)	-5,984	-6,936	-10,756	-12,162	-10,411	-15,865	-18,518	-16,520
Investment income	-5,657	-6,655	-10,330	-11,608	-9,758	-15,315	-17,948	-15,913
Direct investment income	-5,730	-6,760	-10,064	-11,818	-10,311	-15,565	-16,858	-13,266
Abroad	2,540	3,162	4,326	5,106	5,759	293	6,204	10,664
In Chile	8,270	9,922	14,390	16,924	16,070	15,859	23,062	23,930
Portfolio investment income	-120	-20	-274	442	704	92	-1,105	-2,014
Dividends	1,601	1,555	1,425	2,184	2,432	2,322	1,706	1,299
Interest	-1,721	-1,575	-1,699	-1,742	-1,728	-2,230	-2,812	-3,313
Other investment income	194	126	8	-231	-151	158	15	-633
Inflows	590	647	747	780	944	742	450	652
Outflows	396	522	740	1,011	1,095	584	435	1,285
C. Current transfers (secondary income)	1,348	929	1,260	1,829	974	-532	-2,827	434
Government	1,882	1,522	2,029	3,200	2,591	2,464	3,116	2,944
Other sectors	-534	-593	-769	-1,371	-1,616	-2,996	-5,943	-2,510
<b>II. Capital account</b>	<b>695</b>	<b>9</b>	<b>89</b>	<b>43</b>	<b>1,025</b>	<b>1</b>	<b>2</b>	<b>2</b>
<b>III. Financing capacity/need</b>	<b>-5,936</b>	<b>-6,526</b>	<b>-7,527</b>	<b>-13,223</b>	<b>-13,481</b>	<b>-4,951</b>	<b>-23,191</b>	<b>-27,100</b>

<sup>30</sup> Central Bank of Chile, *Reunión de Política Monetaria*, June 2023. Viewed at: <https://www.bcentral.cl/contenido/-/detalle/comunicado-rpm-junio-2023>.



	2015	2016	2017	2018	2019	2020	2021	2022
<b>IV. Financial account</b>	<b>-3,917</b>	<b>-4,231</b>	<b>-6,158</b>	<b>-11,339</b>	<b>-10,834</b>	<b>-7,717</b>	<b>-24,752</b>	<b>-25,387</b>
A. Direct investment	-1,915	-3,487	-2,702	-6,096	-3,234	-5,049	-1,987	-8,089
Assets	15,851	7,876	2,535	1,847	10,345	6,398	13,946	12,776
Equity shares	5,127	3,624	1,221	3,997	7,532	5,759	7,958	3,948
Reinvested earnings	1,305	2,138	2,768	3,236	4,333	-1,148	3,675	8,530
Debt securities	9,419	2,114	-1,454	-5,386	-1,519	1,787	2,313	298
Liabilities	17,766	11,363	5,237	7,943	13,579	11,447	15,933	20,865
Equity shares	6,494	6,148	2,075	2,476	6,361	5,245	10,990	8,851
Reinvested earnings	1,488	2,663	4,105	6,262	5,372	5,267	4,528	10,777
Debt securities	9,785	2,552	-943	-795	1,846	936	415	1,237
B. Portfolio investment	-2,152	-2,493	4,801	-2,696	-10,608	-13,579	-33,809	-8,397
Assets	495	295	14,209	2,669	833	-6,420	-1,384	5,918
Liabilities	2,647	2,788	9,408	5,365	11,441	7,160	32,425	14,315
C. Financial derivatives	722	690	65	882	1,501	2,536	-17	644
D. Other investment	-783	-746	-5,572	-4,825	1,659	11,270	-1,150	-343
Assets	-3,403	189	-1,239	-892	3,108	9,511	10,299	8,187
Trade credit	-1,823	406	842	218	-19	2,951	6,048	286
Loans	-702	-94	-165	-210	-557	507	1,983	3,334
Currency and deposits	-1,278	236	-1,872	-884	2,666	6,186	2,266	4,063
Other assets	400	-360	-44	-17	1,018	-133	1	504
Liabilities	-2,620	934	4,333	3,933	1,449	-1,760	11,449	8,531
Trade credit	-1,242	245	1,140	746	-1,269	-1	3,529	-1,341
Loans	-1,567	761	2,516	2,504	2,343	-1,282	5,449	5,957
Currency and deposits	202	-71	676	682	375	-475	93	3,899
Other liabilities	-13	0	0	0	0	0	0	0
SDR allocations	0	0	1	1	-1	-1	2,378	15
E. Reserve assets	211	1,805	-2,750	1,397	-152	-2,895	12,211	-9,201
<b>V. Errors and omissions</b>	<b>2,019</b>	<b>2,295</b>	<b>1,369</b>	<b>1,883</b>	<b>2,646</b>	<b>-2,765</b>	<b>-1,561</b>	<b>1,713</b>
<b>VI. Balance of payments position</b>	<b>211</b>	<b>1,805</b>	<b>-2,750</b>	<b>1,397</b>	<b>-152</b>	<b>-2,895</b>	<b>12,211</b>	<b>-9,201</b>

Source: Central Bank of Chile.

1.34. In September 2022, external public debt stood at USD 41,168 million, equivalent to roughly 13.7% of GDP. This represents a sharp rise when compared with the situation before the pandemic. In 2019, external public debt was equivalent to 5.7% of GDP, and 3.2% in 2015. The debt increase is largely due to the expansionary policies implemented to counteract the negative effects of the pandemic.

## 1.5 Merchandise trade and investment flows

### 1.5.1 Composition of trade

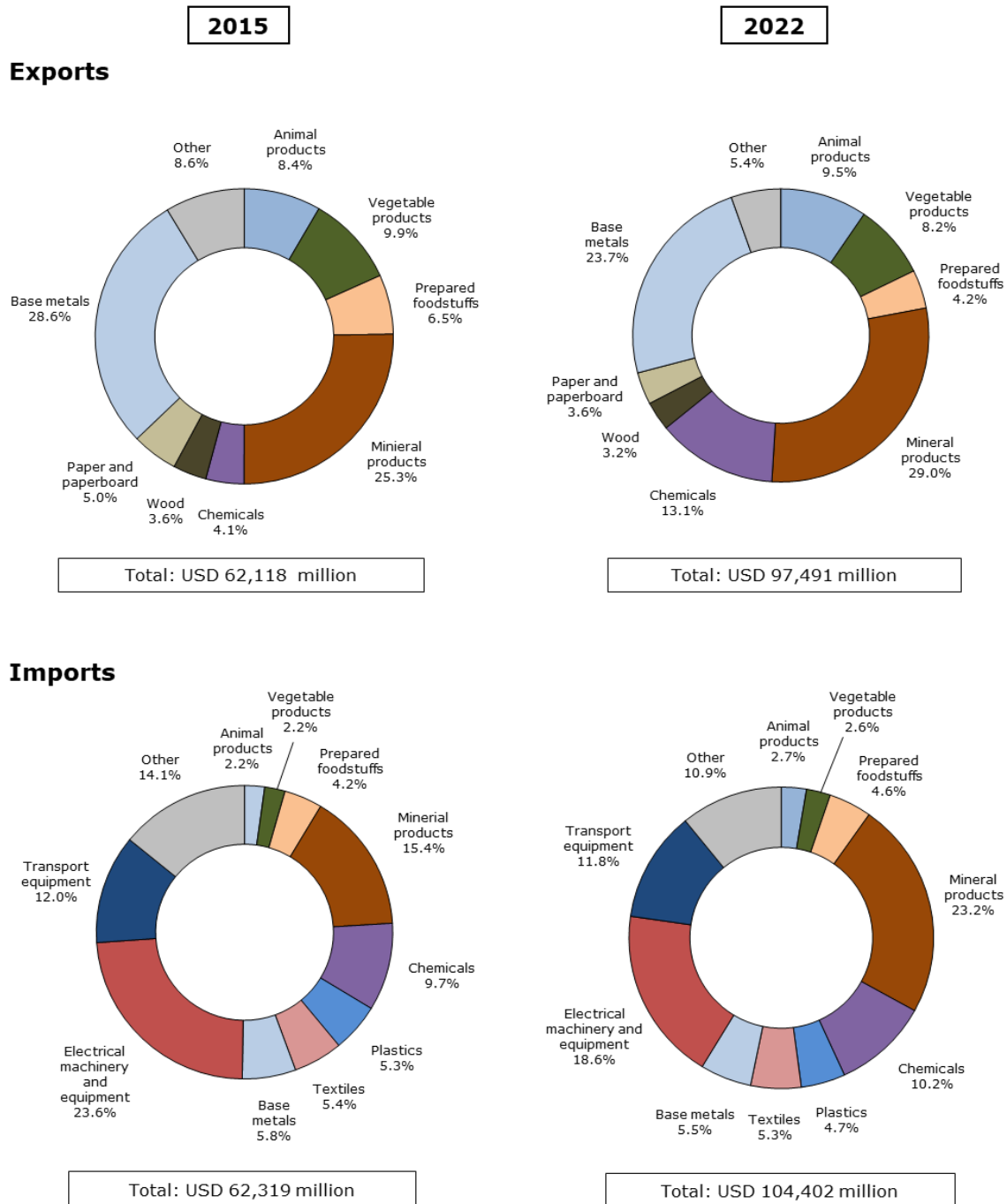
1.35. Imports of goods grew faster than exports during the period 2015-22. While the increase in imports of goods, in terms of value in USD, was 68.7% in that period, equivalent to an annual average growth rate of 7.7%, exports were up 56.9%, equivalent to an annual average growth rate of 6.7%.

1.36. Chile's merchandise exports mainly consist of primary products, mostly primary and processed agricultural and mining products. The share of mining products (mineral products and base metals) in total exports decreased slightly during the review period. Mining products accounted for 52.7% of Chilean merchandise exports in 2022 (Table A1.1 and Chart 1.1). Copper ore and refined copper jointly accounted for 45.3% of the country's exports in 2022, compared to 48.2% in 2015. It should be noted that, in 2022, exports of lithium concentrate grew by over 500%, which had a considerable impact on mining exports, largely offsetting the drop in copper exports in that year. The share of lithium exports in total exports grew from 1.3% in 2021 to 8.2% in 2022. The share of agricultural products (WTO classification) in total exports contracted during the period under review, from 25.2% in 2015 to 21.9% in 2022. Agricultural exports, according to the WTO classification, consist mainly of wine, fruit, salmon and other fish, and agricultural raw materials, particularly forestry products.

1.37. The share of imports of non-agricultural products (WTO classification) in total imports declined during the period under review, while imports of mineral products rose considerably, with their share in total imports increasing from 15.4% in 2015 to 23.2% in 2022. This was mainly due to the increase in fuel prices. Among imports, the leading category continued to be machinery and transport equipment, which accounted for 30.4% of imports in 2022, compared to 35.6% in 2015. The share

of chemicals in total imports increased, whereas the share of foodstuffs fell slightly (Table A1.2 and Chart 1.1).

**Chart 1.1 Merchandise trade by main product, 2015 and 2022**



Source: WTO Secretariat calculations, based on the UN Comtrade database.

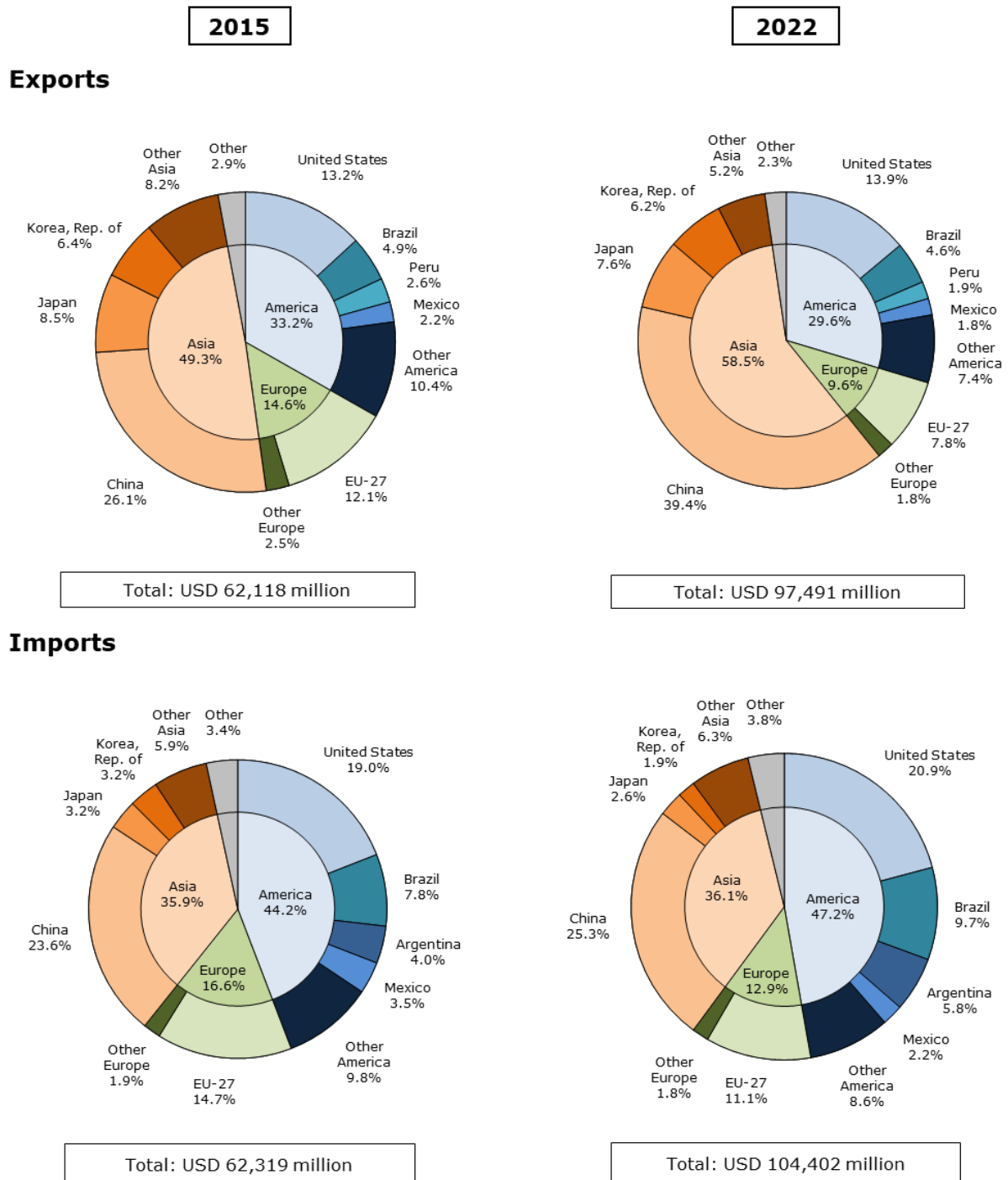
**1.5.2 Direction of trade**

1.38. In 2022, China remained Chile's main export market, absorbing 39.4% of its exports, compared with 26.1% in 2015. The percentage of exports destined for the United States grew slightly from 13.2% in 2015 to 13.9% in 2021. The European Union (27) was the destination for 7.8% of Chile's exports, compared with 12.1% in 2015 (Table A1.3 and Chart 1.2), while the share destined for Japan decreased from 8.5% to 7.6%. The proportion of exports going to other countries

of the American continent declined slightly during the review period, from 20% in 2015 to 16.3% in 2022.

1.39. During the period under review, China continued to be the main source of Chile's imports, accounting for 25.3% of total imports in 2022 (23.6% in 2015). The second provider was the United States with 20.9% of total imports (19.0% in 2015), followed by the European Union with 11.1% in 2022, Brazil and Argentina (Table A1.4 and Chart 1.2).

**Chart 1.2 Merchandise trade by trading partner, 2015 and 2022**



Source: WTO Secretariat calculations, based on the UN Comtrade database.

### 1.5.3 Trade in services

1.40. The deficit that Chile traditionally runs in its trade in services widened between 2015 and 2019, from USD 5,571 million in 2015 to USD 8,085 million in 2019 (Table 1.5). In 2020, as a result of the pandemic and its severe impact on services categories, exports and imports of services both fell. There was a general decline in the components of both exports and imports of services, in particular travel. Furthermore, for both exports and imports, it is important to highlight the decrease in air passenger transport services and aircraft operating leasing services.

1.41. The deficit shrank in 2020 (USD 7,472 million) before increasing substantially in 2021 (USD 12,318 million) and 2022 (USD 14,824 million). In 2021, exports grew on the back of transport services, most notably air freight and services for maritime vessels. Performance was also affected by the rise in exports of information services. The growth of imports was also attributable to transport services, predominantly maritime freight, in line with the performance of foreign trade in goods and the world freight market. Information services, particularly digital information services, and business services also contributed to this increase, albeit to a lesser extent. In 2022, the growth in both exports and imports was driven by an increase in all their categories. For exports, the most significant rise was in air transport services, mainly air passenger transport services. An increase in aircraft operating leasing services and in business, professional and technical services was also observed. Meanwhile, imports were led by maritime freight services, in line with the high international prices in that market. Freight payments in 2022 tripled compared with the levels prior to the pandemic. The growth in imports of financial services and tourism services was also noteworthy.

**Table 1.5 Trade in services, 2015-22**

(USD million)

	2015	2016	2017	2018	2019	2020	2021	2022
<b>Exports</b>	<b>8,557</b>	<b>8,600</b>	<b>9,194</b>	<b>9,226</b>	<b>8,462</b>	<b>5,554</b>	<b>5,973</b>	<b>8,529</b>
Transport	3,245	3,066	3,318	3,413	3,312	2,537	3,026	4,025
Maritime transport	1,205	992	1,052	1,008	926	772	937	1,194
Freight	280	104	170	157	152	125	154	336
Other	926	888	882	851	773	646	783	857
Other transport	2,040	2,074	2,266	2,405	2,386	1,765	2,089	2,832
Passenger	931	1,079	984	1,040	1,014	428	422	883
Freight	831	732	982	1,008	1,018	1,097	1,467	1,698
Other	278	263	300	356	353	240	200	251
Travel	2,497	2,683	3,152	2,897	2,302	413	113	1,024
Business	426	423	369	413	320	38	13	130
Personal	2,071	2,260	2,784	2,483	1,983	375	100	894
Insurance and pension services	290	313	305	297	317	355	402	389
Financial services	185	189	222	223	225	243	255	306
Charges for the use of intellectual property, n.i.e.	42	38	50	46	45	40	67	65
Telecommunications, computer, and information services	317	344	347	375	383	380	494	507
Telecommunications	78	61	61	48	40	23	20	23
Computer and information	239	283	285	327	343	357	474	485
Other business services	1,567	1,504	1,337	1,526	1,497	1,262	1,273	1,787
Professional and business management consulting services	723	554	552	731	689	661	786	1,025
Other business services	843	951	785	795	808	601	487	761
Personal, cultural and recreational services	34	37	40	43	49	40	52	65
Other services	381	424	422	407	331	284	291	360
<b>Imports</b>	<b>14,128</b>	<b>14,079</b>	<b>14,804</b>	<b>16,567</b>	<b>16,547</b>	<b>13,027</b>	<b>18,291</b>	<b>23,353</b>
Transport	4,601	4,265	4,700	5,056	4,939	4,409	8,470	10,772
Maritime transport	3,036	2,589	2,754	3,039	3,022	3,012	6,477	8,191
Freight	2,582	2,369	2,523	2,834	2,808	2,847	6,265	7,885
Other	454	220	231	205	214	166	213	306
Other transport	1,565	1,676	1,946	2,017	1,918	1,396	1,992	2,581
Passenger	581	633	814	788	732	217	285	637
Freight	717	722	796	851	810	872	1,401	1,471
Other	267	321	336	378	376	307	307	473
Travel	1,987	2,153	2,329	2,393	2,459	539	303	1,718
Business	260	280	259	292	293	45	39	216
Personal	1,727	1,874	2,070	2,101	2,166	495	265	1,502
Insurance and pension services	453	424	512	382	400	437	661	678

	2015	2016	2017	2018	2019	2020	2021	2022
Financial services	1,183	1,182	1,115	1,336	1,380	1,238	1,365	2,914
Charges for the use of intellectual property, n.i.e.	1,635	1,731	1,709	2,034	1,879	1,512	1,690	1,325
Telecommunications, computer, and information services	1,620	1,628	1,657	2,069	2,113	2,046	2,703	2,689
Telecommunications	133	119	107	105	81	81	77	80
Computer and information	1,487	1,509	1,549	1,964	2,032	1,965	2,626	2,609
Other business services	2,312	2,400	2,446	2,870	2,925	2,504	2,757	2,797
Professional and business management consulting services	1,604	1,575	1,672	1,867	1,929	1,900	2,251	2,076
Other business services	708	825	774	1,004	996	604	506	721
Personal, cultural and recreational services	38	32	41	40	40	8	5	52
Other services	300	264	295	385	414	333	338	409
<b>Trade balance</b>	<b>-5,571</b>	<b>-5,479</b>	<b>-5,611</b>	<b>-7,341</b>	<b>-8,085</b>	<b>-7,472</b>	<b>-12,318</b>	<b>-14,824</b>
Transport	-1,356	-1,199	-1,382	-1,644	-1,627	-1,872	-5,444	-6,746
Maritime transport	-1,830	-1,597	-1,701	-2,031	-2,096	-2,241	-5,540	-6,997
Freight	-2,302	-2,265	-2,352	-2,677	-2,655	-2,721	-6,110	-7,548
Other	472	667	651	646	559	481	570	551
Other transport	475	398	320	388	468	369	97	251
Passenger	350	446	169	252	282	211	137	247
Freight	114	10	186	158	208	225	66	227
Other	10	-57	-36	-22	-22	-67	-106	-223
Travel	511	530	823	503	-157	-127	-190	-695
Business	167	144	109	121	26	-7	-25	-87
Personal	344	386	714	382	-183	-120	-165	-608
Insurance and pension services	-162	-110	-207	-85	-83	-82	-259	-288
Financial services	-998	-993	-893	-1,114	-1,155	-995	-1,110	-2,608
Charges for the use of intellectual property, n.i.e.	-1,593	-1,692	-1,659	-1,988	-1,833	-1,472	-1,622	-1,259
Telecommunications, computer, and information services	-1,303	-1,284	-1,310	-1,694	-1,730	-1,666	-2,209	-2,182
Telecommunications	-55	-58	-46	-57	-41	-58	-57	-58
Computer and information	-1,248	-1,226	-1,264	-1,638	-1,689	-1,608	-2,152	-2,124
Other business services	-745	-896	-1,109	-1,345	-1,428	-1,242	-1,484	-1,010
Professional and business management consulting services	-880	-1,022	-1,120	-1,136	-1,240	-1,239	-1,465	-1,051
Other business services	135	126	11	-209	-188	-3	-19	40
Personal, cultural and recreational services	-5	5	-1	3	10	32	47	13
Other services	81	161	127	22	-82	-49	-46	-48

Source: Central Bank of Chile.

### 1.5.4 Foreign direct investment

1.42. During the period under review, Chile continued to receive large FDI flows. According to the information provided by the authorities, FDI inflows between 2015 and 2021 amounted to USD 80,345 million. Of the FDI received by Chile in that period, 36.4% was channelled to the electricity, gas and water sector, 20.2% to the mining sector, followed by the financial services sector (19.3%) and the commerce sector (7.5%) (Table 1.6). Chile was also a dynamic investor abroad during the period under review, with outward FDI of around USD 59,613 million between 2015 and 2021. Chilean investment abroad was channelled into various sectors, with the main category of outward FDI being "unassigned" (33.7% of the total), which is an adjustment category. Other important areas of investment abroad were electricity, gas and water (21.2% of the total); financial services (14.9%); manufacturing (8.4%); transport and storage (7.9%); and commerce (6.5% of the total).

**Table 1.6 FDI flows by economic sector, 2015-21**

(USD million)

	2015	2016	2017	2018	2019	2020	2021
<b>Outward FDI</b>							
Agriculture, livestock and fishing	-9	20	-8	24	41	73	-273
Mining	-1,968	62	102	128	878	876	2,094
Manufacturing	1,622	703	505	270	817	436	646
Electricity, gas and water	684	-1,236	2,032	1,224	4,426	584	4,650
Construction	-3	2	2	6	54	21	37

	2015	2016	2017	2018	2019	2020	2021
Commerce	883	1,485	221	851	392	-236	501
Hotels and restaurants	33	1	199	3	-37	-79	-14
Transport and storage	789	-157	640	994	1,588	-627	1,471
Communications	354	561	207	189	-21	-412	-295
Financial services	9,330	3,141	-1,184	-6,220	1,002	2,821	19
Real estate activities and business services	310	183	-51	170	381	115	114
Other services	62	133	102	116	93	-69	-24
Unassigned	3,765	2,979	-232	4,091	731	3,203	5,529
<b>Total</b>	<b>15,851</b>	<b>7,876</b>	<b>2,535</b>	<b>1,847</b>	<b>10,345</b>	<b>6,705</b>	<b>14,454</b>
<b>Inward FDI</b>							
Agriculture, livestock and fishing	619	319	156	95	184	399	128
Mining	8,347	698	837	-1,666	1,482	2,037	4,469
Manufacturing	526	303	-276	-224	328	-298	197
Electricity, gas and water	5,244	4,378	378	1,527	3,988	4,082	9,612
Construction	365	132	565	105	153	1,199	730
Commerce	1,705	705	565	159	1,449	810	314
Hotels and restaurants	-39	10	-5	12	7	1	7
Transport and storage	-1,155	225	-574	-309	-203	138	-1,578
Communications	-212	-245	-1,034	422	1,236	-1,603	-687
Financial services	1,770	1,980	717	6,736	2,108	1,084	1,102
Real estate activities and business services	-1	-101	93	-46	16	10	-13
Other services	80	91	-70	215	-316	171	150
Unassigned	515	2,868	3,884	915	3,147	1,175	821
<b>Total</b>	<b>17,766</b>	<b>11,363</b>	<b>5,237</b>	<b>7,943</b>	<b>13,579</b>	<b>9,205</b>	<b>15,252</b>

Note: The outward/inward criterion corresponds to the traditional method of reporting (IMF Balance of Payments and International Investment Position Manual, Sixth Edition (BPM6)). The estimation of outward FDI is based on direct information on flows, stocks and profits of resident companies that invest abroad.

Source: Central Bank of Chile.

1.43. Regarding FDI stock, inward investment into Chile amounted to USD 251,224 million at the end of 2021. This was concentrated mainly in the mining sector (26.8% of the total), financial services (16.2%), the electricity, water and gas sector (13.9%), manufacturing (3.8%) and communications (2.9%); 25.7% of investment went to sectors classified as "unassigned" (Table 1.7). Chilean FDI stock abroad totalled USD 146,695 million at the close of 2021. Of that, 39.8% went to "unassigned" sectors; 23.7% to financial services; 9.2% to the electricity, gas and water sector; 8.2% to manufacturing; 6.8% to commerce; 5.4% to transport and storage; and 2.9% to mining.

**Table 1.7 FDI stock by economic sector, 2015-21**

(USD million)

	2015	2016	2017	2018	2019	2020	2021
<b>Outward FDI</b>							
Agriculture, livestock and fishing	139	110	107	113	150	247	154
Mining	483	517	620	758	1,814	2,652	4,295
Manufacturing	11,231	11,698	12,185	11,130	11,721	11,796	12,070
Electricity, gas and water	7,392	7,323	8,428	9,367	12,743	10,945	13,452
Construction	199	202	90	100	133	166	198
Commerce	8,789	10,165	10,107	10,791	10,710	10,161	9,930
Hotels and restaurants	174	145	344	348	346	278	255
Transport and storage	5,356	5,637	6,302	6,221	7,365	6,860	7,942
Communications	1,020	1,556	1,784	2,059	2,289	2,177	2,031
Financial services	43,280	45,711	45,043	30,892	31,808	34,394	34,799
Real estate activities and business services	1,819	2,005	2,181	2,638	2,405	2,465	2,490
Other services	947	671	548	642	714	636	677
Unassigned	24,751	30,282	32,093	45,209	48,063	50,099	58,400
<b>Total</b>	<b>105,577</b>	<b>116,022</b>	<b>119,834</b>	<b>120,268</b>	<b>130,261</b>	<b>132,877</b>	<b>146,695</b>
<b>Inward FDI</b>							
Agriculture, livestock and fishing	2,650	2,950	3,129	2,978	2,904	3,331	3,534
Mining	70,817	68,772	66,863	62,528	62,220	62,201	67,415
Manufacturing	14,766	13,580	13,353	10,787	10,473	10,590	9,631
Electricity, gas and water	28,312	29,092	34,800	32,943	37,090	37,801	35,028
Construction	3,222	3,358	3,590	4,219	4,280	5,044	5,242
Commerce	9,180	9,406	11,297	11,427	12,064	12,735	12,620
Hotels and restaurants	178	58	52	52	59	62	60
Transport and storage	10,092	10,527	10,062	9,125	8,789	4,904	4,416
Communications	8,237	8,277	6,847	6,873	7,554	8,133	7,166
Financial services	33,330	38,480	43,370	44,523	43,746	43,132	40,716



	2015	2016	2017	2018	2019	2020	2021
Real estate activities and business services	230	178	190	142	149	151	121
Other services	1,839	2,006	2,213	2,308	1,852	1,862	2,037
Unassigned	40,131	50,068	61,981	66,255	66,529	69,670	63,237
<b>Total</b>	<b>222,984</b>	<b>236,752</b>	<b>257,748</b>	<b>254,160</b>	<b>257,709</b>	<b>259,614</b>	<b>251,224</b>

Note: The outward/inward criterion corresponds to the traditional method of reporting (IMF Balance of Payments and International Investment Position Manual, Sixth Edition (BPM6)). The estimation of outward FDI is based on direct information on flows, stocks and profits of resident companies that invest abroad.

Source: Central Bank of Chile.

1.44. The main sources of capital investment flows into Chile between 2015 and 2021 were the United Kingdom, Italy, the Netherlands and Canada (Table 1.8). The main destinations for Chilean FDI outflows were the United States, Brazil, Panama and Peru.

**Table 1.8 FDI flows by country of origin, 2015-21**

(USD million)

	2015	2016	2017	2018	2019	2020	2021	2015-21
<b>Outward FDI</b>								
The Americas	15,516	3,561	2,912	3,036	8,895	1,118	4,714	39,753
Argentina	-1,490	27	869	533	918	-109	-1,224	-476
Bahamas	18	38	-55	1	-74	-79	4	-148
Bermuda	78	-1,140	-32	19	-30	62	96	-946
Brazil	1,418	-607	1,826	2,106	3,939	222	4,217	13,121
British Virgin Islands	178	-210	245	-309	302	80	-525	-239
Canada	681	111	19	-335	50	165	210	901
Cayman Islands	10	1,158	-574	286	199	18	37	1,134
Colombia	674	-57	495	423	1,542	174	408	3,658
Ecuador	39	27	10	65	59	80	-77	201
Mexico	211	313	78	-66	75	36	77	724
Panama	8,260	373	629	-745	80	149	739	9,486
Paraguay	24	26	93	20	-161	64	11	76
Peru	-203	1,075	1,192	654	1,702	-156	924	5,190
United States <sup>a</sup>	6,870	2,271	-2,219	478	263	613	-405	7,872
Uruguay	-120	114	17	66	57	-241	200	93
Rest of the Americas	-1,130	43	320	-160	-25	39	21	-893
Europe	-4,346	810	-230	-5,378	345	2,284	4,207	-2,307
Belgium	48	24	21	-813	25	-14	3	-706
France <sup>b</sup>	139	76	58	-406	19	73	37	-4
Germany	357	-21	-34	79	277	334	3,041	4,032
Liechtenstein	-38	92	-1	-5	0	0	0	48
Luxembourg	62	153	-291	-245	-152	776	767	1,070
Netherlands	-132	-141	-10	18	177	91	119	122
Norway	-135	-65	-413	-77	-3	1	0	-692
Spain	-1,426	106	10	38	42	98	-25	-1,159
Switzerland	1,548	464	380	-4,238	16	-2	19	-1,814
United Kingdom	-4,775	118	22	288	-90	824	158	-3,455
Rest of Europe	5	4	29	-16	35	104	89	251
Africa	30	24	28	3	-9	12	21	109
Asia	44	40	47	17	-15	60	-11	182
Oceania	147	-25	205	-92	-2	280	477	991
Unassigned	4,460	3,465	-427	4,261	1,131	2,951	5,046	20,886
<b>Total</b>	<b>15,851</b>	<b>7,876</b>	<b>2,535</b>	<b>1,847</b>	<b>10,345</b>	<b>6,705</b>	<b>14,454</b>	<b>59,613</b>
<b>Inward FDI</b>								
The Americas	1,569	2,613	-4,020	2,057	3,459	2,361	2,012	10,051
Argentina	-98	-63	-48	23	-454	2	2	-637
Bahamas	-36	92	328	185	1	1	-2	568
Bermuda	-310	99	-540	-240	-435	-16	-451	-1,893
Brazil	71	-196	340	291	158	1	978	1,643
British Virgin Islands	-351	-47	271	-569	-264	156	159	-646
Canada	-1,226	326	1,104	2,661	1,348	1,882	2,832	8,927
Colombia	587	225	-217	433	805	92	-58	1,866
Mexico	212	-143	191	-128	43	-1,185	-656	-1,666
Panama	128	141	-167	-534	-164	-410	57	-948
Peru	-14	38	-15	74	20	42	46	191
United States <sup>a</sup>	1,471	1,660	-3,588	52	1,758	1,687	-1,356	1,684
Uruguay	24	60	-54	28	40	30	37	165
Rest of the Americas	1,113	422	-1,626	-219	605	80	425	799
Europe	6,766	5,601	3,522	7,426	6,237	5,436	11,880	46,868
Austria	94	109	60	-21	131	79	27	479
Belgium	0	182	-53	-166	160	181	2,798	3,101
France <sup>b</sup>	-25	-2	-61	121	157	384	217	790
Germany	202	66	178	119	104	122	-2	789
Italy	69	2,495	17	1,043	2,094	258	7,409	13,385

	2015	2016	2017	2018	2019	2020	2021	2015-21
Luxembourg	34	-287	-84	-111	73	285	-5	-95
Netherlands	1,796	531	332	1,216	1,779	923	2,394	8,970
Norway	56	-312	-20	282	86	-49	69	110
Spain	1,523	1,301	861	1,306	-66	997	-3,059	2,862
Sweden	-41	64	220	41	-216	49	23	140
Switzerland	-59	47	108	669	458	148	119	1,491
United Kingdom	2,915	926	2,332	3,179	1,333	1,950	1,476	14,112
Rest of Europe	200	482	-368	-250	145	111	414	735
Africa	-1	14	36	15	20	10	2	94
Asia	9,002	484	1,494	-5,982	662	-273	796	6,184
China	41	109	6	-142	141	241	-228	168
Japan	-31	-156	681	-166	806	99	842	2,074
Rest of Asia	8,993	531	806	-5,673	-285	-612	182	3,942
Oceania	-34	19	95	3,385	211	468	-203	3,941
Australia	-25	3	65	3,375	214	463	-205	3,890
New Zealand	-9	16	30	10	-3	5	2	51
Rest of Oceania	0	0	0	0	0	0	0	0
Unassigned	465	2,631	4,110	1,041	2,990	1,204	764	13,206
<b>Total</b>	<b>17,766</b>	<b>11,363</b>	<b>5,237</b>	<b>7,943</b>	<b>13,579</b>	<b>9,205</b>	<b>15,252</b>	<b>80,345</b>

a Includes Puerto Rico.

b Includes French Guiana.

Note: The outward/inward criterion corresponds to the traditional method of reporting (IMF Balance of Payments and International Investment Position Manual, Sixth Edition (BPM6)). The estimation of outward FDI is based on direct information on flows, stocks and profits of resident companies that invest abroad.

Source: Central Bank of Chile.

1.45. In terms of inward FDI stock at 31 December 2021, the main source countries were Canada (13.2% of the total), followed by the United States (10.9% of the total), the Netherlands (9.0%), the United Kingdom (7%), Spain (6.8%) and Italy (5.6%). Other important investors were Belgium and Australia. With regard to Chilean FDI stock abroad, the main destinations were the United States (10.3% of the total) and Brazil (9.5% of the total), followed by Peru (8.3%), Colombia (4.7%), Argentina (4.1%) and Germany (4.0%) (Table 1.9).

**Table 1.9 FDI stock by country of origin, 2015-21**

(USD million)

	2015	2016	2017	2018	2019	2020	2021
<b>Outward FDI</b>							
Americas	67,843	71,197	73,378	65,845	71,904	69,624	71,226
Argentina	4,194	4,517	5,091	6,222	6,605	6,216	6,043
Bahamas	788	879	802	803	705	919	743
Bermuda	855	504	482	530	484	563	496
Brazil	11,091	10,858	11,905	12,078	15,090	12,042	13,891
British Virgin Islands	5,980	4,788	4,435	4,611	4,681	4,781	4,005
Canada	1,017	1,218	1,277	929	1,679	1,854	2,247
Cayman Islands	1,978	2,812	2,729	2,760	2,433	2,496	2,526
Colombia	6,311	6,498	6,625	6,601	7,228	6,842	6,869
Ecuador	459	329	357	391	438	512	343
Mexico	1,065	1,202	1,302	1,246	1,248	1,249	1,341
Panama	11,737	11,967	12,399	2,909	3,019	3,109	3,105
Paraguay	393	403	424	397	411	458	464
Peru	7,897	8,645	10,187	10,778	12,177	12,115	12,238
United States <sup>a</sup>	12,371	14,606	13,022	13,386	14,164	14,956	15,163
Uruguay	1,392	1,623	1,702	1,733	1,310	1,280	1,517
Rest of the Americas	316	349	639	469	231	231	234
Europe	11,560	13,889	13,726	8,460	9,229	11,733	15,615
Belgium	1,002	941	971	268	293	303	307
France <sup>b</sup>	556	663	650	268	377	374	402
Germany	1,957	1,849	2,001	2,073	2,235	2,811	5,798
Liechtenstein	121	449	539	460	463	375	374
Luxembourg	2,142	2,185	2,118	1,937	2,102	2,895	3,526
Netherlands	971	994	1,085	1,141	1,347	1,433	1,597
Norway	562	498	85	8	4	5	5
Spain	231	386	415	464	505	645	692
Switzerland	3,436	5,324	4,813	490	522	525	556
United Kingdom	339	449	804	1,087	1,080	2,039	2,137
Rest of Europe	243	152	245	264	302	327	221
Africa	201	229	217	47	29	182	106
Asia	268	191	179	196	187	206	259
Oceania	671	657	877	788	720	989	1,382
Unassigned	25,034	29,858	31,457	44,932	48,191	50,143	58,107
<b>Total</b>	<b>105,577</b>	<b>116,022</b>	<b>119,834</b>	<b>120,268</b>	<b>130,261</b>	<b>132,877</b>	<b>146,695</b>



	2015	2016	2017	2018	2019	2020	2021
<b>Inward FDI</b>							
Americas	86,736	90,071	90,735	83,634	82,039	82,504	80,520
Argentina	756	751	692	643	142	143	65
Bahamas	2,218	2,147	1,818	119	125	34	32
Bermuda	6,774	7,157	6,608	4,557	3,572	3,509	3,091
Brazil	4,193	4,376	5,211	4,760	3,955	3,353	3,344
British Virgin Islands	3,037	3,282	4,933	4,139	3,657	1,095	1,206
Canada	24,523	26,665	28,413	29,454	29,819	31,936	33,210
Colombia	2,429	2,389	2,459	2,698	3,316	3,774	3,318
Mexico	2,196	2,145	2,277	2,032	2,186	1,857	1,680
Panama	2,796	2,808	1,769	1,077	908	659	791
Peru	716	680	669	626	563	570	587
United States <sup>a</sup>	28,143	29,481	29,612	26,635	27,835	29,839	27,416
Uruguay	740	816	756	813	850	847	869
Rest of the Americas	8,214	7,374	5,519	6,080	5,110	4,886	4,911
Europe	78,878	79,646	86,983	88,891	93,484	91,698	91,277
Austria	1,167	1,229	1,396	1,086	1,146	1,014	891
Belgium	2,611	2,620	2,685	2,452	2,425	2,493	5,471
France <sup>b</sup>	1,612	1,527	1,383	1,516	1,642	1,572	1,616
Germany	1,286	1,209	1,360	1,325	1,313	1,066	1,019
Italy	1,280	8,949	12,487	12,538	16,761	15,091	14,005
Luxembourg	1,755	1,433	1,404	875	944	1,198	1,181
Netherlands	21,884	21,576	18,196	19,553	19,815	20,993	22,688
Norway	1,958	1,571	1,250	1,434	1,230	1,194	1,255
Spain	24,995	18,037	21,014	21,887	21,866	21,514	16,986
Sweden	1,006	1,041	1,089	1,087	884	941	897
Switzerland	1,067	1,104	1,154	1,771	2,156	1,960	1,876
United Kingdom	11,292	11,711	14,745	16,207	17,364	16,754	17,591
Rest of Europe	6,965	7,638	8,820	7,160	5,939	5,908	5,802
Africa	540	424	460	475	496	506	507
Asia	12,912	12,881	13,453	7,408	7,704	6,995	8,126
China	246	348	379	404	517	772	496
Japan	3,026	2,389	2,062	1,671	2,288	2,005	3,282
Rest of Asia	9,640	10,144	11,012	5,333	4,899	4,218	4,348
Oceania	1,004	1,025	1,132	4,742	4,822	5,043	3,905
Australia	881	885	949	4,579	4,661	4,910	3,769
New Zealand	123	140	183	164	161	134	136
Rest of Oceania	0	0	0	0	0	0	0
Unassigned	42,914	52,705	64,984	69,009	69,164	72,869	66,889
<b>Total</b>	<b>222,984</b>	<b>236,752</b>	<b>257,748</b>	<b>254,160</b>	<b>257,709</b>	<b>259,614</b>	<b>251,224</b>

a Includes Puerto Rico.

b Includes French Guiana.

Note: The outward/inward criterion corresponds to the traditional method of reporting (IMF Balance of Payments and International Investment Position Manual, Sixth Edition (BPM6)). The estimation of outward FDI is based on direct information on flows, stocks and profits of resident companies that invest abroad.

Source: Central Bank of Chile.

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## 2 TRADE AND INVESTMENT REGIMES

### 2.1 General framework

2.1. The Political Constitution of the Republic of Chile defines Chile as a unitary state and democratic republic, organized according to the principle of the separation of powers. The administration of the State is geographically decentralized into 16 regions, 56 provinces and 346 communes<sup>1</sup> and has as its objective the pursuit of harmonious and equitable territorial development, based on solidarity between the different regions.<sup>2</sup>

2.2. Executive power rests with the President of the Republic, who is the head of state. The President is elected by direct universal suffrage for a four-year term and may not be re-elected for the ensuing period. According to the Constitution, the President is responsible, *inter alia*, for appointing Ministers and Under-Secretaries, proposing, passing and enacting laws, and negotiating, concluding and signing treaties on matters of interest to the country, which must be approved by the National Congress prior to ratification. The President also has exclusive authority to denounce or withdraw from a treaty.<sup>3</sup> The most recent presidential elections took place in November and December 2021.

2.3. Legislative power rests with the National Congress, comprising the Chamber of Deputies and the Senate. The Chamber of Deputies has 155 members, who are directly elected to represent the country's 28 electoral districts, and is renewed every four years. The Senate has 50 members directly elected by senatorial constituency for an eight-year term, who are renewed alternately every four years. The National Congress has the authority to approve or reject international treaties relating to points of law prior to ratification and may lodge reservations or interpretative statements during the ratification process.<sup>4</sup>

2.4. The judiciary is primarily governed by the Constitution and the Courts Statute Code.<sup>5</sup> Its ordinary courts of justice consist of the Supreme Court, the 17 regional appeal courts distributed throughout national territory, court presidents and judges, criminal oral trial courts, magistrates' courts (civil cases) and guarantee courts (rights and constitutional guarantees of defendants in criminal proceedings). Special courts include family courts, labour-dispute courts, labour and pension rights enforcement courts, and courts martial in peace time.<sup>6</sup> In addition, there are tax and customs courts that rule on claims by taxpayers against decisions by the Internal Revenue Service and the National Customs Service.

2.5. Legislation in Chile distinguishes between laws that interpret the Constitution, organic constitutional laws (LOCs), qualified quorum laws, ordinary laws and decrees with force of law (DFLs). Laws interpreting the Constitution clarify the meaning or scope of a concept or an expression contained in the Constitution and require a four-sevenths majority of currently serving deputies and senators if they are to be passed, amended, or repealed. LOCs address certain issues that are expressly stipulated in the Constitution and require an absolute majority of currently serving deputies and senators to be passed, amended or repealed.<sup>7</sup> Laws interpreting the Constitution and LOCs must be submitted for constitutional review by the Constitutional Court before they are enacted. Qualified quorum laws relate to certain matters specified in the Constitution and are passed, amended and repealed by an absolute majority of currently serving deputies and senators. Ordinary or common laws require a majority of the votes cast by the members of each chamber present at the time of voting. DFLs concerning constitutional matters are issued by the President by delegation of congressional authority. The Constitution takes precedence over all other laws. Box 2.1 sets out the legislative procedure for draft laws in Chile.

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<sup>1</sup> Library of the National Congress of Chile, online information. Viewed at: [https://www.bcn.cl/siit/nuestropais/nuestropais/div\\_pol-adm.htm](https://www.bcn.cl/siit/nuestropais/nuestropais/div_pol-adm.htm).

<sup>2</sup> Article 115 of the Political Constitution of the Republic of Chile of 1980 (most recent amendment of May 2023).

<sup>3</sup> Article 54 of the Political Constitution.

<sup>4</sup> According to Article 54 of the Political Constitution, congressional approval is not required for treaties signed by the President of the Republic in the exercise of their regulatory power.

<sup>5</sup> Courts Statute Code of 27 July 1943, last amended on 10 February 2023.

<sup>6</sup> Article 5 of the Courts Statute Code.

<sup>7</sup> Article 66 of the Political Constitution.

**Box 2.1 Legislative process in Chile, 2023****Passage of a draft law**

**Initial phase:** Draft laws can be introduced by the President of the Republic (in the form of "messages") or at the initiative of a member of Congress ("motions").

The Constitution gives the President of the Republic the exclusive right to propose draft laws on issues concerning changes to the political or administrative division of the country, or the State's financial or budgetary management. Draft laws on all other issues may be introduced by both the President and members of Congress, although in certain cases, the legislative process must begin in one of the two chambers. For example, laws on taxation of any kind, as well as on budgets for the Public Administration, can only be introduced in the Chamber of Deputies, while laws on amnesties and pardons may only come from the Senate. The first chamber to study the draft law is referred to as the "originating chamber" and the other chamber as the "revising chamber".

**First constitutional procedure:** This legislative process takes place in the originating chamber. During this phase, the draft is sent to a committee of experts in the subject matter at hand. The originating chamber holds a general discussion on the basis of the report of the committee and decides whether or not to pursue the legislative process. The following scenarios may arise:

- (a) The committee does not make any comments and the draft law is deemed approved by the originating chamber.
- (b) The committee makes comments on certain aspects of the draft law. The originating chamber holds a specific discussion focused on these comments.
- (c) The draft law is rejected in full during general discussion in the chamber and thus does not prosper. The draft law may not be introduced again until one year has elapsed.

If the rejected draft law was introduced by the President, they may introduce it in the other chamber, where it may be approved by a two-thirds majority of the members present. If this occurs, the draft law is returned to the originating chamber, which may reject it but only by a two-thirds majority of the members present.

**Second constitutional procedure:**

When the draft law has been approved by the originating chamber, it moves to the revising chamber, which initiates an identical procedure to that described for the originating chamber. The revising chamber may approve, amend or reject the draft law from the originating chamber.

- (a) If the draft is approved in full, it is submitted to the President of the Republic to be signed and enacted into law.
- (b) If the revising chamber amends the draft law, it is returned to the originating chamber so that the amendments can be examined and either approved or rejected. If they are approved, the draft is sent to the President of the Republic for enactment. If they are rejected, a joint committee comprising representatives from both chambers must be established.
- (c) If the revising chamber rejects the draft in full, the draft must be put to a joint committee for consideration, with a view to finding a means to resolve the disagreement.

**Veto and observations by the President of the Republic:** If the President does not comment on a draft law within 30 days, it is deemed to have been approved and can consequently be enacted into law.

If the President does make comments, the draft is returned to the National Congress. If both chambers adopt the observations, the draft can be enacted into law.

If both chambers reject the President's observations and insist on the full or partial draft that they themselves have approved, a two-thirds quorum returns the draft to the President for enactment into law.

If both chambers reject some or all of the President's observations and a two-thirds quorum cannot be reached, the points on which discrepancies exist cannot enter into law.

**Enactment:** When the President of the Republic approves the draft law, an enacting decree must be issued within 10 days, making the draft into a law.

**Publication:** Within five working days of the publication of the enacting decree, the text of the law is published in the Official Journal, whereupon it becomes mandatory and is presumed to be common knowledge.

Source: Library of the National Congress of Chile, online information.

2.6. During the period under review, three constitution-building processes were initiated with a view to drafting a new constitution. The first of these processes began in 2015 and ended in 2018, a few days before the end of the President's term in office, with the presentation of a reform proposal that was not approved. The second such process began in 2019, and ended in 2022 with a referendum in which 62% of the electorate rejected the proposed text of the new constitution. In January 2023, the Constitution was amended in order to establish a new procedure for the drafting and approval of a new constitution, a process that was under way at the time of writing.<sup>8</sup>

<sup>8</sup> Law No. 21.533 of 17 January 2023.

## 2.2 Trade policy formulation and objectives

2.7. Trade policy is formulated by the executive branch. During the period under review, Law No. 21.080 was enacted, modifying various statutory bodies for the purpose of modernizing the Ministry of Foreign Affairs (MINREL).<sup>9</sup> One such modification was the creation of the Under-Secretariat for International Economic Relations (SUBREI), replacing the Directorate-General of International Economic Relations (DIRECON), which had been responsible for implementing and coordinating policy in the sphere of international economic relations since 1979. The new Under-Secretariat, set up in July 2019, works in close cooperation with the Minister of Foreign Affairs in the area of international economic relations, and is in charge of coordinating with state administrative bodies whose remit covers foreign trade.<sup>10</sup> In particular, it is responsible for promoting and negotiating international economic treaties, coordinating Chile's participation in the various international organizations and forums that address economic issues, and formulating policies to promote Chile's exports and image abroad. In addition, SUBREI holds regular consultations with representatives of the National Congress on trade policy issues.

2.8. Law No. 21.080 also stipulated that the Minister of Foreign Affairs should establish an Interministerial Committee on International Economic Negotiations. Its task is to provide support to the Minister in their joint work with the President of the Republic to plan and implement foreign policy in relation to international economic negotiations and fulfilment of the obligations deriving therefrom.<sup>11</sup> Established in 2019, the Committee comprises the Minister of Foreign Affairs (as chair), the Minister of Finance, the Minister General Secretary of the Office of the President, and the Minister of Economic Affairs, Development and Tourism.<sup>12</sup> A Subcommittee of Negotiators was also set up, its main purpose being to monitor the various economic negotiations taking place internationally, while reporting to the Committee and making proposals for its consideration.<sup>13</sup>

2.9. The General Directorate for Export Promotion (ProChile) was established pursuant to Law No. 21.080 as a centralized public service attached to SUBREI. It replaces the Export Promotion Directorate under the former DIRECON. ProChile implements the President of the Republic's foreign trade policy, with particular emphasis on the promotion, diversification and stimulation of exports of goods and services (Section 3.2.4.2).

2.10. Chilean foreign trade policy is based on four cross-cutting themes: (i) promoting multilateralism; (ii) human rights; (iii) feminist foreign policy; and (iv) trade for development. The policy also sets out seven priority action areas closely related to trade, including the following: Latin American integration; the adoption of a cross-cutting gender dimension in decisions and initiatives at the multilateral, regional and bilateral level; the strengthening and diversification of global relations, particularly with the Asia-Pacific region; environmental protection; and the adoption of a participatory, inclusive and fair foreign trade strategy that promotes sustainable economic development and is mindful of its own environmental impact.<sup>14</sup>

2.11. Both SUBREI and ProChile have mechanisms in place with the specific aim of promoting civil society participation in trade policy formulation processes. Examples of such mechanisms are the National Trade Facilitation Committee, the Civil Society Council, Citizen Consultations, "Side Room" meetings, thematic working sessions with the private sector, the Advisory Council for Sectoral Branding, the Public-Private Technical Committee on Services Exports, and the Regional Export Councils.<sup>15</sup> A multitude of initiatives are also in place aimed at fostering participation by trade unions and other interested parties in foreign trade matters, many of them within the framework of regional and multilateral agreements.<sup>16</sup> In addition, the Ministerial General Secretariat of the Government is

<sup>9</sup> Law No. 21.080 of 20 March 2018 and amendments thereto.

<sup>10</sup> Article 27 of Law No. 21.080.

<sup>11</sup> Article 9 of Law No. 21.080.

<sup>12</sup> Decree No. 135 of 16 September 2020, Ministry of Foreign Affairs.

<sup>13</sup> Article 8 of Decree No. 135.

<sup>14</sup> Ministry of Foreign Affairs, *Cuenta Pública Participativa 2022*. Viewed at: [https://www.minrel.gob.cl/minrel/site/docs/20220517/20220517160125/cuenta\\_publica\\_participativa\\_2022\\_1.pdf](https://www.minrel.gob.cl/minrel/site/docs/20220517/20220517160125/cuenta_publica_participativa_2022_1.pdf).

<sup>15</sup> Information provided by the authorities and SUBREI, *Participación Ciudadana*. Viewed at: <https://www.subrei.gob.cl/participacion-ciudadana>.

<sup>16</sup> Examples of this are the Joint Consultative Committee (JCC) (pursuant to the EU-Chile Association Agreement), the Business Council (pursuant to the Pacific Alliance Agreement), the APEC Business Advisory

tasked with facilitating communication between the Government and citizens, disseminating the results of government work and ensuring that ministries and other services heed the opinions and concerns of citizens when designing policy.

## 2.3 Trade agreements and arrangements

### 2.3.1 WTO

2.12. Chile is a staunch advocate of the rules-based multilateral trading system and is of the view that international trade, when complemented by appropriate industrial, social and labour policies, can drive growth, job creation, innovation and food security in countries.<sup>17</sup>

2.13. Chile joined the GATT on 16 March 1949 and is a founding Member of the WTO, having joined on 1 January 1995.<sup>18</sup> Chile grants at least most-favoured nation (MFN) treatment to all its trading partners. Chile's trade policy has been reviewed five times within the GATT/WTO framework, most recently in 2015.

2.14. Chile ratified the WTO Trade Facilitation Agreement (TFA) on 21 November 2016<sup>19</sup> and notified the designation of all provisions under Category A and applicable as of the entry into force of the Agreement.<sup>20</sup> Chile accepted the Protocol amending the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) on 26 July 2013.<sup>21</sup> Chile is not a party to the Agreement on Trade in Civil Aircraft or the Agreement on Government Procurement, although it has the status of observer in the Committee on Government Procurement. It is also not a party to the Information Technology Agreement (ITA) of 1996. On 8 October 2015, Chile notified the WTO Council for Trade in Services of its preferential treatment of services and service suppliers from least developed countries (LDCs).<sup>22</sup> With regard to the Agreement on Fisheries Subsidies, the authorities have indicated that the domestic ratification process is underway.

2.15. During the period under review, Chile made an active contribution to WTO discussions and initiatives. It took part in the Joint Initiative on E-Commerce<sup>23</sup> and was one of the co-sponsors of a communication aimed at offering ideas to revitalize the Work Programme on E-Commerce.<sup>24</sup> It also participated in the negotiations leading to the adoption of disciplines on services domestic regulation<sup>25</sup> and presented its draft schedule of specific commitments as a contribution to finalizing the negotiations.<sup>26</sup> Chile also participates in the Informal Working Group on Micro, Small and Medium-Sized Enterprises (MSMEs), which it coordinated up until January 2018. Together with the Republic of Korea, it currently co-coordinates the Joint Initiative on Investment Facilitation for Development.<sup>27</sup> It also co-sponsored the Statement on Trade and Environmental Sustainability<sup>28</sup> and took part in discussions on plastic pollution and reforms to fossil fuel subsidies. On gender issues, Chile supported the Buenos Aires Declaration on Trade and Women's Economic Empowerment and is an active participant in the Informal Working Group on Trade and Gender. In addition, in the context of the WTO, Chile is a member of APEC, the Cairns Group, the G-20, the Friends of Anti-Dumping Negotiations and the Friends of Fish and is also one of the co-sponsors of the Joint Proposal on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits.<sup>29</sup>

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Council (ABAC), SME Digital Dialogue (pursuant to the Digital Economy Partnership Agreement (DEPA)), and the Mirror Committee set up to support the Chilean National Contact Point for OECD Guidelines.

<sup>17</sup> WTO document WT/MIN(22)/ST/33 of 12 June 2022.

<sup>18</sup> The Marrakesh Agreements were incorporated into Chilean legislation under Ministry of Foreign Affairs Decree No. 16 of 17 May 1995.

<sup>19</sup> WTO. Viewed at: <https://tfadatabase.org/members/chile>.

<sup>20</sup> WTO documents WT/PCTF/N/CHL/1 of 23 July 2014 and G/TFA/N/CHL/1 of 15 February 2018.

<sup>21</sup> WTO document WT/Let/888 of 6 August 2013.

<sup>22</sup> WTO document S/C/N/834 of 12 October 2015.

<sup>23</sup> WTO document WT/MIN(17)/60 of 13 December 2017.

<sup>24</sup> WTO document WT/GC/W/855/Rev.1 of 9 December 2022.

<sup>25</sup> WTO document INF/SDR/2 of 26 November 2021.

<sup>26</sup> WTO document INF/SDR/IDS/CHL/Rev.1 of 29 October 2021.

<sup>27</sup> WTO document WT/L/1130 of 10 December 2021.

<sup>28</sup> WTO document WT/MIN(21)/6/Rev.2 of 14 December 2021.

<sup>29</sup> WTO document TN/IP/W/10/Rev.4 of 31 March 2011 and information from the WTO. Viewed at: [https://www.wto.org/english/tratop\\_e/dda\\_e/groups\\_by\\_country\\_e.htm](https://www.wto.org/english/tratop_e/dda_e/groups_by_country_e.htm).

2.16. At the Twelfth WTO Ministerial Conference held in Geneva in June 2022, Chile stated that the rules-based multilateral trading system faced a variety of complex challenges requiring the Organization to transform in order to ensure its relevance. With this in mind, Chile attaches priority to working towards a more inclusive and sustainable multilateral trade agenda that, on the one hand, can incorporate those actors that have not benefited from international trade and, on the other hand, promotes international trade conducted in harmony with the environment, while serving as a tool for productive development. Consequently, Chile favours a formal process of substantive WTO reform in order to strengthen and modernize the Organization. With respect to agriculture, Chile supports agricultural trade reform as a means of reducing trade-distorting support, promoting small-scale family farming and boosting production systems to yield more and better food. Chile was also strongly opposed to applying export restrictions on food exports for the World Food Programme.<sup>30</sup>

2.17. During the period under review, Chile regularly submitted notifications under the various WTO Agreements (Table A2.1). As of July 2023, it was almost entirely up to date, with a few exceptions (quantitative restrictions and RTAs).<sup>31</sup> Since its last review in 2015, Chile has not taken part as a complainant or respondent in any case under the WTO dispute settlement mechanism, although it did participate as a third party in six cases.<sup>32</sup> Chile is part of the group of WTO Members that, in March 2020, established the Multi-Party Interim Appeal Arbitration Arrangement as an alternative mechanism to the WTO Appellate Body.

## 2.3.2 Regional and preferential agreements

### 2.3.2.1 Regional agreements

2.18. Chile has historically maintained an open trade strategy based on both multilateralism and regionalism as a tool for diversifying its export base and reaching new markets. Chile's network of trade agreements comprises 32 agreements covering more than 60 economies (Table A2.2). Chile has various types of agreement in place<sup>33</sup>, with recent moves towards more innovative initiatives focusing on up-to-the-minute issues such as digital markets, e-commerce, regional and global value chains, the environment, gender, and micro, small and medium-sized enterprises (MSMEs). Chile has asserted on numerous occasions that the quest for open regionalism is complementary rather than detrimental to efforts at the multilateral level.

2.19. During the period under review, Chile undertook intensive work on regional integration. It concluded new agreements, initiated negotiations to extend and update existing agreements and liaised with countries from strategic regions with a view to entering into new trade agreements.

#### 2.3.2.1.1 The Americas

2.20. Since its last review in 2015, Chile has undertaken a process to deepen its trade relations with the countries of MERCOSUR, of which it has been an associate member since 1996 pursuant to Economic Complementarity Agreement (ECA) No. 35. The Free Trade Agreement (FTA) between Chile and Uruguay (ECA No. 73) entered into force in 2018. The Chile-Argentina FTA entered into force in 2019 and the Chile-Brazil FTA in 2022.<sup>34</sup> These new FTAs complement ECA No. 35 since they include aspects not hitherto covered such as cross-border trade in services, e-commerce, competition policy, trade and gender, SMEs, and trade and the environment. The Agreement with Brazil was the first to include a chapter on regional and global value chains, a topic to which Chile attaches particular importance in the current international trade context. This chapter includes

<sup>30</sup> WTO document WT/MIN(22)/ST/33 of 12 June 2022.

<sup>31</sup> WTO. Viewed at: <https://graceful-plateau-qggs3m1we1ny.vapor-farm-d1.com/en/status-by-member/chile>.

<sup>32</sup> WTO. Viewed at: [https://www.wto.org/english/tratop\\_e/dispu\\_e/dispu\\_by\\_country\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/dispu_by_country_e.htm).

<sup>33</sup> These are as follows: (i) partial-scope agreements, which eliminate tariffs on a restricted list of products; (ii) economic complementarity agreements, which are signed within the framework of the Latin American Integration Association (LAIA) and which open goods markets on a reciprocal basis; (iii) free trade agreements, which create free-trade zones for the movement of goods, services and capital; (iv) economic association agreements, which go beyond the opening of markets for goods and services to include provisions on other topics such as the environment, labour regulations or SMEs.

<sup>34</sup> The agreements with Argentina and Brazil were incorporated into ECA No. 35 as additional protocols, while the agreement with Uruguay incorporates provisions of ECA No. 35.



disciplines intended to facilitate the internationalization of businesses, particularly MSMEs, and their integration into regional and global value chains. The importance of participation by the private sector, a key stakeholder in these value chains, is also recognized. Furthermore, and with a view to fostering the development of value chains, emphasis is placed on the importance of connectivity, e-commerce, digitalization and industry 4.0 in contributing to cross-border productive integration. In December 2021, Chile and Paraguay concluded a trade agreement following the same template as those mentioned above, thus concluding the cycle of negotiations that Chile undertook with each of the founding members of MERCOSUR. This agreement has not yet been ratified.

2.21. May 2022 saw the entry into force of the Trade Integration Agreement between Chile and Ecuador (ECA No. 75), superseding ECA No. 65 and broadening the tariff concessions contained therein, as well as incorporating disciplines on, *inter alia*, services, e-commerce, telecommunications, labour matters, the environment, gender and SMEs.

2.22. During the review period, Chile undertook other initiatives in the area of trade integration. In 2021, Chile and Bolivia agreed to promote their economic and trade agenda and consideration is being given to the possibility of deepening and modernizing ECA No. 22 between the two countries. Amendments were made to the Chile-Canada FTA in the areas of government procurement and investment, and new chapters were included on sanitary and phytosanitary measures, technical barriers to trade, and trade and gender.<sup>35</sup>

2.23. The year 2021 marked the tenth anniversary of the Pacific Alliance, of which Chile is a founding member.<sup>36</sup> To mark this anniversary, Chile promoted the Regional Digital Market Roadmap, which seeks to improve the competitiveness of the member countries of the Alliance through a policy of digital transformation within the region, prioritizing digital and electronic commerce. The Roadmap comprises three pillars: (i) improving access to connectivity; (ii) fostering the exchange of digital goods and services; and (iii) developing the digital economy. During the period under review, the Pacific Alliance intensified its trade relationship with MERCOSUR, the European Union, the Association of Southeast Asian Nations (ASEAN) and the Eurasian Economic Commission. In addition, in January 2022, Chile, together with the other States party to the Pacific Alliance, signed the Pacific Alliance-Singapore Free Trade Agreement (PASFTA), which will allow Singapore to join the Alliance as an "Associate State".<sup>37</sup> 2020 saw the entry into force of the amending protocols to the Additional Protocol to the Pacific Alliance Framework Agreement, introducing amendments to the provisions on e-commerce and telecommunications services, as well as an annex on cosmetic products in the chapter on technical barriers to trade and a new chapter on regulatory improvement.<sup>38</sup>

### 2.3.2.1.2 Asia and the Pacific

2.24. The Asia-Pacific region is of strategic importance to Chile in terms of diversifying its export markets. As such, Chile has made considerable efforts to broaden the agreements currently in force with various countries in the region. The Free Trade Agreement with Thailand entered into force in 2015. In 2019, the Comprehensive Economic Partnership Agreement with Indonesia entered into force, with subsequent negotiations to incorporate a chapter on cross-border trade in services. 2019 also saw the entry into force of the Protocol Upgrading the China-Chile FTA<sup>39</sup>, which includes improvements in the areas of market access, rules of origin, customs procedures and trade in services, while also incorporating new chapters on trade facilitation, e-commerce and the environment. In 2021, Chile joined the Pacific Islands Forum as a "dialogue partner".

2.25. On 21 February 2023, after four years of legislative debate, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)<sup>40</sup> entered into force for Chile.<sup>41</sup> Signed in Santiago de Chile in 2018 by its 11 members<sup>42</sup>, this agreement is largely based on the Trans-Pacific Partnership Agreement (TPP). The CPTPP, in addition to liberalizing trade in goods and

<sup>35</sup> WTO document WT/REG38/N/1/Add.3-S/C/N/65/Add.1 of 12 June 2019.

<sup>36</sup> In addition to Chile, the Pacific Alliance comprises Colombia, Mexico and Peru.

<sup>37</sup> Pacific Alliance online information. Viewed at: <https://alianzapacifico.net/>.

<sup>38</sup> Ministry of Foreign Affairs, Under-Secretariat for International Economic Relations, *Balance de Gestión Integral – Año 2020*.

<sup>39</sup> WTO document WT/REG230/N/1/Add.1-S/C/N/577/Add.1 of 30 September 2019.

<sup>40</sup> WTO document WT/REG395/N/1/4-S-S/C/N/920/Add.3 of 15 February 2023.

<sup>41</sup> Supreme Decree No.318 of 21 February 2023.

<sup>42</sup> The Parties to the CPTPP are: Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam.

services, sets standards in areas such as customs, services, investment, competition, intellectual property, government procurement, e-commerce, state-owned enterprises, the environment and labour matters. Also in 2023, the specific commitments on trade in services contained in the Chile-Hong Kong, China agreement were updated in order to extend coverage to a number of additional sectors.

### 2.3.2.1.3 Europe

2.26. In December 2022, the political-level negotiations to modernize the EU-Chile Association Agreement were concluded. The new agreement provides for a greater degree of liberalization of trade in goods, particularly agricultural and fisheries products, and contains updated government procurement provisions. Also in 2021, the Association Agreement with the United Kingdom<sup>43</sup> entered into force, thereby preserving the level of access to the British market that had existed prior to the United Kingdom's withdrawal from the European Union. It includes a joint declaration whereby both countries commit to further modernization of the Agreement in the future.

### 2.3.2.2 Preferential arrangements

2.27. During the review period, Chile ceased progressively to make use of the Generalized System of Preferences (GSP). The last scheme of which it was a beneficiary was that of the Eurasian Union, up until 11 October 2021.

2.28. Chile maintains a unilateral regime of non-reciprocal tariff preferences for least developed countries (LDCs).<sup>44</sup> Beneficiaries of this regime receive duty-free treatment for 7,709 tariff lines, in addition to the 35 tariff lines that are already duty-free on an MFN basis. 41 tariff lines are excluded from this regime. They are to be found under HS headings 1001 ("Wheat and meslin"), 1101 ("Wheat or meslin flour"), and 1701 ("Cane or beet sugar and chemically pure sucrose, in solid form") and remain subject to a price band system.<sup>45</sup> During the review period, Chile imported products from LDCs with a total value of USD 740 million or the equivalent of 0.75% of total imports. The vast majority of these imports were of crude oil (53%), followed by clothing and accessories (38%).

### 2.3.3 Other agreements and arrangements

2.29. During the period under review, Chile continued its efforts to tackle current challenges and adapt to the demands of the 21<sup>st</sup> century economy. To this end, in 2020, Chile concluded a Digital Economy Partnership Agreement (DEPA) with New Zealand and Singapore, in recognition of the importance of the digital economy in promoting economic and social development. It sets out standards for data, promotes interoperability between different regimes and seeks to address new issues relating to digitalization. In general terms, the Agreement goes further than the chapters on e-commerce found in other FTAs, since it addresses issues such as regulatory technology (RegTech), cooperation on artificial intelligence and digital inclusion. The Agreement also highlights the role of SMEs in trade in digital goods and services, while underscoring the importance of inclusive economic development as a means of achieving digital inclusion. The Agreement further calls for an open, global, non-discriminatory Internet able to spur creativity and innovation whilst also guaranteeing a safe and fully accessible online environment and at the same time allowing the Parties enough leeway to defend legitimate public policy interests. The Agreement entered into force in late 2021 and contains an acknowledgement of the fact that given the very nature of the digital economy, periodic updates will be required as and when the digital environment evolves.<sup>46</sup>

2.30. In August 2020, Chile, Canada and New Zealand<sup>47</sup> signed a non-binding Global Trade and Gender Arrangement for the purpose of devising cooperation activities to enable the sharing of

<sup>43</sup> WTO document WT/REG423/N/1-S/C/N/1027 of 7 January 2021.

<sup>44</sup> WTO document G/C/W/695-WT/COMTD/N/44 of 14 April 2014.

<sup>45</sup> WTO document WT/COMTD/PTA/2/1 of 11 March 2015.

<sup>46</sup> Under-Secretariat for International Economic Relations, Trade Agreements. Viewed at: <https://www.subrei.gob.cl/acuerdos-comerciales/acuerdos-comerciales-vigentes/depa>.

<sup>47</sup> Mexico, Colombia and Peru joined the Arrangement later.



knowledge and best practices with a view to increasing women's involvement in the economy and trade.<sup>48</sup> A separate chapter on trade and gender was also included in the Chile-Canada FTA.

## 2.4 Investment regime

2.31. Foreign direct investment (FDI) plays an extremely important role in the Chilean economy. Historically, the bulk of FDI has been in natural resource extraction projects, mainly involving copper, meaning that trends in FDI over time have been closely linked to the price of the commodities in question. Chile's current policy on FDI has the following key objectives: (i) increase incoming FDI flows; (ii) compete with other emerging economies that have made a place for themselves as recipients of high value added FDI; (iii) continue to reduce the concentration of FDI in the primary sector; and (iv) link foreign investment more closely to the country's economic development.<sup>49</sup>

2.32. The legal framework for foreign investment underwent major modification during the period under review. The Tax Reform Law<sup>50</sup> repealed Decree Law No. 600 of 1974<sup>51</sup> and in June 2015, Law No. 20.848 was enacted, establishing a new foreign investment model by way of institutional and regulatory changes, as well as a new foreign investment promotional strategy.<sup>52</sup>

2.33. Under Law No. 20.848, the Foreign Investment Promotion Agency (InvestChile) was created as a decentralized public service with legal personality and its own assets. It replaced the Foreign Investment Committee, albeit with differing functions. InvestChile is responsible, *inter alia*, for promoting the national brand and working proactively to attract FDI, in addition to implementing the Strategy for the Encouragement and Promotion of Foreign Investment established by the President of the Republic. InvestChile also examines and proposes measures to improve the investment climate and grants Foreign Investor Certificates.<sup>53</sup> Under the new Law, the Committee of Ministers for the Encouragement and Promotion of Foreign Investment was also established to advise the President of the Republic on FDI promotion. This committee is chaired by the Minister of Economic Affairs, Development and Tourism, and comprises the Ministers of Finance, Mining, Energy, Agriculture, Public Works and Foreign Affairs.<sup>54</sup>

2.34. Pursuant to the new law, the first Strategy for the Encouragement and Promotion of Foreign Investment was adopted in 2017<sup>55</sup> with the aim of actively promoting investment. Special priority was given to mining, the food industry, tourism, energy and logistics, and technology. A new strategy was adopted in 2022<sup>56</sup> with a view to fostering economic recovery and sustainable development. This involves a more flexible approach whereby projects are actively sought out. The new strategy places emphasis on interinstitutional cooperation and sets out four key thematic areas (growth, transformation, sustainability and impact), which underpin the criteria for seeking out and attracting FDI projects.

2.35. Law No. 20.848 does not provide for a prior authorization mechanism for foreign investment. The law defines "foreign direct investment" as the transfer of foreign capital or assets with a minimum value of USD 5 million, as well as the acquisition of assets or equity ownership in a Chilean firm when the foreign investor obtains at least 10% of voting rights or an equivalent percentage. Investment modalities are as follows: (i) freely convertible foreign exchange; (ii) physical assets;

<sup>48</sup> SUBREI, *Acuerdo global sobre comercio y género – Preguntas frecuentes*. Viewed at: [https://www.subrei.gob.cl/docs/default-source/comercio-inclusivo/preguntas-y-respuestas-gtaga.pdf?sfvrsn=12966243\\_2](https://www.subrei.gob.cl/docs/default-source/comercio-inclusivo/preguntas-y-respuestas-gtaga.pdf?sfvrsn=12966243_2).

<sup>49</sup> Decree No. 56 of 30 September 2017, Ministry of Economic Affairs, Development and Tourism, and Decree No. 72 of 16 March 2022, Ministry of Economic Affairs, Development and Tourism.

<sup>50</sup> Law No. 20.780 of 29 September 2014.

<sup>51</sup> Decree Law No. 600 established a special voluntary regime for the entry of foreign capital into Chile, with foreign investors receiving an investment authorization involving the signature of a standard contract of indefinite duration with the State, which set out both parties' rights and obligations. For more information on the previous foreign investment regime, see WTO document WT/TPR/S/315/Rev.1 of 7 October 2015.

<sup>52</sup> Law No. 20.848 of 25 June 2015.

<sup>53</sup> Foreign Investor Certificates are voluntary and enable the holder to avail themselves of the rights enshrined in Law No. 20.848, including access to the formal foreign exchange market.

<sup>54</sup> Decree No. 51 of 25 May 2016, Ministry of Economic Affairs, Development and Tourism.

<sup>55</sup> Decree No. 56 of 30 September 2017, Ministry of Economic Affairs, Development and Tourism.

<sup>56</sup> Decree No. 72 of 16 March 2022, Ministry of Economic Affairs, Development and Tourism.

(iii) reinvestment of profits; (iv) capitalization of credits; (v) technology capable of being capitalized; and (vi) credits associated with foreign investment from related companies.

2.36. The foreign investment regime guarantees foreign investors the option to remit abroad the capital transferred and net profits generated by their investments, provided that all tax obligations have been met. They are also guaranteed access to the formal foreign exchange market in order to generate liquidity in the currency their investment was made in and to repatriate capital and profits.<sup>57</sup> In addition, an exemption on the payment of sales and services tax (VAT) is granted for the import of capital goods intended for investment projects exceeding USD 5 million in certain sectors. This exemption also applies to domestic investors.<sup>58</sup> Section 3.3.1 covers other investment incentives.

2.37. Law No. 20.848 prohibits arbitrary discrimination against foreign investors, who are subject to the same legal regime as domestic investors. Moreover, the new regime no longer allows for the tax invariability that was granted to foreign investors via contracts with the State under Decree Law No. 600, meaning that the same conditions now apply to foreign and domestic investors. However, any contracts that were valid at the time of entry into force of the new law were maintained, with the opportunity to apply for foreign investment authorizations under Decree Law No. 600 for a four-year period (from 2016 to 2020), during which investors could benefit from a total fixed income tax rate of 44.45%.

2.38. In general, Chile grants national treatment to foreign investors, who may own up to 100% of a Chilean firm's equity in most economic sectors. However, Chilean legislation does impose restrictions on national treatment and market access in certain sectors such as coastal shipping, telecommunications and broadcasting, and aquaculture and fisheries, although in this last case, restrictions are subject to the principle of reciprocity. Table 2.1 contains a summary of these restrictions. In addition, nationals of bordering countries may not acquire real estate in the border zone, which covers a strip stretching 10 kilometres from the land border and five kilometres from the coast. The same prohibition applies to legal persons whose headquarters are in a country bordering Chile or where 40% or more of their capital belongs to nationals of that country. "State lands", i.e., land located within the border strip, may only be acquired or leased by Chilean natural or legal persons and by foreign nationals domiciled in Chile if so authorized by the Under-Secretariat for the Navy of the Ministry of National Defence.<sup>59</sup>

**Table 2.1 Sectors in which FDI is restricted, 2023**

Sector	Description
Coastal shipping	Maritime, river and lake transport of passengers and cargo between points within national territory and between those points and floating structures installed within territorial waters or the exclusive economic zone (EEZ) (200 nautical miles from the coast) is limited to Chilean vessels. However, this prohibition does not apply to foreign vessels of a certain capacity engaged in passenger transport for tourism purposes or to foreign merchant vessels when the cargo volume exceeds 900 tonnes. Below this cargo volume, foreign vessels may only engage in coastal shipping if no Chilean vessels are available (Decree Law No. 3.059 on the Development of the Merchant Marine of 22 December 1979 and amendments thereto).
Telecommunications and broadcasting.	Only legal persons established and domiciled in Chile may hold broadcasting concessions. The chairpersons, management, administrators and legal representatives of a free-to-air broadcasting concession-holder must hold Chilean nationality. Governing boards cannot be composed of a majority of foreign nationals. There are not, however, any caps on foreign investment, which may be up to 100% (Law No. 18.168, General Law on Telecommunications of 2 October 1982 and amendments thereto).

<sup>57</sup> Articles 5 to 8 of Law No. 20.848 of 25 June 2015.

<sup>58</sup> Pursuant to Decree Law No. 825 of 1974, last amended on 4 February 2022, imported capital goods must be intended for the development, exploration or exploitation in Chile of projects in the areas of mining, industry, forestry, energy, infrastructure, telecommunications, and research/development in the technological, medical and scientific spheres, *inter alia*.

<sup>59</sup> Decree Law No. 1.939 of 10 November 1977 and amendments thereto, Ministry of Land and Colonization.

Sector	Description
Fishing and aquaculture	Only Chilean nationals and legal persons established under Chilean law, as well as foreign nationals permanently resident in Chile, are authorized to harvest and capture hydrobiological species. Only Chilean vessels may fish in Chile's inland waters, territorial sea or EEZ. The vessel must have been previously registered in Chile and only Chilean nationals and legal persons established under Chilean law may register a vessel. The maritime authority may authorize certain foreign fishing vessels on the basis of the principle of international reciprocity (Decree No. 430 establishing the revised, coordinated and consolidated text of Law No. 18.892 of 1989 and amendments thereto, the General Law on Fisheries and Aquaculture, of 21 January 1992 and amendments thereto).

Source: Information provided by the authorities.

2.39. The State continues to play a limited role in the economy, although certain strategic activities are reserved for it, such as the exploration and exploitation of lithium, oil and gas deposits located in maritime zones under national jurisdiction or in areas legally classified as important for national security, and the production of nuclear power for peaceful purposes.<sup>60</sup>

2.40. Foreign investors are still able to bring capital into Chile within the framework of Chapter XIV of the Compendium of Foreign Exchange Regulations, an administrative record system that functions through the commercial banks and is managed by the Central Bank. The investment modalities covered by this system are loans, deposits, investments and capital contributions from abroad, for a minimum amount of USD 10,000. Foreign capital entering Chile pursuant to Chapter XIV is subject to the regime applicable to national investment. The only conditions for adopting this mechanism are the obligation to report and to use the formal foreign exchange market.

2.41. Environmental protection legislation (Law No. 19.300 of 2010) requires an environmental impact assessment for certain investment projects, depending on their nature and possible effects. This requirement applies to both domestic and foreign investors. The Environmental Impact Assessment System exists for this purpose, with a statutory specialist institutional framework and procedures in place. The procedure gives rise to an Environmental Qualification Resolution (RCA), which may classify a project as approved, conditionally approved or rejected. If rejected, the project cannot go ahead.

2.42. Since June 2022, the Ministries of Finance and Economic Affairs, Promotion and Tourism, and the National Evaluation and Productivity Commission (CNEP), together with other ministries and public agencies, have been engaged in consultations with a view to discussing possible ways of improving productivity in Chile. Against this backdrop, in January 2023, the Government published the Productivity Agenda.<sup>61</sup> One of its work strands (improved investment processes) has as its objective to undertake a structural reform of the system of sectoral investment permits, with a proposal for a draft law to be prepared by the second half of 2023. During the period under review, the CNEP carried out a regulatory review of strategic sectors in order to analyse the system for issuing permits in the mining, energy, real estate, industrial and infrastructure sectors and to recommend the steps needed for a wholesale simplification strategy. The CNEP's recommendations included: improved traceability in permit application processing through the digitalization of processes; the definition of a time frame for processing each type of permit; greater legal certainty through a general opposition mechanism; and unified criteria for the granting of permits at central and regional level.<sup>62</sup> In early 2023, the CNEP was tasked with carrying out a new study to analyse priority sectoral permits for investment, pinpoint bottlenecks in the process and propose improvements to its efficiency, predictability and stability.<sup>63</sup>

<sup>60</sup> InvestChile (2021), *Guía paso a paso para inversiones extranjeras*, September. Viewed at: <http://www.investchile.gob.cl>.

<sup>61</sup> Government of Chile (2023), *Agenda de Productividad*. Viewed at: [https://s3.amazonaws.com/gobcl-prod/public\\_files/Agenda-de-productividad/2023.01.05\\_Agenda\\_de\\_Productividad-vF-2\\_1.pdf](https://s3.amazonaws.com/gobcl-prod/public_files/Agenda-de-productividad/2023.01.05_Agenda_de_Productividad-vF-2_1.pdf).

<sup>62</sup> CNEP (2019), *Calidad Regulatoria en Chile: Una Revisión de Sectores Estratégicos. Resumen Ejecutivo*. Viewed at: <https://cnep.cl/wp-content/uploads/2019/09/Resumen-Ejecutivo.pdf>.

<sup>63</sup> InvestChile, "Government aims to fast-track permits for investment in Chile". Viewed at: <https://blog.investchile.gob.cl/government-aims-to-fast-track-permits-for-investment-in-chile>.

2.43. Most of Chile's free trade agreements feature a chapter on investment.<sup>64</sup> Chile also has 33 reciprocal Investment Promotion and Protection Agreements (IPPAs), although in recent years it has opted for other mechanisms such as trade agreements. During the period under review, a new IPPA with Hong Kong, China entered into force.<sup>65</sup>

2.44. Chile is a signatory to the Washington Convention (1965), which set up the International Centre for Settlement of Investment Disputes (ICSID). It is also a member of the Multilateral Investment Guarantee Agency and the Overseas Private Investment Corporation. It has also ratified the Inter-American Convention on International Commercial Arbitration and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

2.45. Chile has signed numerous agreements to avoid double taxation. During the period under review, it concluded 10 new agreements with Argentina, Austria, China, the Czech Republic, India, Italy, Japan, the Netherlands, South Africa, the United Arab Emirates and Uruguay. At the time of writing, Chile had concluded a total of 36 agreements.<sup>66</sup> On 1 March 2021, the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting entered into force for Chile. This allows agreements currently in force to be amended in order to avoid double taxation on the basis of the recommendations made as part of the Base Erosion and Profit Shifting Project spearheaded by the Organisation for Economic Co-operation and Development (OECD) and the G-20.

2.46. Any foreign investor may set up a company or subsidiary in Chile. There are two ways of setting up a company: (i) electronically via <https://www.registrolempresasysociedades.cl/>; and (ii) before a notary public. The main legal forms are: (i) *empresa individual de responsabilidad limitada* (EIRL, individual limited liability company); (ii) *sociedad de responsabilidad limitada* (limited liability company); (iii) *sociedad anónima* (S.A., public limited company, either open or closed); and (iv) *sociedad por acciones* (SpA, joint stock company). Foreign investors may also set up a branch or subsidiary of a foreign company. This is a company comprising foreign natural persons who are not resident or domiciled in Chile, or legal persons that were established outside the country but which are governed by Chilean law and establish their domicile in the country. Regardless of the form of establishment, the company must have a fixed place of business within national territory (branch, offices, agents or representatives). In order to set up an agency, a Chilean legal representative must be appointed and foreign documents of incorporation must be legalized.

2.47. In terms of the tax regime, foreign companies incorporated in Chile are accorded the same treatment as national companies.

2.48. Companies in Chile are liable for First Category Income Tax, which applies to income deriving from capital-intensive activities. Second Category Income Tax applies to income derived from dependent work (such as wages and pensions). Two further taxes exist: the Complementary Global Tax, for which natural persons domiciled or resident in Chile are liable and which applies to the total First or Second Category taxable income (rates from 0% to 40%); and the Additional Tax (blanket rate of 35%), which applies to income of Chilean origin received by natural or legal persons not

<sup>64</sup> Chile negotiated chapters on investment in its agreements with Argentina, Australia, Brazil, Canada, China, Colombia, Japan, the Republic of Korea, Mexico, the Pacific Alliance, Peru, and the United States.

<sup>65</sup> Chile currently has IPPAs in force with: Austria (2000), Belgium and Luxembourg (1999), Costa Rica (2000), Croatia (1996), Cuba (2000), the Czech Republic (1996), Denmark (1995), El Salvador (1999), Finland (1996), France (1994), Germany (1999), Greece (2002), Guatemala (2001), Honduras (2002), Hong Kong, China (2019), Iceland (2006), Italy (1995), Malaysia (1995), Nicaragua (2001), Norway (1994), Panama (1999), Paraguay (1997), Philippines (1997), Poland (2000), Portugal (1998), Romania (1997), Spain (1994), Sweden (1995), Switzerland (2002), Ukraine (1997), United Kingdom (1997), Uruguay (2012) and the Bolivarian Republic of Venezuela (1995).

<sup>66</sup> Argentina (2017), Australia (2014), Austria (2016), Belgium (2011), Brazil (2004), Canada (2000), China (2017), Colombia (2010), Croatia (2005), Czech Republic (2017), Denmark (2005), Ecuador (2004), France (2007), India (2023), Ireland (2009), Italy (2017), Japan (2017), Republic of Korea (2004), Malaysia (2009), Mexico (2000), Norway (2004), the Netherlands (2023), New Zealand (2007), Paraguay (2009), Peru (2004), Poland (2004), Portugal (2009), Russian Federation (2013), South Africa (2017), Spain (2004), Sweden (2006), Switzerland (2011), Thailand (2011), United Arab Emirates (2023), United Kingdom (2005) and Uruguay (2019). Online information from the Internal Taxation Service. Viewed at: [https://www.sii.cl/normativa\\_legislacion/convenios\\_internacionales.html](https://www.sii.cl/normativa_legislacion/convenios_internacionales.html).

resident in Chile. Dividends, withdrawals and/or remittances of profits of partnerships or permanent establishments of foreign companies are subject to this tax.

2.49. The Income Tax Law<sup>67</sup> provides for three alternative corporate taxation regimes:

- Semi-integrated regime: final shareholders (foreign natural or legal persons) pay tax only when dividends are distributed, with the possibility of offsetting 65% of the income tax paid by the company against their final tax as shareholders (the final tax burden cannot exceed 44.45%). A 100% tax credit applies when the shareholder is domiciled in a country with which Chile currently has a double taxation agreement in force.
- Regime for small and medium-sized enterprises (SMEs)<sup>68</sup>: final shareholders (foreign natural or legal persons) pay tax only when dividend distribution takes place, with a tax credit equal to 100% of the income tax paid by the company.
- Transparency regime: companies under the SME regime that also opt for the transparency regime are not liable for First Category Income Tax. Instead, their shareholders pay the Complementary Global Tax or the Additional Tax, as appropriate, on the profits of the transparent company.

2.50. First Category Income Tax rates are 27% under the semi-integrated regime and 25% under the SME regime. For the 2020, 2021 and 2022 tax years, a reduced rate of 10% was applied to SMEs.

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<sup>67</sup> Decree Law No. 824 of 31 December 1974 and amendments thereto, Ministry of Finance.

<sup>68</sup> Companies with maximum taxable equity of CLP 2,795,000,000 (approximately USD 3,238,000) and average annual turnover of CLP 2,466,000,000 (USD 2,857,000).

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures directly affecting imports

##### 3.1.1 Customs procedures, valuation and requirements

###### 3.1.1.1 Customs procedures and requirements

3.1. The National Customs Service is the institution responsible for customs administration and regulation in Chile. The main components of the legal framework governing customs procedures are the Customs Ordinance<sup>1</sup>, the Organic Law on the National Customs Service<sup>2</sup>, the Compendium of Customs Regulations<sup>3</sup> and various administrative resolutions.<sup>4</sup> During the period under review, customs legislation underwent various amendments. Pursuant to Law No. 20.997, amending customs legislation, enacted on 1 March 2017, provisions of the Customs Ordinance and other legal texts were amended or provisions were incorporated to improve customs procedures, simplify foreign trade operations<sup>5</sup> and bring the legislation into line with Chile's obligations under the Agreement on Trade Facilitation and other international agreements (Section 3.1.1.2). Amendments introduced by Law No. 21.336, enacted on 11 May 2021, included provisions setting and increasing penalties for smuggling and fraud<sup>6</sup>, and establishing a rule on repeat offending for crimes related to taxable goods. Furthermore, Law No. 21.039, enacted on 2 October 2017, amending Law No. 20.322 on strengthening and improving the tax and customs justice system, improved tax and customs court procedures by, *inter alia*, allowing the parties to make their submissions to the Tax and Customs Courts digitally or electronically.<sup>7</sup>

3.2. Any registered taxpayer may become an importer (or exporter). In other words, no special registration or authorization is required to engage in importation/exportation. However, there are exceptions, as in the case of importers (and exporters) of controlled substances under the Montreal Protocol, who must be duly registered for that purpose.<sup>8</sup> Importers, exporters, traders and consumers of controlled chemical products<sup>9</sup>, as well as importers, exporters and traders of explosives, must also be registered.<sup>10</sup>

3.3. Customs procedures for the entry of goods include definitive import, temporary admission, private warehousing, temporary admission for inward processing, re-entry, transit, transshipment and redirection.<sup>11</sup> Law No. 20.997 of 2017 established tax warehouses as a customs destination, which allows goods to be stored in a warehouse, for up to one year and without prior payment of duties and taxes, so they can undergo minor processes before they are imported.

3.4. The importer may carry out the definitive import procedure directly if the commercial f.o.b. value of the goods does not exceed USD 1,000. In excess of this amount, the importer must hire a customs agent. By law, customs agents must, *inter alia*, be Chilean citizens, have passed a competitive examination and be accredited by the National Director of Customs.<sup>12</sup> Express delivery

<sup>1</sup> Decree with Force of Law No. 30 of 4 June 2005 and amendments thereto, Ministry of Finance.

<sup>2</sup> Decree with Force of Law No. 329 of 20 June 1979 and amendments thereto, Ministry of Finance.

<sup>3</sup> National Customs Service. Viewed at: <https://www.aduana.cl/compendio-de-normas-aduaneras/aduana/2007-04-23/125943.html>.

<sup>4</sup> National Customs Service. Viewed at: [https://www.aduana.cl/aduana/site/edic/base/port/normativas.html?filtro=20181128185044\\_1](https://www.aduana.cl/aduana/site/edic/base/port/normativas.html?filtro=20181128185044_1).

<sup>5</sup> Library of the National Congress of Chile (BCN). Viewed at: <https://bcn.cl/2nciw>.

<sup>6</sup> BCN. Viewed at: <https://bcn.cl/3bpht>.

<sup>7</sup> BCN. Viewed at: <https://bcn.cl/2lyfz>.

<sup>8</sup> The Register of Importers and Exporters of Controlled Substances (which replaced the Register of Importers and Exporters of Ozone-Depleting Substances) is kept by the National Customs Service. Resolution No. 822 of 28 February 2020, National Director of Customs.

<sup>9</sup> This register is kept by the Directorate-General of Mobilization of the Armed Forces (DGMN) of the Ministry of National Defence. Viewed at: <https://www.chileatiende.gob.cl/fichas/997-inscripcion-en-el-registro-nacional-como-importador-exportador-comerciante-y-consumidor-de-productos-quimicos>.

<sup>10</sup> The DGMN is responsible for registering importers of explosives. Viewed at: <https://www.chileatiende.gob.cl/fichas/4512-inscripcion-en-el-registro-nacional-como-importador-exportador-y-comerciante-de-explosivos>.

<sup>11</sup> For further details on customs destinations, see Table A3.1 in WTO document WT/TPR/S/315/Rev.1 of 7 October 2015.

<sup>12</sup> Article 196, Book IV, of the Customs Ordinance.



companies can perform customs clearance for inbound and outbound goods worth up to USD 3,000. For shipments in excess of this amount, the services of a customs agent are required.

3.5. The customs agent completes the declaration of entry (DIN) and submits it to the National Customs Service electronically.<sup>13</sup> The original transport document (bill of lading, waybill or airway bill), the commercial invoice<sup>14</sup> and the mandate given to the customs agent, established by the endorsement of the original bill of lading, must be submitted with the DIN. Certain import processes may require additional documents, such as the certificate of origin (to benefit from a tariff preference), the packing list (in the case of containerized cargo), the insurance certificate (if the value of the premium is not shown on the commercial invoice), the note of expenses (if they are not shown on the invoice) and any appropriate authorizations, certificates, endorsements or approvals, depending on the goods in question.<sup>15</sup>

3.6. Before submitting the DIN, importers may request an advance ruling from the National Customs Service on the criteria applicable to their foreign trade operations in terms of the tariff classification, valuation and origin of the goods. Advance rulings issued by Customs are binding. A new procedure for issuing advance rulings was approved by Exempt Resolution No. 1.629 of 23 April 2020, annulling Exempt Resolution No. 4.378 of 31 July 2014.<sup>16</sup>

3.7. Imports of certain goods are subject to prior checks (authorization, certification, endorsement or approval) by the competent body, and the importer must obtain the relevant document before processing the DIN (Table 3.1). Prior checks are carried out primarily to protect human, animal and plant health, for environmental or public safety reasons, and to comply with international agreements. According to the authorities, such authorizations are issued regardless of the origin of the product and are granted automatically. Since the previous review, radio communication equipment, which requires approval for the use of transmission bands, and concrete to be used in the production of reinforcement elements for public works or buildings, which requires a quality certificate, have been subject to prior checks.

**Table 3.1 Goods subject to prior checks before being cleared to enter Chile, 2023**

Goods	Body responsible and legal/regulatory basis
Firearms, ammunition, explosives and inflammable or asphyxiating chemicals and equipment for their production, storage or deposit	Directorate-General of Mobilization of the Armed Forces (Law No. 17.798 of 21/10/1972, as revised by Decree No. 400 of 13 April 1978)
Written or audiovisual material relating to martial arts for teaching purposes, irrespective of the person, institution or entity undertaking the transaction	Directorate-General of Mobilization of the Armed Forces (Art. 5 of Law No. 18.356 of 19/11/1984)
Maps, geographical charts and other works showing international boundaries and Chile's borders	Directorate of Borders and Frontiers (Decree with the force of law (DFL) No. 5 of 21/10/1968, Ministry of Foreign Affairs)
Alcohol, alcoholic beverages and vinegar	Agriculture and Livestock Service (Art. 1 of Law No. 18.164 of 17/09/1982)
Plant products and goods that may be dangerous to plants, including machinery for agricultural and forestry use, pursuant to SAG Resolution No. 2979/2001	Agriculture and Livestock Service (Art. 1 of Law No. 18.164 of 17/09/1982)
Animals and products, by-products and waste of animal or plant origin	Agriculture and Livestock Service (Art. 1 of Law No. 18.164 of 17/09/1982)
Fertilizers and pesticides	Agriculture and Livestock Service (Art. 1 of Law No. 18.164 of 17/09/1982)
Food products or by-products of animal or plant origin	Agriculture and Livestock Service (Art. 1 of Law No. 18.164 of 17/09/1982)
Food products of any kind	Health Service (Art. 2 of Law No. 18.164 of 17/09/1982)

<sup>13</sup> Electronic processing is optional; however, 99% of operations are processed electronically.

<sup>14</sup> If the issuer has omitted essential information from the commercial invoice, a sworn declaration by the importer will also be required.

<sup>15</sup> National Customs Service. Viewed at: <https://www.aduana.cl/que-debo-hacer-para-importar-una-mercancia/aduana/2020-11-16/105953.html>.

<sup>16</sup> National Customs Service. Viewed at: <https://www.aduana.cl/procedimiento-resoluciones-anticipadas/aduana/2020-07-23/140907.html>. See also: <https://www.chileatiende.gob.cl/fichas/151-solicitar-resoluciones-anticipadas-del-servicio-nacional-de-aduanas>.

<b>Goods</b>	<b>Body responsible and legal/regulatory basis</b>
Pharmaceutical products, foods for medical use and cosmetics	Health Service (Art. 2 of Law No. 18.164 of 17/09/1982)
Narcotics and psychotropic substances that cause addiction	Health Service (Art. 2 of Law No. 18.164 of 17/09/1982)
Substances that are toxic or hazardous to health	Health Service (Art. 2 of Law No. 18.164 of 17/09/1982)
Enriched, fissile or radioactive elements or materials, radioactive substances, devices or tools that emit ionizing radiation	Chilean Nuclear Energy Commission (Decree No. 323 of 18/07/1974, Ministry of the Economy)
Hydrobiological resources in any state of development, including ornamental species	Under-Secretariat of Fisheries (Decree No. 175 of 20/05/1980, Ministry of the Economy, Development and Reconstruction)
Fisheries products	Under-Secretariat of Fisheries (DFL No. 5 of 15/11/1983, Ministry of the Economy, Development and Reconstruction)
Species of wild fauna and flora protected by CITES	Management authority established pursuant to Article IX of the Convention
Human remains or ashes from their incineration	Ministry of Health (Sanitary Code, DFL No. 725 of 31/01/1968, Ministry of Public Health; Decree No. 357 of 18/06/1970, Ministry of Health)
Waste and scrap of batteries and accumulators; waste of zinc, lead, antimony, beryllium, cadmium, chromium, pharmaceutical products or organic solvents	Ministry of Health (Sanitary Code, DFL No. 725 of 31/01/1968, Ministry of Public Health; Exempt Resolution No. 714 of 03/08/2002, Ministry of Health)
Radio communication equipment. Authorization required before using a transmission band	Under-Secretariat of Telecommunications (Exempt Resolution No. 391 of 21/12/1985, Ministry of Transport and Telecommunications)
Concrete to be used in the production of reinforcement elements for public works or buildings requires a certificate of construction quality	Laboratory listed in the Official Register of Laboratories for the Technical Control of Construction Quality of the Ministry of Housing and Urban Planning (Art. 2 of Decree No. 288 of 17/02/2006, Ministry of the Economy, Development and Reconstruction)

Source: National Customs Service. Viewed at: <https://www.aduana.cl/que-productos-requieren-de-autorizacion-para-ingresar-a-chile/aduana/2022-06-29/123507.html> and [https://www.aduana.cl/aduana/site/artic/20070220/pags/20070220163407.html#vtxt\\_cuerpo\\_T0](https://www.aduana.cl/aduana/site/artic/20070220/pags/20070220163407.html#vtxt_cuerpo_T0).

3.8. Once a DIN has been accepted for processing, the National Customs Service checks the documents and, where appropriate, conducts a physical inspection (or appraisal) of the goods in order to verify the accuracy of the information declared. The authorities stated that, in 2022, 2.5% of DINs were subject to document checks and physical inspections (5% in 2014). Once the appropriate inspections have been completed and the DIN has been validated, the goods may be cleared by customs after the applicable import duties, taxes and other charges, as well as the goods storage and transport fees, have been paid. Payment may be made electronically or through authorized financial institutions. Importers have a period of 15 days from the DIN issue date in which to pay customs duties and other charges. If payment is made after that period, the General Treasury of the Republic calculates the amount to be paid, taking into account interest and fines.

3.9. All declarations of entry go through the National Customs Service's automated selectivity systems. Selectivity is based on risk profiling using mainly automated data systems, although random checks are also carried out. The Inspection Subdirectorates of the National Customs Service is responsible for developing risk management plans, which may vary from one customs post to another. Their purpose is to reinforce the inspection of shipments that pose the greatest risk, while facilitating legitimate foreign trade operations.

3.10. Pursuant to Article 117 of the Customs Ordinance, any importer may lodge an appeal for reconsideration against the decisions of the National Customs Service with the Customs administrator or regional director, within 15 days of notification of the contested act<sup>17</sup>, or appeal directly to the Tax and Customs Courts (TTAs), which are the independent judicial bodies of the customs authority.<sup>18</sup> Appellants can submit various types of appeal to the TTAs, including appeals under the general appeals procedure, in the event of disagreement with a Customs decision; special appeals against violation penalties, which are lodged against fines imposed by Customs; special

<sup>17</sup> Article 121 of the Customs Ordinance.

<sup>18</sup> The TTAs were created pursuant to Law No. 20.322 of 27 January 2009.



appeals against disciplinary penalties; and special appeals for a rights' violation as a result of an act or omission by Customs.<sup>19</sup> The TTA competent to hear the appeal is the one in whose territorial jurisdiction the customs authority responsible for the contested act is located.<sup>20</sup> TTA judgments can be appealed before the Appeals Court and reviewed by lodging a cassation appeal with the Supreme Court.

### 3.1.1.2 Trade facilitation

3.11. Chile ratified the WTO Trade Facilitation Agreement (TFA) on 21 November 2016 and notified all the Category A provisions of the Agreement, i.e. the provisions for implementation immediately upon entry into force of the TFA.<sup>21</sup> At the end of 2018, Chile submitted a notification to comply with its transparency obligations.<sup>22</sup>

3.12. Law No. 20.997, published on 13 March 2017, amended customs legislation to improve and simplify customs processes and bring the legislation into line with the TFA and other international agreements. Accordingly, a series of decrees and resolutions were passed to implement the amendments. They included the possibility for goods to be released by Customs without paying duties or other taxes upon providing a payment guarantee<sup>23</sup>, the establishment of tax warehouses as a customs destination<sup>24</sup>, improvements to the temporary admission for inward processing regime, the regulation of expedited shipments<sup>25</sup> and the establishment of the Authorized Economic Operator (AEO) concept.<sup>26</sup> Furthermore, the National Customs Service was given greater powers of inspection. For example, the time limit for Customs to levy charges, adopt measures or conduct procedures as part of *ex post* company audits was increased from one to two years. In the case of trade agreements, the deadline for levying charges can be extended up to the document retention period established in the relevant agreement.

3.13. Chile began implementing the AEO programme in January 2018. It is open to customs agents, exporters, importers and express delivery companies. Operators demonstrating compliance with customs and logistics chain security standards obtain benefits in terms of customs process controls and simplification, such as expedited clearance procedures, inspection of the goods on the operator's own premises, priority use of non-intrusive technologies for the inspection of goods, release of imported goods with guaranteed payment, a 60-day postponement on the payment of duties, and exemption from presenting the certificate of origin in order to benefit from tariff preferences under trade agreements. The authorities have indicated that, as of June 2023, 9 importers, 8 exporters and 30 customs agents had been certified under the AEO programme. Chile has signed agreements for the mutual recognition of AEO programmes with the Pacific Alliance countries (2018), China (2020) and the Customs authorities of various Latin American and the Caribbean countries (2022).

3.14. In addition to the aforementioned measures, the National Customs Service implemented a series of trade facilitation measures during the COVID-19 pandemic, such as simplified entry for critical medical supplies, and measures to make greater use of electronic processing and other technologies related to customs clearance procedures.

3.15. Chile's National Committee on Trade Facilitation (CNFC) was set up in 2019.<sup>27</sup> Its role is to support coordination and collaboration between the public and private sectors in the implementation of trade facilitation policies and projects, and to promote the adoption of measures to simplify and harmonize trade and transport procedures. Since its inception, the CNFC has launched various initiatives to facilitate foreign trade logistics, including logistics master plans and measures to

<sup>19</sup> For more information about these appeals and proceedings, see: <https://www.tta.cl/procedimientos-plazos-reclamacion/>.

<sup>20</sup> In 2023, 18 TTAs were operating, four of which were in the Metropolitan Region.

<sup>21</sup> WTO document G/TFA/N/CHL/1 of 15 February 2015.

<sup>22</sup> WTO documents G/TFA/N/CHL/2 of 20 February 2018; G/TFA/N/CHL/2/Add.1 of 3 June 2019; G/TFA/N/CHL/2/Rev.1 of 20 January 2020; and G/TFA/N/CHL/2/Rev.2 of 24 August 2020.

<sup>23</sup> Exempt Decree No. 73 of 2 March 2018, Ministry of Finance.

<sup>24</sup> Decree No. 52 of 9 July 2018, Ministry of Finance, and Exempt Resolution No. 3.591 of 14 August 2018, National Customs Service.

<sup>25</sup> Decree No. 9 of 12 March 2019, Ministry of Finance.

<sup>26</sup> Decree No. 1.140 (regulations on AEO certification) of 12 January 2018, Ministry of Finance, and Resolution No. 246 (establishing the AEO certification process) of 12 January 2018, National Customs Service.

<sup>27</sup> Decree No. 50 of 22 April 2019, Ministry of Foreign Affairs.

promote the participation of micro-, small and medium-sized enterprises (MSMEs) in international trade.<sup>28</sup>

3.16. Chile has a single window, the Integrated Foreign Trade System (SICEX), run by the Ministry of Finance. The purpose of SICEX is to facilitate the processing of import and export operations electronically, improve interconnection between various public agencies and private agents involved in foreign trade, and ensure interoperability with other windows in Chile and in other countries.<sup>29</sup> The export module became operational in 2016, and work on implementing the import module has been under way since 2018. It is expected to be completed in 2024 and enter into general use as of that year. During the period under review, new foreign trade operator profiles and procedures were incorporated into SICEX, and various control agencies were gradually integrated. The public agencies currently incorporated into SICEX include: the National Customs Service, the Agriculture and Livestock Service, the National Fisheries and Aquaculture Service, the Public Health Institute, the Chilean Copper Commission, the Ministry of Health, the Internal Revenue Service, the Civil Registry Service, the General Treasury of the Republic, the Secretariat General of the President's Office, the Directorate-General of the Maritime Territory and Merchant Marine, and the Ministry of Transport and Telecommunications. Other agencies have yet to be integrated.<sup>30</sup> Progress has also been made with the integration of SICEX into logistics gateways at the country's ports in order to make document checks and physical inspection processes for foreign trade freight more efficient. Use of SICEX is voluntary but could be made mandatory in the future. Use of the export module has gradually increased since it began operating; in 2022, it was used in 70% of all export operations, equivalent to 88% in terms of USD f.o.b. value.

3.17. Trade facilitation is one of the central themes of the Productivity Agenda published by the Government in January 2023. The main objective is to facilitate trade through the digitalization and simplification of processes, thus reducing costs and export and import times. It sets out seven measures to this end: (i) supporting legislative amendments to promote competition in maritime cabotage; (ii) expanding the export VAT refund system to more of the country's ports<sup>31</sup> by pre-validating customs declarations through SICEX; (iii) digitalizing and incorporating all import operations into SICEX, including the customs flow and procedures handled by other public services; (iv) expanding the electronic exchange of documents (e.g. animal health certificates) between the foreign trade windows of the Pacific Alliance countries and working on integration with the windows of Asia-Pacific Economic Cooperation (APEC) economies for the exchange of customs declaration data; (v) expanding SICEX integration with the single window of the Ministry of Transport and Telecommunications, by incorporating the National Customs Service; (vi) modernizing documentation and loading processes at Santiago Airport through digitalization in SICEX; and (vii) automating changes to customs documents, especially those resulting in the refund of duties on imports processed by AEOs.<sup>32</sup>

### 3.1.1.3 Customs valuation

3.18. Procedures for determining the customs value of goods are regulated by the WTO Customs Valuation Agreement, which has been incorporated into domestic law in Chile<sup>33</sup>, the Agreement's implementing regulations<sup>34</sup>, the Customs Ordinance, the Compendium of Customs Regulations (Chapter 2) and various resolutions. These regulations are implemented by the National Customs Service and have been notified by Chile to the WTO.<sup>35</sup> They have not undergone any fundamental changes during the period under review.

<sup>28</sup> Customs Association. Viewed at: <https://cadch.cl/segunda-sesion-2022-del-comite-nacional-de-facilitacion-de-comercio-cnfc-subrei/>.

<sup>29</sup> For example, SICEX is integrated into the single windows of the other Pacific Alliance countries (Colombia, Mexico and Peru) for phytosanitary certificates and certificates of origin.

<sup>30</sup> SICEX. Viewed at: <https://pro.sicexchile.cl/>.

<sup>31</sup> This option is already open to exporters at the ports of Antofagasta, Angamos, Lirquén, Coronel, San Vicente and Valparaíso.

<sup>32</sup> Ministry of Finance. Viewed at: <https://www.hacienda.cl/noticias-y-eventos/comunicados/agenda-de-productividad>.

<sup>33</sup> Decree No. 16 of 17 May 1995, Ministry of Foreign Affairs.

<sup>34</sup> Decree No. 1.134 of 20 June 2002, Ministry of Finance.

<sup>35</sup> WTO documents G/VAL/N/1/CHL/1 of 24 November 2003; G/VAL/N/1/CHL/2 of 25 February 2014; and G/VAL/N/2/CHL/1 of 25 February 2014.

3.19. The transaction value is the primary method used to determine the value of the goods and is applied in the vast majority of cases. It is the importer's obligation to provide documentation demonstrating the accuracy of the value declared.<sup>36</sup> If it is impossible to determine the customs value using the transaction value, the other valuation methods under the WTO Agreement are applied in sequential order to verify the value declared.

3.20. If there are grounds for doubting the truth or accuracy of the value declared or the supporting documents, Customs allows the goods to be released while the value is being determined, provided that the importer pays the applicable duties and taxes.<sup>37</sup> In such cases, the importer has a reasonable period, which may not be less than 15 working days from notification of the finding and requirement, to provide the information requested, submit a defence and attach any other records to substantiate the amount declared.<sup>38</sup> Once the value has been determined, Customs notifies the importer of the calculated value and the valuation method used, and the importer must pay any difference in duties and taxes. If the importer does not agree with the Customs decision, the importer may lodge an appeal with the National Customs Service or the Tax and Customs Courts.

3.21. The regulations provide for special valuation in the case of products such as used goods in general, used and unused motor vehicles, carrier media bearing software, cinematic films and video tapes, and barter or compensation transactions. Nevertheless, the customs value of the goods must be determined based on the criteria set out in the WTO Customs Valuation Agreement. Used goods are initially valued based on the commercial invoice. If there is no information or there are reasonable doubts about the price, the value can be determined by means of the "fall-back" method, using prices previously accepted by Customs contained in official documents, such as import declarations, residual price certificates or other available means. For used motor vehicles, the current market prices, as shown in national or international specialist magazines, catalogues or similar databases, may be used. In the case of carrier media containing data or instructions, only the cost or value of the medium itself (not the cost or value of the software) is taken into consideration.<sup>39</sup>

### 3.1.2 Rules of origin

3.22. Chile does not apply any non-preferential rules of origin. However, it does apply preferential rules of origin under the free trade agreements and other preferential arrangements to which it is party, and to grant unilateral preferences. Since the previous review, Chile has notified the rules of origin stipulated in various trade agreements that it has signed in recent years to the WTO Committee on Rules of Origin.<sup>40</sup>

3.23. The preferential rules of origin can be general or specific, and vary from one agreement to another. Goods are generally considered to be originating if: (a) they have been wholly obtained in the territory of one of the parties; (b) they have been produced in the territory of one of the parties using originating materials; or (c) they have undergone a change in tariff classification in the territory of a party or if the value of the non-originating inputs does not exceed a certain (*de minimis*) percentage of the f.o.b. value of the goods.<sup>41</sup> To determine the origin of goods produced using non-originating materials, various formulas (such as the regional or domestic content criterion or the value added criterion) are applied, depending on each agreement. The agreements signed by Chile also set out the operations and procedures that are insufficient to confer origin, such as assembly of packages, washing, painting, polishing, packaging, affixing of marks and labels, and assembly.

3.24. Some agreements allow origin to be conferred based on the cumulation criterion, whereby material originating from one party can be used by producers in another party without the final product losing its originating status. In fact, to facilitate integration into value chains, Chile promotes

<sup>36</sup> The sworn declaration of value and elements thereof is only required for *ex post* inspection procedures and for commercial goods imports with a c.i.f. transaction value equal to or greater than USD 50,000 (Compendium of Customs Regulations, Chapter 2, para. 6.2).

<sup>37</sup> Article 69 of the Customs Ordinance.

<sup>38</sup> Article 69, third paragraph, of the Customs Ordinance.

<sup>39</sup> Compendium of Customs Regulations, Chapter 2 (Valuation of goods for customs purposes).

<sup>40</sup> WTO documents G/RO/N/154 of 21 July 2017; G/RO/N/167 of 25 May 2018; G/RO/N/183 of 15 April 2019; G/RO/N/191 of 20 January 2020; and G/RO/N/199 of 21 July 2020.

<sup>41</sup> In general, the percentage of permitted non-originating inputs fluctuates between 7% and 10% of the f.o.b. value of the goods.

the use of third-party, extended or cross cumulation criteria in its trade agreement negotiation processes. For instance, under the Free Trade Agreement between Chile and Ecuador (Article 3.5.2), inputs from the Plurinational State of Bolivia, Colombia and Peru can be considered as originating from the exporting party. Aside from the general rules, specific rules of origin apply to certain types of goods (such as motor vehicles and textiles). The complexity and restrictiveness of such rules vary from one agreement to another.

3.25. Proof of origin of the goods must be provided in order to benefit from preferences under the trade agreement invoked. Proof can take one of two forms: a certificate of origin issued by an authorized entity, or self-certification, which allows the producer, exporter or importer to certify the originating status of the goods by making a declaration to that effect in the invoice or other commercial document.<sup>42</sup> In the case of the former, ProChile, the public institution in charge of promoting exports, is responsible for issuing certificates of origin for Chilean exports eligible for tariff preferences under the respective trade agreements with the European Union, the United Kingdom, the EFTA countries and China.

3.26. If the goods comply with the applicable rules of origin but the importer does not present proof of origin at the time of importation, the goods can be imported and the tariff preference claimed afterwards. Once proof of origin has been provided and its validity has been verified, the importer will have between 6 and 24 months, depending on the corresponding agreement, in which to claim a refund of any overpayments made.<sup>43</sup>

### 3.1.3 Tariffs

#### 3.1.3.1 Structure

3.27. The Chilean Customs Tariff is based on the 2022 version of the Harmonized Commodity Description and Coding System (HS 2022). In January 2023, it comprised 8,738 eight-digit lines (compared to 7,785 in 2014) (Table 3.2). All tariff lines, with the exception of certain agricultural products, are subject to *ad valorem* duty. The agricultural products to which the price band system applies are wheat, wheat flour and sugar (41 tariff lines at the eight-digit level of HS 2022).<sup>44</sup> Chile does not use any seasonal tariffs.

**Table 3.2 Structure of MFN tariffs, 2014 and 2023**

	2014 <sup>a</sup> (HS 2012)	2014 <sup>b</sup> (HS 2012)	2023 <sup>a</sup> (HS 2022)	2023 <sup>c</sup> (HS 2022)
Total number of lines	7,785	7,785	8,738	8,738
<i>Ad valorem</i> rates (> 0%)	7,709	7,709	8,659	8,659
Duty-free	35	35	38	38
Non- <i>ad valorem</i> rates	41	41	41	41
Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.5	0.5	0.5	0.5
Non- <i>ad valorem</i> tariffs with no <i>ad valorem</i> equivalents (% of all tariff lines)	0.5	0.0	0.5	0.0
Tariff rate quotas (% of all tariff lines)	0.1	0.1	0.03	0.03
Duty-free tariff lines (% of all tariff lines)	0.5	0.5	0.4	0.4
Average of lines exceeding zero (%)	6.0	6.2	6.0	6.0
Simple average (%)	6.0	6.2	6.0	5.9
Agricultural products (WTO definition) (%)	6.0	7.1	6.0	5.8
Non-agricultural products (including petroleum, WTO definition) (%)	6.0	6.0	6.0	6.0
Domestic tariff peaks (% of all tariff lines) <sup>d</sup>	0.0	0.5	0.0	0.0
International tariff peaks (% of all tariff lines) <sup>e</sup>	0.0	0.5	0.0	0.0

<sup>42</sup> The certificate of origin forms required under the various agreements signed by Chile can be found at: <https://www.aduana.cl/certificados-de-origen/aduana/2013-04-17/103419.html>.

<sup>43</sup> Chilean Customs. Viewed at: <https://www.aduana.cl/certificados-de-origen-acuerdos-y-tratados-comerciales/aduana/2019-01-04/160331.html>.

<sup>44</sup> In HS 2022 the lines are: wheat 10019100, 10019911, 10019912, 10019913, 10019919, 10019921, 10019922, 10019923, 10019929, 10019931, 10019932, 10019933, 10019939, 10019941, 10019942, 10019943, 10019949, 10019951, 10019952, 10019953, 10019959, 10019961, 10019962, 10019963, 10019969, 10019971, 10019972, 10019973, 10019979, 10019991, 10019992, 10019993, 10019999; wheat flour: 11010000; sugar: 17011300, 17011400, 17011200, 17019100, 17019910, 17019920 and 17019990.

	2014 <sup>a</sup> (HS 2012)	2014 <sup>b</sup> (HS 2012)	2023 <sup>a</sup> (HS 2022)	2023 <sup>c</sup> (HS 2022)
Overall standard deviation of applied rates	0.4	3.3	0.4	0.6
Bound tariff lines (% of all tariff lines)	100.0	100.0	100.0	100.0

- a For products subject to price bands, 6% was used.  
b For products subject to price bands, the bound tariff rate was used.  
c For products subject to price bands, the 2022 reference prices were used to estimate the *ad valorem* equivalents.  
d Domestic tariff peaks are defined as those exceeding three times the overall simple average applied rate.  
e International tariff peaks are defined as those exceeding 15%.

Source: WTO Secretariat calculations, based on data provided by the authorities.

3.28. In January 2023, Chile's customs tariff had two *ad valorem* rates, 0% and 6%, if the tariff levels that would result from applying the price band system are disregarded. Chile's tariff structure is homogenous, since the 6% rate applies to almost 99,6% of the lines, while the 0% rate only applies to the remaining 0.43% of the tariff lines, i.e. 38 tariff lines at the eight-digit level of HS 2022, which consist mostly of machinery and certain means of transport, such as aircraft and boats for leisure or fishing (Table A3.1).

3.29. In 2023, the average MFN tariff is 5.9%, if the price bands are taken into consideration (Table 3.3). If the price bands are disregarded, a 6% simple average tariff rate is applied to agricultural products (WTO definition), while the average tariff for non-agricultural products is 5.97%. The average tariff for agricultural products, taking into account the *ad valorem* equivalents of duties on products subject to price bands, fluctuates depending on international prices. Nevertheless, the tariff resulting from the application of price bands cannot be higher than the bound tariff. During most of the review period, the added component was negative owing to the high prices of the products included in the price bands, meaning that the applied tariff was zero. Accordingly, if this level is used for products subject to price bands, the overall simple average tariff rate would be 5.9% in 2023 and 5.8% for agricultural products.

**Table 3.3 Summary analysis of the MFN tariff, 2023<sup>a</sup>**

Product description	MFN No. of lines	Average (%)	Range (%)	Coefficient of variation (CV)	Bound tariff range <sup>b</sup> (%)
<b>Total</b>	<b>8,738</b>	<b>5.9</b>	<b>0 - 6</b>	<b>0.1</b>	<b>0 - 98</b>
HS 01-24	2,092	5.9	0 - 6	0.1	25 - 98
HS 25-97	6,646	6.0	0 - 6	0.1	0 - 25
<b>By WTO category</b>					
Agricultural products	1,455	5.8	0 - 6	0.2	25 - 98
Animals and animal products	183	6.0	6	0.0	25
Dairy products	37	6.0	6	0.0	25 - 31.5
Fruit, vegetables and plants	535	6.0	6	0.0	25
Coffee and tea	29	6.0	6	0.0	25
Cereals and preparations	143	4.6	0 - 6	0.6	25 - 31.5
Oilseeds, fats and oils and their products	129	6.0	6	0.0	25 - 31.5
Sugars and confectionery	22	4.2	0 - 6	0.6	25 - 98
Beverages, alcohol and tobacco	119	6.0	6	0.0	25
Cotton	5	6.0	6	0.0	25
Other agricultural products n.e.s.	253	6.0	6	0.0	25
Non-agricultural products (including petroleum)	7,283	6.0	0 - 6	0.1	0 - 25
Non-agricultural products (excluding petroleum)	7,255	6.0	0 - 6	0.1	0 - 25
Fish and fish products	707	6.0	6	0.0	25
Mineral and metals	1,035	6.0	6	0.0	0 - 25
Chemicals and photographic products	1,632	6.0	6	0.0	25
Wood, pulp, paper and furniture	437	5.9	0 - 6	0.1	25
Textiles	655	6.0	6	0.0	25
Clothing	217	6.0	6	0.0	25
Leather, rubber, footwear and travel articles	175	6.0	6	0.0	25
Non-electrical machinery	941	6.0	0 - 6	0.0	23 - 25

Product description	MFN No. of lines	Average (%)	Range (%)	Coefficient of variation (CV)	Bound tariff range <sup>b</sup> (%)
Electrical machinery	419	6.0	0 - 6	0.0	25
Transport equipment	474	5.6	0 - 6	0.3	3 - 25
Non-agricultural products n.e.s.	563	6.0	0 - 6	0.0	15 - 25
Petroleum	28	6.0	6	0.0	25
<b>By ISIC sector<sup>c</sup></b>					
Agriculture and fishing	887	5.8	0 - 6	0.2	0 - 31.5
Mining	119	6.0	6	0.0	25
Manufacturing	7,731	6.0	0 - 6	0.1	3 - 98
<b>By HS section</b>					
01 Live animals; animal products	861	6.0	6	0.0	25 - 31.5
02 Vegetable products	737	5.7	0 - 6	0.2	25 - 31.5
03 Fats and oils	78	6.0	6	0.0	25 - 31.5
04 Prepared foodstuffs, etc.	416	5.9	0 - 6	0.1	25 - 98
05 Mineral products	197	6.0	6	0.0	0 - 25
06 Products of the chemical or allied industries	1,508	6.0	6	0.0	25
07 Plastics and rubber	293	6.0	6	0.0	25
08 Raw hides and skins, and leather	79	6.0	6	0.0	25
09 Wood and articles of wood	212	6.0	6	0.0	25
10 Pulp of wood, paper, etc.	183	5.9	0 - 6	0.1	25
11 Textiles and textile articles	855	6.0	6	0.0	25
12 Footwear and headgear	51	6.0	6	0.0	25
13 Articles of stone	177	6.0	6	0.0	25
14 Precious stones, etc.	62	6.0	6	0.0	25
15 Base metals and articles of base metal	629	6.0	6	0.0	25
16 Machinery and mechanical appliances	1,352	6.0	0 - 6	0.0	23 - 25
17 Vehicles, aircraft, vessels and associated transport equipment	493	5.6	0 - 6	0.3	3 - 25
18 Precision instruments	307	6.0	6	0.0	25
19 Arms and ammunition	24	6.0	6	0.0	25
20 Miscellaneous manufactured articles	194	6.0	6	0.0	15 - 25
21 Works of art, etc.	30	6.0	6	0.0	25
<b>By stage of processing</b>					
First stage of processing	1,554	5.9	0 - 6	0.0	0 - 31.5
Semi-processed products	2,453	6.0	0 - 6	0.0	25 - 98
Fully processed products	4,731	6.0	0 - 6	0.0	3 - 31.5

- a For products subject to price bands, the 2022 reference prices were used to estimate the *ad valorem* equivalents.
- b Tariff bindings are given according to the HS 2017 classification and rates applied according to HS 2022; consequently, there may be differences in the number of lines included in the analysis.
- c ISIC (Rev.2), except for electricity (one line).

Source: WTO Secretariat calculations, based on data provided by the authorities.

### 3.1.3.2 Price band system

3.30. Chile uses a price band system based on international reference prices for imports of wheat, wheat flour and sugar (Table 3.4). The price band system is an automatic mechanism for adjusting tariffs in line with international price variations. It was established in 1986 to mitigate the impact of international price fluctuations for certain agricultural products on the domestic market. Price bands were initially applied to imports of wheat, wheat flour, sugar and edible oils. In 2003, oils were excluded, and the bands currently apply to a total of 41 tariff lines for wheat, wheat flour and sugars.

3.31. Using a formula, a specific duty is added to the general MFN *ad valorem* tariff (6%) when the international reference price for a product such as wheat or sugar falls below the lower threshold (floor) of the price band, and a tariff reduction multiplied by a factor of one plus the *ad valorem* tariff is applied when the reference price exceeds the upper threshold (ceiling) of the band.<sup>45</sup> Both the specific duty and the tariff reduction must be equivalent to the difference between the

<sup>45</sup> Specific duty = (floor - reference price) \* (1 + *ad valorem* tariff) (Supreme Decree No. 831 of 4 October 2003, Ministry of Finance).



international price and the upper and lower thresholds, respectively.<sup>46</sup> For wheat flour, the duties or reductions determined for wheat, multiplied by a factor of 1.56, are applied.

3.32. The maximum possible reduction allowed by the price band system is a full discount of the 6% MFN tariff, resulting in a zero-rate tariff, and the maximum duty payable is limited by the WTO bound tariff<sup>47</sup>, which is 31.5% for wheat and wheat flour, and 98% for sugars. The reference price is calculated every two months (wheat and wheat flour) or monthly (sugars) using the average daily international prices for wheat and sugar recorded on the most important markets<sup>48</sup>, and the floor and ceiling rates in the price bands. The floor and ceiling rates were set by law in 2003 and reviewed in late 2014.<sup>49</sup> As a result of this review, it was established that the floor and ceiling rates for products subject to price bands should be permanent, and the rates in effect from 2015 to date are those which were in force in December 2014 (Table 3.4).<sup>50</sup> The amounts of the increases and reductions are determined by a supreme decree issued by the Ministry of Finance six times each year (over a period from 16 December to the following 15 December) for wheat and 12 times a year for sugars (over a period from 1 December to 30 November of the following year).<sup>51</sup>

**Table 3.4 Products subject to price bands, 2023**

Product	Floor price (USD)	Ceiling price (USD)
Wheat (HS 1001.9000)	114	134
Wheat flour (HS 1101.0000)		
Cane sugar (HS 1701.1100)		
Beet sugar (HS 1701.1200)		
Sugar containing added flavouring or colouring matter (HS 1701.9100)	238	259
Cane sugar, refined (HS 1701.9910)		
Beet sugar, refined (HS 1701.9920)		
Other (HS 1701.9990)		

Source: Supreme Decree No. 1.936 of 15 December 2014, Ministry of Finance.

### 3.1.3.3 Tariff bindings

3.33. Chile bound all its tariffs in the Uruguay Round, with tariff levels ranging from 0% to 98%. The tariff levels applied to most tariff lines (98.2% of the total) are bound at 25%. A group of agricultural products are bound at 31.5% and comprise 107 tariff lines (at the eight-digit level of HS 2017). These lines include various dairy products, wheat and wheat flour, oilseeds and oleaginous fruits, and vegetable fats and oils. The rate applicable to cane or beet sugar (six tariff lines at the eight-digit level of HS 2017) was bound at 98% after a rectification under Article XXVIII of the GATT.<sup>52</sup> Some of these products, such as wheat, wheat flour and sugar, are also subject to the price band system. The goods bound at rates of less than 25% are: bone ash, at 0% (a single HS subheading, 2621.9010); certain boats, at 3% (three HS subheadings, 8901.9011, 8901.9012 and 8901.9019); vegetable carving material, at 15% (one HS subheading, 9602.0000); and certain turbines, at 23% (three HS subheadings, 8410.1110, 8410.1210 and 8410.1310). The 6% MFN tariff rate applied to bone ash is the only one that appears to exceed its bound rate of 0%. In this connection, the authorities indicated that although the MFN tariff rate was 6%, bone ash falling under subheading

<sup>46</sup> Tariff reduction = (reference price - ceiling) \* (1 + *ad valorem* tariff) (Supreme Decree No. 831 of 4 October 2003, Ministry of Finance).

<sup>47</sup> Information from the Office for Agricultural Studies and Policy Development (ODEPA). Viewed at: [https://www.odepa.gob.cl/odepaweb/publicaciones/Banda\\_de\\_Precios.pdf](https://www.odepa.gob.cl/odepaweb/publicaciones/Banda_de_Precios.pdf).

<sup>48</sup> According to Articles 8 and 12 of Supreme Decree No. 831 of 4 October 2003, the most important market for wheat is the market for Argentine bread wheat from 16 December to 15 June, and for Soft Red Winter wheat No. 2 from 16 June to 15 December. For refined sugar, the most important market is the No. 5 white sugar futures contract on the London Exchange, while for raw sugar it is the No. 11 raw sugar contract on the New York Exchange.

<sup>49</sup> Law No. 19.897 of 25 September 2003 and Supreme Decree No. 831 of 4 October 2003, Ministry of Finance.

<sup>50</sup> Supreme Decree No. 1.936 of 15 December 2014, Ministry of Finance, and Supreme Decree No. 831 of 4 October 2003, Ministry of Finance.

<sup>51</sup> Article 1 of Supreme Decree No. 831 of 4 October 2003, Ministry of Finance.

<sup>52</sup> WTO document G/MA/TAR/RS/82 of 30 October 2001.



2621.9010 was subject to a 0% *ad valorem* duty when originating from a WTO Member, pursuant to National Legal Note No. 1 in Chapter 26 of the current Customs Tariff.<sup>53</sup>

### 3.1.3.4 Tariff quotas

3.34. As a result of its modified Uruguay Round schedule of commitments, Chile has an MFN tariff quota of 60,000 tonnes per year for refined cane or beet sugar (HS subheadings 1701.9910, 1701.9920 and 1701.9990) shared between Argentina (21,000 tonnes per year), Guatemala (16,700 tonnes per year), Brazil (9,700 tonnes per year) and other countries (12,600 tonnes per year).<sup>54</sup> The in-quota tariff is 0% and the out-of-quota tariff is applied using the price band system. Chile also applies a quota of 30,000 tonnes per year for products under HS subheading 1701.9100 and another of 15,000 tonnes for HS tariff subheadings 1701.91 and 1701.99. Since 2009, 50% of the 30,000-tonne quota for HS subheading 1701.9100 has been allocated to Colombia, and the rest could be of any origin, including Colombia. The 15,000-tonne quota for HS tariff subheadings 1701.91 and 1701.99 is currently allocated to the Plurinational State of Bolivia (6,000 tonnes), Colombia (6,000 tonnes), Honduras (1,000 tonnes) and any country of origin (2,000 tonnes), which can include the Plurinational State of Bolivia, Colombia and Honduras.<sup>55</sup>

3.35. Regarding the allocation of quotas on the domestic market, sugar imported under tariff quotas must be used as an input in the manufacture of food products for the domestic market, which must also result in a change of tariff heading. Up to 20% of the total tariff quota can be allocated to each importer. Quotas are allocated following a tender procedure organized by the National Customs Service, and are proportional to the total amount of sugar actually processed and used as an input in the manufacture of food preparations for the domestic market by each of the producers. Each producer's share of the sugar used is calculated based on the total use declared by all producers, applying a formula published in the Official Journal.<sup>56</sup>

3.36. The National Customs Service issues one call for tenders every year to fill the quota. The 2023 call for tenders for the 60,000-tonne (heading 1701.99), 15,000-tonne (subheadings 1701.91 and 1701.99) and 30,000-tonne (subheading 1701.9100) quotas was declared void.<sup>57</sup> According to information from the National Customs Service, the quotas were not used during the period under review.<sup>58</sup> Exempt Resolution No. 2.904 of 9 November 2022 declared the quota allocation void.<sup>59</sup> The website of the National Customs Service provides detailed information about the annual quota allocation.<sup>60</sup> The 2023 situation is not unusual; according to the authorities, the process has been declared void since 2014 because the MFN tariff rate was 0% as a result of the price band system.

3.37. Chile has negotiated other preferential tariff quotas as part of the trade agreements it has signed with the Plurinational State of Bolivia (meat), Ecuador (meat, dairy and sugar), Guatemala (powdered milk, condensed milk, yogurt, butter, cheese, dulce de leche and tomato purée), Japan (meat), Norway (Jarlsberg and Ridder cheeses), the European Union (cheese, hake, salmon and prepared tuna) and the United Kingdom (cheese, hake, salmon and prepared tuna). The tariffs applicable to these preferential quotas vary according to the agreement.

### 3.1.3.5 Tariff concessions

3.38. All goods imported into Chile are subject to the payment of import duty, except for the goods expressly declared exempt by law. Section 0 of the Chilean Customs Tariff lists the goods that may be imported with total or partial relief from duties for a specific purpose or use. As a general rule,

<sup>53</sup> National Legal Note No. 1 in Chapter 26 of the current Customs Tariff can be viewed at: <https://www.aduana.cl/arancel-aduanero-vigente/aduana/2016-12-30/090118.html>.

<sup>54</sup> WTO document G/MA/TAR/RS/82 of 30 October 2001.

<sup>55</sup> Exempt Resolution No. 2.471 of 21 September 2022, National Customs Service.

<sup>56</sup> Exempt Resolution No. 4.062 of 31 October 2003, National Customs Service, as amended by Exempt Resolution No. 2.897 of 5 July 2005.

<sup>57</sup> Exempt Resolution No. 2.904 of 9 November 2022, National Customs Service. Viewed at: <https://www.aduana.cl/contingente-de-azucar-proceso-2023/aduana/2022-09-23/113322.html>.

<sup>58</sup> Information from the National Customs Service. Viewed at: <http://comext.aduana.cl:7001/cupos/buscar.do>.

<sup>59</sup> Information from the National Customs Service. Viewed at: [https://www.aduana.cl/aduana/site/docs/20220923/20220923113322/res\\_2904\\_09\\_11\\_2022.pdf](https://www.aduana.cl/aduana/site/docs/20220923/20220923113322/res_2904_09_11_2022.pdf).

<sup>60</sup> Information from the National Customs Service. Viewed at: <https://www.aduana.cl/aduana/site/edic/base/port/normativas.html?filtro=20190118000549>.

these exemptions apply to imports of goods for use by, *inter alia*, government bodies, foreign service officials, international organizations, educational and social assistance institutions, religious communities, and air and maritime transport companies, as well as to donations, samples of goods of no commercial value and certain automobile parts.

3.39. The *ad valorem* duties specified in various headings in Section 0 of the Customs Tariff apply provided that they are lower than those determined for the same tariff headings in the Customs Tariff. Otherwise, the rates set for each tariff line in Chapters 1 to 97 of the Tariff apply.

3.40. A 0% tariff is applied to imports of certain capital goods pursuant to Law No. 20.269 of 27 June 2008. This tariff is applied on an *ad hoc* basis to capital goods that fit the definition under Law No. 18.634.<sup>61</sup> Capital goods and components, spare parts, replacement parts and accessories for such goods that may be eligible for exemption are included in a list drawn up in a decree by the Minister of Finance. Interested parties may submit a request to the Ministry of Finance for a capital good to be included in or excluded from the list.

3.41. Furthermore, the payment of customs duties and taxes on purchased or leased capital goods may be deferred for up to seven years after validation of the appropriate import declaration. To benefit from this payment facility, the imported capital goods must have a minimum c.i.f. value of USD 7,387.89 or its equivalent in other currencies, except for land vehicles for carrying people or freight by road, including trailers, which must have a c.i.f. value of more than USD 9,358.01 or its equivalent in other currencies. This facility has also been extended to the tax on imports of automobiles used for public passenger transport (taxis) with a c.i.f. value not exceeding USD 14,775.93 (this amount is updated yearly).<sup>62</sup>

3.42. Chile also maintains tariff concessions within free zones (Section 3.3.1).

#### **3.1.3.6 Preferential tariffs**

3.43. Chile applies a zero tariff on all products originating from least developed countries (LDCs), except in the case of wheat, wheat flour and sugars.<sup>63</sup> Under Law No. 20.690 of 28 September 2013, tariffs were unilaterally eliminated for all goods originating from LDCs, excluding wheat, wheat flour and sugars, which are subject to specific rules under Law No. 18.525. This Law regulates goods imported into the country and its revised, coordinated and consolidated text was approved by Decree with Force of Law (DFL) No. 31 of 2005 of the Ministry of Finance. It also provides for a gradual reduction in duties, starting with countries with greater external vulnerability. Supreme Decree No. 1.432 of the Ministry of Finance, published on 28 February 2014, includes a list of the LDCs to which this benefit applies from the first, second and third year after the Law's entry into force, as well as the requirements that the goods must meet in order to qualify as originating from an LDC and receive preferential treatment. To receive such treatment, the goods must be wholly obtained or produced in the territory of the beneficiary country and be produced entirely in the territory of an LDC using only originating inputs. Preferential treatment can also be granted to goods produced using non-originating materials, provided that certain requirements are met. A certificate of origin must be provided at the time of importation to prove that the goods are originating.

3.44. During the period under review, Chile has continued consolidating and expanding its preferential arrangements and, consequently, tariff preferences in its foreign trade (Section 2.2.1). However, as the MFN tariff is relatively low, the margin of preference is not considerable and varies depending on the agreement. Chile also grants tariff preferences to several countries under economic

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<sup>61</sup> "Capital goods" means those machines, vehicles, equipment and tools that are intended, directly or indirectly, for the production or marketing of goods or services. These must be goods that retain their production capacity for a period of no less than three years after their first use, with a gradual process of wear and tear or depreciation extending over a longer period. Goods intended to perform supplementary or support functions, such as packaging, selection, maintenance, analysis and marketing of the manufactured products, are understood to be indirectly involved in the production process. Article 2 of Law No. 18.634 of 5 August 1987, as last amended on 30 June 2022. Viewed at: <https://www.bcn.cl/leychile/navegar?idNorma=30024>.

<sup>62</sup> Law No. 18.634 of 5 August 1987 and amendments thereto.

<sup>63</sup> Law No. 20.690 of 28 September 2013 and WTO document G/C/W/695-WT/COMTD/N/44 of 14 April 2014.

complementarity agreements concluded within the framework of the Latin American Integration Association (LAIA). In all, Chile has signed 32 trade agreements with 60 economies (Table A2.2).

3.45. The average preferential tariff in the agreements negotiated by Chile ranges between 0% and 1%, with the exception of the agreements with Cuba, India and Indonesia, which are partial scope agreements. Under most of the agreements, bar the three mentioned above, duty-free lines account for over 95% of the tariff universe (Table 3.5).

**Table 3.5 Summary analysis of preferential tariffs, 2021**

	Number of lines with a preferential tariff	Percentage of lines with preference (%)	Total		WTO categories			
			Average (%)	Duty-free lines (%)	Agricultural products		Non-agricultural products (including petroleum)	
					Average (%)	Duty-free lines (%)	Average (%)	Duty-free lines (%)
MFN	0	0	5.9	0.4	5.8	0.0	6.0	0.5
Australia	8,525	99.6	0.0	99.9	0.0	99.5	0.0	100.0
Plurinational State of Bolivia	8,488	99.1	0.0	99.5	0.0	97.2	0.0	100.0
Canada	8,400	98.1	0.1	98.5	0.3	91.5	0.0	100.0
China	8,362	97.7	0.1	98.1	0.1	96.2	0.1	98.5
Colombia	8,525	99.6	0.0	99.5	0.0	97.2	0.0	100.0
Cuba	2,101	24.5	4.5	24.2	4.4	25.4	4.5	24.0
Ecuador	8,171	95.4	0.2	95.9	1.0	81.2	0.1	98.9
European Union	8,358	97.6	0.1	98.0	0.6	90.3	0.0	99.6
Hong Kong, China	8,333	97.3	0.1	97.8	0.2	96.0	0.1	98.1
India	2,114	24.7	4.8	7.9	5.4	4.0	4.7	8.7
Indonesia	7,840	91.6	0.9	78.4	1.5	69.8	0.8	80.2
Japan	7,959	93.0	0.4	92.6	1.4	73.8	0.2	96.5
Korea, Republic of	8,392	98.0	0.1	98.4	0.2	93.6	0.0	99.5
Malaysia	8,387	98.0	0.1	98.4	0.3	92.8	0.0	99.5
MERCOSUR	8,510	99.4	0.0	99.8	0.0	100.0	0.0	99.8
Mexico	8,407	98.2	0.1	97.8	0.4	92.4	0.1	98.9
P4 <sup>a</sup>	8,525	99.6	0.0	100.0	0.0	100.0	0.0	100.0
Pacific Alliance	8,503	99.3	0.0	99.7	0.1	98.5	0.0	100.0
Panama	8,464	98.9	0.0	99.3	0.0	97.1	0.0	99.7
Peru	8,510	99.4	0.0	99.3	0.0	97.2	0.0	99.8
Thailand	8,525	99.6	0.0	98.3	0.1	93.0	0.0	99.4
Türkiye	8,325	97.2	0.1	97.7	0.6	86.8	0.0	99.9
United Kingdom	8,358	97.6	0.1	98.0	0.6	90.3	0.0	99.6
United States	8,525	99.6	0.0	100.0	0.0	100.0	0.0	100.0
Venezuela, Bolivarian Republic of	8,097	94.6	0.3	95.0	0.4	90.0	0.2	96.0
Viet Nam	8,503	99.3	0.1	91.6	0.1	95.6	0.2	90.8
LDCs (2020)	8,484	99.1	0.0	99.5	0.0	97.2	0.0	100.0
Central America								
Costa Rica	8,200	95.8	0.2	96.2	0.9	82.8	0.1	99.0
El Salvador	8,052	94.1	0.3	94.5	1.0	80.4	0.2	97.4
Guatemala	7,875	92.0	0.5	89.8	1.2	75.8	0.3	92.7
Honduras	8,456	98.8	0.0	99.2	0.1	96.4	0.0	99.8
Nicaragua	8,461	98.8	0.0	98.9	0.1	95.5	0.0	99.6

	Number of lines with a preferential tariff	Percentage of lines with preference (%)	Total		WTO categories			
			Average (%)	Duty-free lines (%)	Agricultural products		Non-agricultural products (including petroleum)	
					Average (%)	Duty-free lines (%)	Average (%)	Duty-free lines (%)
EFTA								
Switzerland	7,386	86.3	0.8	86.3	4.4	22.7	0.0	99.4
Norway	7,434	86.8	0.8	86.8	4.4	23.1	0.0	100.0
Iceland	7,866	91.9	0.5	91.9	2.6	52.6	0.0	100.0

a Trans-Pacific Strategic Economic Partnership.

Notes: The calculation of the averages excludes the *ad valorem* equivalents for the lines subject to price bands.

The MFN and preferential tariffs are in the HS 2017 nomenclature, and the total number of lines is 8,561.

For the seven trading partners for which preferential tariff quotas apply, in-quota tariffs are excluded from the calculations.

When a preferential tariff rate applies to only part of a line, the lower tariff rate is used for the calculations.

For Mexico, 18 tariff lines are subject to seasonal tariffs.

Source: WTO Secretariat, based on data provided by the authorities.

### 3.1.4 Other charges affecting imports

3.46. Imported goods may be subject to indirect taxes and other charges, where applicable. Fees are collected for some services provided by the National Customs Service; the fee amount is regulated. A fee is charged for verification through value assessment inspections, which are conducted when the destination documents submitted do not contain the information needed to enable the customs officer to verify the accuracy of the declaration. In accordance with the Customs Ordinance, the fee for verification through this type of assessment depends on the customs destination, the scale of the service provided and the work it involves; it cannot be lower than 0.5% of the goods' customs value (or 1% of the customs value in the case of imports through the post). Storage fees are also applied and depend on the length of time for which the goods remain with Customs.

3.47. The importation and domestic sale of goods and services are subject to the tax on sales and services (known as VAT), which is applied at a rate of 19% of the value of the goods sold or the service provided.<sup>64</sup> In the case of imports of goods, VAT is calculated on the basis of the c.i.f. value plus the import duty. Some operations are exempt from the payment of VAT, depending on the use or destination of the goods. For example, domestic or imported components or spare parts used in manufacturing or assembly, which enter or re-enter Chile from free zones, are exempt from VAT (Section 3.3.1).

3.48. In accordance with Law No. 21.420 published on 4 February 2022, from 1 January 2023, VAT is levied on all services, with the exception of services provided by natural persons that issue *boletas de honorarios* (invoices for services rendered); passenger transport services; education services; outpatient health services; and the income of professional partnerships registered with the Internal Revenue Service (SII).

3.49. Imports of used goods are subject to payment of a 50% surcharge on the general tariff (or the preferential tariff, where applicable), except when the used product is imported by an individual, is of a non-commercial nature and has a c.i.f value of under USD 100. Certain types of used vehicles,

<sup>64</sup> Decree Law No. 825 (Law on the Tax on Sales and Services) of 31 December 1974 and amendments thereto (last amended on 4 February 2022), Ministry of Finance.

including cleaning vehicles, ambulances and other specialized vehicles are exempt from this surcharge.

3.50. Additional taxes are levied on certain domestic and imported products. This is the case for luxury products, alcoholic and non-alcoholic beverages and like products, tobacco and fuel (Table 3.6). The products to which these additional taxes are applied have not changed since the previous review in 2015; the only change was the increase from 27% to 31.5% in the tax on liqueurs, pisco and other alcoholic beverages.

**Table 3.6 Additional taxes, June 2023**

Tax	Product	Rate (%)	Tax base	
			Imports	Domestic products
Tax on luxury products	Articles made of gold, platinum and ivory; jewellery, precious stones; furskins; rugs and fine tapestries; caviar; motorhomes; and air or compressed gas guns	15	Customs value plus import duty	Selling price at all transaction levels
	Pyrotechnic articles (fireworks), unless for industrial, mining or agricultural use	50	Customs value plus import duty	Selling price at all transaction levels
Tax on beverages	Non-alcoholic beverages (mineral waters, artificial beverages and syrups)	10 or 18 depending on sugar content	Customs value plus import duty	Selling price at all transaction levels, except for retail sale
	Alcoholic beverages: Sparkling wines, champagne, full-bodied wines or sweet wines, chicha, cider and beer	20.5	Customs value plus import duty	Selling price at all transaction levels, except for retail sale
	Liqueurs, pisco, whiskies, distilled spirits, including liqueur wines or aromatized wines similar to vermouth	31.5	Customs value plus import duty	Selling price at all transaction levels, except for retail sale
Tax on tobacco products	Cigars	52.0	Consumer price	Consumer price
	Cigarettes	0.0010304240 UTM <sup>a</sup> per cigarette plus 30% tax on the consumer price, per packet	Consumer price	Consumer price
Tax on fuel	Processed tobacco	59.7	Consumer price	Consumer price
	Gasoline	6 UTM <sup>a</sup> /m <sup>3</sup>	Customs value plus import duty plus VAT	Producer price, including VAT (first sale)
	Diesel	1.5 UTM <sup>a</sup> /m <sup>3</sup>	Customs value plus import duty plus VAT	Producer price, including VAT (first sale)

a The *Unidad Tributaria Mensual* (UTM) (monthly tax unit) is an economic unit used for taxation purposes and adjusted monthly according to the consumer price index (Section 1). In May 2023, 1 UTM was equivalent to CLP 63,074.

Source: SII website. Viewed at: [https://www.sii.cl/ayudas/aprenda\\_sobre/3072-5-3079.html](https://www.sii.cl/ayudas/aprenda_sobre/3072-5-3079.html).

### 3.1.5 Import prohibitions, restrictions and licensing

3.51. Chile prohibits the importation of various goods pursuant to its domestic legislation and/or based on its commitments under international agreements.<sup>65</sup> Generally speaking, the purpose of the prohibitions is to protect human, animal and plant health, the environment and public safety. They apply regardless of the origin of the goods.

<sup>65</sup> Chilean Customs. Viewed at: <https://www.aduana.cl/que-mercancias-puedo-importar-y-cuales-estan-prohibidas/aduana/2020-11-16/103555.html>.

3.52. The importation of used vehicles and motorcycles<sup>66</sup> and used and retreaded tyres<sup>67</sup> is expressly prohibited. It is also forbidden to import asbestos in all forms<sup>68</sup>, in addition to goods that are harmful to human health, animals or agriculture (for example, toys and articles for children that contain toluene, adhesives with a volatile solvent base and certain pesticides for agricultural use). For public safety reasons, it is forbidden to import certain tear gases and other elements with physiological effects on humans<sup>69</sup>, in addition to fireworks and pyrotechnic articles.<sup>70</sup> Moreover, the illicit trafficking of cultural goods is prohibited.

3.53. Chile prohibits the importation of endangered animals and plants, in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); of toxic industrial waste, pursuant to the Basel Convention; and of ozone-depleting substances, in line with the Montreal Protocol. The importation of radioactive substances and materials and ionizing radiation-generating equipment is also prohibited, except in the case of authorized materials.

3.54. Chilean legislation does not permit the imposition of quotas for imports (or exports). As a result, Chile does not apply quantitative restrictions.<sup>71</sup>

3.55. The importation of certain products is subject to prior control through authorizations, certifications, endorsements or approvals (Table 3.1). In addition, the Agriculture and Livestock Service applies various measures prohibiting or restricting the importation of different types of pesticides and anabolics promoting bovine growth, among other measures. In 2022, in the interest of transparency, Chile submitted a notification to the Committee on Import Licensing under Article 7.3 of the Agreement on Import Licensing Procedures.<sup>72</sup> The document describes the authorizations, certifications or approvals that, for various reasons, are required in order for certain products to enter the country.

### **3.1.6 Anti-dumping, countervailing and safeguard measures**

#### **3.1.6.1 Legal framework**

3.56. Chilean trade defence legislation includes Law No. 18.525 of 30 June 1986 (Regulations on the Importation of Goods into Chile) and the amendments thereto<sup>73</sup>, and Decree No. 1.314 of 22 March 2013 approving the Anti-Distortion Regulations. Moreover, the WTO Anti-Dumping Agreement, Agreement on Subsidies and Countervailing Measures and Agreement on Safeguards constitute domestic law in Chile. The provisions on contingency measures established in the trade agreements signed by the country also form part of this legal framework. No changes have been made to the legislation in this area since the previous review in 2015.

3.57. The National Commission responsible for investigating distortions in the price of imported goods (CNDP) is the competent authority to conduct investigations into dumping, subsidization and safeguards and, where appropriate, to propose the application of the corresponding duties.<sup>74</sup> The President of the Republic determines to which goods these duties will be applied, as well as the amount and duration of these duties, based on a recommendation from the CNDP.

<sup>66</sup> Law No. 18.483 of 28 December 1985.

<sup>67</sup> Exempt Decree No. 1.358 of 4 October 2010, Ministry of Health.

<sup>68</sup> Decree No. 656 of 13 January 2001, Ministry of Health.

<sup>69</sup> Law No. 17.798 of 21 October 1972 and its implementing Regulations.

<sup>70</sup> Decree No. 77 of 14 August 1982, Ministry of National Defence.

<sup>71</sup> Article 88 of Law No. 18.840 (Constitutional Organic Law of the Central Bank of Chile) of 10 October 1989.

<sup>72</sup> WTO document G/LIC/N/3/CHL/9 of 29 March 2022.

<sup>73</sup> Decree with Force of Law No. 31 of 22 April 2005 approving the revised, coordinated and consolidated text of Law No. 18.525 establishing regulations on the importation of goods into Chile, Ministry of Finance.

<sup>74</sup> The CNDP is composed of the National Prosecutor, two representatives of the Central Bank, one representative of the Ministry of Finance, one representative of the Ministry of Foreign Affairs, one representative of the Ministry of Economic Affairs, one representative of the Ministry of Agriculture and the Director-General of Customs. The Central Bank is in charge of the CNDP's Technical Secretariat.



### 3.1.6.2 Anti-dumping and countervailing measures

3.58. An investigation into dumping or subsidization is initiated through the submission by the affected domestic industry of a written application to the CNDP.<sup>75</sup> The application must contain evidence of price distortion that is causing actual or imminent material injury to the domestic industry. The CNDP is empowered to initiate investigations *ex officio* if it has information to justify this.<sup>76</sup> Once an application has been declared admissible, the CNDP initiates the investigation to determine whether there is distortion and whether it is causing or threatening to cause injury to the domestic industry. Once 60 days have elapsed since the initiation of the investigation, the CNDP may recommend that the President of the Republic apply provisional duties. The application period for provisional anti-dumping duties must not exceed six months.

3.59. Pursuant to Decree No. 1.314, investigations into dumping or subsidization must be concluded within nine months from the date of publication of the notice of initiation. If, upon conclusion of the investigation, the CNDP determines that there are price distortions and that they are causing actual or imminent material injury to the domestic industry, it issues a resolution recommending that the President of the Republic apply definitive anti-dumping or countervailing duties. These duties may not exceed the margin of the distortion and their duration may not exceed one year. If the President decides to apply surcharges, he or she does so through a supreme decree of the Ministry of Finance ordering the implementation of the measure. The President may choose not to impose the recommended duties or to impose a lower duty, but may not impose a duty higher than that recommended. A feature of the Chilean regime is that duties are non-renewable and may only be extended if the CNDP carries out a new investigation and concludes that it is necessary to apply a new duty. The CNDP may, at any stage and provided that its decision is substantiated, recommend that the measures in effect be modified or terminated prior to their expiry.

3.60. If the investigation shows that there are no price distortions or that there are distortions but they are not causing actual or imminent material injury to the domestic industry, the CNDP issues a resolution terminating the investigation. In the event that provisional measures had been applied, the individuals affected may request that the duties paid be refunded. It is also possible to request the reimbursement of the difference paid when the provisional duties are higher than the definitive duties.

3.61. Decrees concerning the initiation and termination of investigations, and preliminary and final determinations, must be published in the Official Journal. Chilean legislation permits the retroactive application of definitive duties under certain circumstances. It does not provide for the application of anti-circumvention measures.

3.62. Chile is not a frequent user of trade defence measures. Between January 2015 and December 2022, Chile initiated eight anti-dumping investigations, one of which was *ex officio*. Most of these investigations concerned steel products from China (five cases) and Mexico (two cases), while one investigation involved wheat flour from Argentina. Five of the investigations resulted in the imposition of definitive duties, in two cases it was decided not to apply measures and one investigation ended due to the withdrawal of the petitioner.<sup>77</sup> As of late June 2023, Chile was not applying any anti-dumping duties and had no investigations under way.

3.63. From January 2015 to December 2022, Chile did not initiate any subsidies investigations and notified the WTO that it had not adopted any countervailing duty actions.

3.64. It should be noted that some of the trade agreements signed by Chile (the agreements with Canada and EFTA) contain a commitment under which the parties agree not to apply anti-dumping measures to each other. Other agreements simply reaffirm the provisions of the WTO Anti-Dumping

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<sup>75</sup> The application shall be considered to have been made "by or on behalf of the domestic industry" if it is supported by those domestic producers whose collective output constitutes more than 50% of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application. The CNDP may not initiate an investigation when domestic producers expressly supporting the application account for less than 25% of total production of the like product produced by the domestic industry.

<sup>76</sup> Article 9 of Decree with Force of Law No. 31 of 22 April 2005, Ministry of Finance, and Article 15 of the Anti-Distortion Regulations.

<sup>77</sup> CNDP statistics. Viewed at: <https://www.cndp.cl/web/cndp/antecedentes-relativos-a-investigaciones-del-per%C3%ADodo-1999-a-la-fecha>. See also Chile's notifications to the WTO.



Agreement (for example, the agreements with Australia, China, Colombia, Ecuador, the Republic of Korea, Malaysia, Thailand, Türkiye and the United States), while others do not include provisions on this subject (the agreements with Japan, Mexico and India).

### 3.1.6.3 Safeguard measures

3.65. Safeguard investigations are initiated through a written application by a domestic industry<sup>78</sup> or *ex officio*. The CNDP must conclude the investigation within 90 days of the date of initiation and decide whether, in the light of the information available, it can be determined that a product has been imported in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. If it determines that this is the case, the CNDP issues a resolution recommending that the President of the Republic apply tariff surcharges. Chile does not apply quantitative safeguards. As is the case with anti-dumping and countervailing duties, the President has exclusive authority to decide whether to apply tariff surcharges and, if he or she decides to do so, these tariff surcharges are issued through a supreme decree of the Ministry of Finance. Moreover, the President may decide not to impose the safeguard measure or to apply a lower surcharge, but may not apply a surcharge higher than that recommended.

3.66. Tariff surcharges are determined on an *ad valorem* basis; specific tariffs may not be applied. If the recommended surcharge, added to the tariff in effect, exceeds Chile's WTO bound tariff, the application of this surcharge must be approved by three quarters of the CNDP's members. Safeguard measures may be provisionally applied within the 30 day-period following the initiation of the investigation and may remain in effect for a maximum of 200 days.

3.67. The duration of definitive safeguard measures may not exceed two years from the publication of the decree ordering their application. The measures may be extended by the President for a maximum of two years, at the request of the affected domestic industry and subject to a favourable report from the CNDP or following a study carried out *ex officio* by the CNDP. In the event that provisional measures had been applied, the two-year period is counted from the date of publication of the decree ordering those measures. Pursuant to Law No. 18.525 and the amendments thereto, a measure must be reviewed annually when its application period exceeds one year, and a timetable for its gradual dismantling must be established. However, the CNDP may, at any stage, recommend that the surcharges be modified or terminated prior to their expiry.

3.68. From January 2015 to December 2022, Chile initiated five safeguard investigations, all at the request of a party. Four investigations concerned steel products (wire rod, mesh, nails and wire) and one involved dairy products (powdered milk and Gouda cheese). The five investigations were notified to the WTO.<sup>79</sup> In one case (steel wire rod), the investigation resulted in the application of provisional measures, which were subsequently confirmed with the application of a definitive surcharge (38.9%) for six months.<sup>80</sup> The other investigations were terminated without the imposition of measures. There were no safeguard measures in effect or investigations under way as of late June 2023.

3.69. The trade agreements signed by Chile include provisions on safeguard measures of a bilateral or global nature or that seek to protect sensitive sectors. Some of these agreements set out conditions providing for the exemption of one or more parties from the application of global safeguards adopted under the WTO Agreement on Safeguards.

3.70. The application of the safeguard measures provided in the trade agreements is governed, on a supplementary basis, by the provisions of Law No. 18.525, the amendments thereto and its implementing Regulations. In the event that these provisions are inconsistent with those contained in the trade agreements, the latter shall prevail to the extent of the inconsistency. In addition, Law No. 18.525 provides for the possibility for another country to receive compensation for the

<sup>78</sup> The application must be submitted by representatives of the relevant domestic industry that is suffering material injury or a threat thereof, namely, the producers as a whole of the like or directly competitive products or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production.

<sup>79</sup> WTO documents G/SG/N/6/CHL/16 of 8 October 2015; G/SG/N/6/CHL/17, G/SG/N/6/CHL/18 and G/SG/N/6/CHL/19 of 3 December 2015; and G/SG/N/6/CHL/20 of 9 March 2018.

<sup>80</sup> WTO document G/SG/N/8/CHL/7 of 12 April 2016.

application of a safeguard measure and establishes that, when so agreed, the President of the Republic may, through a supreme decree of the Ministry of Finance and during the measure's application period, reduce the tariffs or expedite the tariff reduction process provided under the corresponding trade agreement. The President also has the authority to raise the tariffs on goods from another country when no agreement has been reached on adequate compensation for the application by that country of a safeguard measure on Chilean goods.<sup>81</sup>

### 3.1.7 Other measures affecting imports

3.71. Chile does not apply local content requirements.

## 3.2 Measures directly affecting exports

### 3.2.1 Customs procedures and requirements

3.72. The laws and regulations governing customs export procedures include the Customs Ordinance and the amendments thereto, the Organic Customs Law and the amendments thereto, the Compendium of Customs Regulations, and various regulations and resolutions.

3.73. As a general rule, the exit process for goods begins with the presentation of these goods before the National Customs Service via the single export document - acceptance for processing (DUS-AT).<sup>82</sup> This document must include all the required information, including the customs procedure to be applied to the goods upon leaving Chile. There are three types of customs exit procedure: export, re-export or temporary exit. The exporter may carry out the formalities directly if the f.o.b. value of the goods does not exceed USD 2,000.<sup>83</sup> For shipments of a greater value, the services of a customs broker are required. Express shipment companies can carry out customs clearance for exports of goods worth up to USD 3,000.

3.74. The documents required to prepare the DUS-AT are: the shipping instructions, the transport documents (bill of lading, waybill or airway bill) and freight documents, a copy of the commercial invoice, the clearance mandate and, where applicable, the document authorizing the procedure and any quality certificates, approvals or other authorizations. The customs broker completes and forwards the DUS-AT electronically to the National Customs Service. The acceptance of the DUS for processing means that the goods have been presented to Customs and are authorized to enter the primary zone or be shipped abroad.

3.75. Goods for export may be selected, using a risk profile-based analysis, for physical inspection and a document check. The authorities indicated that, of a total of 600,951 DUS-ATs processed in 2022, 2.5% were selected for physical inspection and a document check. After any necessary inspections have been conducted and Customs has accepted the DUS, the goods must be loaded within 25 calendar days from the date on which the DUS was accepted for processing. To conclude the export operation, the legalization of the DUS must be requested.<sup>84</sup> Obtaining legalization means that the customs procedure has been formalized and all the legal and regulatory procedures required for the goods to leave Chile have been completed. The legalized DUS constitutes the customs declaration.

3.76. Chile's single window for foreign trade (SICEX) contains a module allowing for the electronic processing of export operations and the interconnection of the various public and private agencies involved in exportation. SICEX is operated by the Ministry of Finance. The export module began to operate as a pilot plan in 2016 and, since 2018, has covered all export operations and all goods. Through the SICEX portal, it is possible to submit an export declaration, carry out all the procedures required by Customs and request authorizations, endorsements and certificates from the relevant public services, which are to be submitted in the exports' countries of destination, where required.

<sup>81</sup> Article 7 of Law No. 18.525 of 30 June 1986 and amendments thereto.

<sup>82</sup> The procedures and steps for exporting are detailed in Chapter 4 of the Compendium of Customs Regulations. Viewed at: [https://www.aduana.cl/aduana/site/artic/20070216/pags/20070216180251.html#vtxt\\_cuerpo\\_T2](https://www.aduana.cl/aduana/site/artic/20070216/pags/20070216180251.html#vtxt_cuerpo_T2).

<sup>83</sup> Article 2.1.2 of Chapter 4 of the Compendium of Customs Regulations lists the circumstances under which the services of a customs broker are not required.

<sup>84</sup> The procedures and documents for legalizing the DUS are detailed in Chapter 4, Section 8, of the Compendium of Customs Regulations.

Twelve public services currently make up SICEX (Section 3.1.1.2). Use of SICEX is voluntary, although it is expected to be made mandatory in the future. In 2022, 88% (in USD f.o.b. terms) of goods export operations were carried out through SICEX, compared to 1.04% in 2016.

### 3.2.2 Taxes, charges, and levies

3.77. By law, exportation does not require the payment of duties.<sup>85</sup> Moreover, goods exports are exempt from VAT, as are services provided to persons not domiciled or resident in Chile, on the condition that the National Customs Service declares these services to be an export.<sup>86</sup> Pursuant to Law No. 20.956 of October 2016, this exemption is applicable to services provided "entirely or partially in Chile". In the past, they had to be provided entirely in the country.

3.78. Exporters of goods may recover any VAT paid when purchasing goods or using services for their export activities, in addition to any paid when importing goods used to manufacture products to be exported.<sup>87</sup> Exporters of services also have the right to recover the VAT paid on services provided to persons not domiciled or resident in Chile, on the condition that the service is declared to be an export by Customs. The service must be exclusively provided abroad (with the exception of services provided for goods in transit). Law No. 20.956 provides for the recovery of the VAT paid on inputs when the service is entirely provided abroad, on the condition that the service is taxable in Chile and an internal tax similar to VAT is applied in the country in which the service is being provided.<sup>88</sup>

### 3.2.3 Export prohibitions, restrictions, and licensing

3.79. Generally speaking, Chile does not prohibit exports or apply quantitative restrictions to them.<sup>89</sup> The few prohibitions or restrictions applied are to protect human health, the environment and cultural heritage, and to comply with international conventions (Montreal Protocol, CITES, UNESCO conventions, etc.). Products that may not be exported include psychotropic substances, Chilean pine (*araucario araucana*) and anthropological, archaeological, ethnic, historical and paleontological objects and items. Furthermore, while Chile does not have an export licensing regime, there are certain products that require certifications, authorizations or endorsements in order to be exported.<sup>90</sup>

### 3.2.4 Export support and promotion

#### 3.2.4.1 Export support

3.80. Chile continues to operate a number of export promotion programmes, which essentially consist of tariff concessions in the form of a customs duty drawback scheme.

3.81. Under Law No. 18.708, a general system is applied through which exporters may obtain refunds for customs duties and other charges paid on the importation of raw materials,

<sup>85</sup> Article 112 of the Customs Ordinance.

<sup>86</sup> Article 12(E) of Decree Law No. 825 of 31 December 1974 and amendments thereto, Ministry of Finance, and Exempt Resolution No. 2.511 of 19 May 2007, amended by Exempt Resolution No. 7.192 of 24 November 2016.

<sup>87</sup> Article 36 of Decree Law No. 825 of 31 December 1974 and amendments thereto, Ministry of Finance.

<sup>88</sup> Article 36 of Decree Law No. 825 of 31 December 1974, Ministry of Finance, amended by Law No. 20.956 of 26 October 2016.

<sup>89</sup> Article 88 of Law No. 18.840 (Constitutional Organic Law of the Central Bank of Chile) of 10 October 1989.

<sup>90</sup> These products include: firearms, ammunition, explosives and inflammable or asphyxiating chemical substances and the facilities for their manufacture or deposit (Directorate-General of National Mobilization); enriched fissile or radioactive elements or materials, radioactive substances, devices or tools that emit ionizing radiation (Chilean Nuclear Energy Commission); works by Chilean or foreign artists (Directorate of Libraries, Archives and Museums of the Ministry of Education); plant products (SAG); written or audiovisual material relating to martial arts for teaching purposes (Directorate-General of National Mobilization); specimens of wild fauna or their by-products, certified bean seeds (SAG); fisheries products, meat of king crabs, snow crabs, prawns and abalone, and gracilaria seaweed (National Fisheries Service); species of wild fauna and flora protected under CITES; and pharmaceuticals and cosmetics (Institute of Public Health). See Compendium of Customs Regulations, Annex 40: <https://www.aduana.cl/compendio-de-normas-anexo-40/aduana/2007-02-22/114703.html>.

semi-processed goods and components or parts, if such inputs have been incorporated or used in the production of the exported good.<sup>91</sup> Surcharges and countervailing duties are excluded from this benefit. From January 2015 to December 2022, an amount equivalent to USD 40.7 million was returned to exporters under this system. Services exports are also eligible for the drawback scheme.<sup>92</sup>

3.82. There is also a simplified drawback system for non-traditional minor (in value terms) exports.<sup>93</sup> The drawback rate is 3% of the value of the goods exported, and non-traditional exports of which at least 50% is made up of imported inputs are eligible for this benefit. Each year, the Ministry of Economic Affairs, Development and Tourism issues a decree outlining maximum values for the exports, organized by tariff classification, that may benefit from drawback, in addition to the list of goods excluded from this programme. Under this simplified system, from January 2015 to December 2022, an amount equivalent to USD 17.8 million was returned to exporters. The procedures for obtaining a refund are more straightforward under the simplified system than under the general system, as the latter requires full accounting records. Exporters using the general drawback system may not use the simplified system for the same product.

#### 3.2.4.2 Export promotion

3.83. Law No. 21.080 of March 2018 provided for the creation of the Directorate-General of Export Promotion under the President of the Republic, through the Under-Secretariat for International Economic Relations (SUBREI) of the Ministry of Foreign Affairs. The functions of this Directorate-General include studying, proposing and implementing all activities relating to Chile's participation in international trade, in addition to promoting the development of exports and Chile's image abroad.<sup>94</sup> The Directorate-General of Export Promotion is known as ProChile. Under Law No. 21.080, ProChile is now a public service attached to SUBREI and its chief is chosen through the system for recruiting senior leaders in the public sector. Moreover, ProChile has its own staff and its resources are assigned annually in the Budget Law. The Law grants ProChile the power to hire local staff abroad and allow them to act as trade representatives authorized to administer ProChile's resources and assets. Law No. 21.080 also designates ProChile as the agency responsible for issuing certificates of origin under the trade agreements to which Chile is party, which require certification by an agency.

3.84. ProChile's mission is to contribute to the country's sustainable development through the internationalization of Chilean companies and the promotion of their offer of goods and services. ProChile also encourages foreign investment and tourism. It provides exporters with various tools and services through its 16 regional offices and more than 50 trade offices abroad. Its services include a wide range of activities: training on exportation; support for the internationalization of small and medium-sized enterprises (SMEs), start-ups and scale-ups; participation in international fairs, trade missions and exporter meetings; advertising campaigns and the design of sectoral brands (for example, *Wines of Chile*, *Salmón de Chile* and *Cinema Chile*); digital trade promotion strategies; driving the expansion of innovative Chilean companies with high value added exports; legal advice on market access; and trade information, market research and a catalogue of Chile's exports.<sup>95</sup> In general, ProChile's activities are focused on the agri-food sector, creative industries, the manufacturing industry, services and sea produce.

3.85. ProChile's programmes include the Export Promotion Programme, which seeks to help Chilean companies with export potential to begin exporting, and to support companies that already export to increase and/or diversify their exports and destination markets. To that end, the Programme offers a range of activities that are focused on three areas: the generation and dissemination of foreign trade information; training for the development of export capacity; and work to promote the introduction, penetration and consolidation of markets.

<sup>91</sup> Law No. 18.708 of 13 May 1988 and amendments thereto.

<sup>92</sup> In this case, the refund may not exceed the general rate of the customs duties on the value of the service exported, based on a determination by the National Customs Service.

<sup>93</sup> Law No. 18.480 of 19 December 1985 and amendments thereto.

<sup>94</sup> Article 37 of Law No. 21.080 of 20 March 2018.

<sup>95</sup> ProChile. Viewed at: <https://www.prochile.gob.cl/herramientas>.

3.86. The SME Internationalization Programme provides micro, small and medium-sized enterprises that export or have export potential with various training- and trade promotion-focused tools in order to boost their export competencies.

3.87. In order to incorporate a gender perspective into foreign trade, ProChile is implementing the *Mujer Exporta* (Women Exporters) Programme. The Programme seeks to support women-led exporting companies or companies with export potential, so as to increase their presence and permanence in international markets. The services include access to strategic information and learning processes and support for business development and the creation of trade networks.

3.88. ProChile also offers co-financing to support exporting companies (mainly SMEs) through competitive funds, in other words, funds that are allocated through a competition. To that end, ProChile manages four funds aimed at promoting exports in the forestry and agriculture<sup>96</sup>, manufacturing, services and creative industry sectors. The co-financing is non-refundable and ranges between 50% and 65% of the value of the business project, depending on the size of the applicant company or on whether it is an individual or partnership (more than one company) project. Each fund has its own programme and conditions. Table 3.7 indicates the resources allocated by ProChile in 2022.

**Table 3.7 ProChile: Funds awarded through competitions in 2022**

2022 competitions	Business		Sectoral		Total	
	Number of projects	Amount (CLP)	Number of projects	Amount (CLP)	Number of projects	Amount (CLP)
Creative industry	23	204,896,973	9	121,975,000	32	326,871,973
Manufacturing industry	23	165,959,343	0	0	23	165,959,343
Services	23	186,160,800	8	110,450,000	31	296,610,800
Forestry and agriculture	75	687,541,118	28	1,547,578,000	103	2,235,119,118
<b>Overall total</b>	<b>144</b>	<b>1,244,558,234</b>	<b>45</b>	<b>1,780,003,000</b>	<b>189</b>	<b>3,024,561,234</b>

Source: Information provided by ProChile.

3.89. ProChile works in coordination with other public institutions to promote the internationalization of Chilean companies. For example, it transfers resources to the *Imagen de Chile* (Image of Chile) Foundation, whose purpose is to improve Chile's standing abroad through strategies highlighting the attributes that differentiate the country from others, thereby contributing to increasing its competitiveness.<sup>97</sup>

3.90. Pursuant to an agreement with the Ministry of Agriculture, each year, the Ministry transfers resources provided under the Budget Law to ProChile, with a view to promoting the increase and diversification of non-traditional agricultural and forestry exports.<sup>98</sup> These resources are implemented through the Agricultural and Forestry Export Promotion Programme.

3.91. The Ministry of Finance is responsible for the Programme to Support the Exportation of Chile's Global Services, which is supported by a loan granted by the Inter-American Development Bank (IDB). Under this programme, funds are channelled to ProChile to support companies in the services and creative economy sectors that export or have export potential, through the development of various promotional activities. Moreover, by means of the National Fund for Regional Development, ProChile uses resources from regional governments to, *inter alia*, carry out training activities and trade missions and deliver presentations to potential purchasers, with a view to promoting the regional exports.

3.92. According to ProChile's data, in 2022, the agency supported a total of 5,295 companies, of which 2,668 were exporting companies (5% more than in 2021). These companies' exports

<sup>96</sup> Priority products and subsectors are: wines, pisco, fresh fruit, sea produce, meats, apicultural products, dried and dehydrated fruits, organic products, food innovation and agricultural service providers.

<sup>97</sup> The priority markets for implementing the *Imagen de Chile* strategy are currently China, Brazil, Spain, the United States and the United Kingdom.

<sup>98</sup> All agricultural and forestry products are considered non-traditional, except cellulose and sawn and planed wood.

amounted to USD 33,138 million, which represented 78% of non-copper and lithium exports and created 513,000 jobs. In 2022, 41% of Chile's exporting companies received support from ProChile. Among these companies, 67% have been exporting for more than three consecutive years and 64% increased their exports compared to 2021. 45% of all beneficiary exporting companies are SMEs. On average, beneficiary companies export five products to six markets (compared to four products and two markets in the case of non-beneficiary companies).<sup>99</sup>

### 3.2.5 Export finance, insurance, and guarantees

3.93. The Chilean Economic Development Agency (CORFO) is the government agency that supports Chilean companies. Among its multiple programmes, CORFO continues to operate the programme covering foreign trade loans (COBEX). This programme guarantees a percentage of the loans used to finance the investments or working capital of companies that export or are related to foreign trade.<sup>100</sup> It also guarantees foreign exchange derivative operations (in order to mitigate foreign exchange risk) and investment projects in indigenous areas. CORFO does not provide direct financing for companies, but offers a partial guarantee to an intermediary financial institution in order to obtain a loan and serves as backup if the company fails to pay back the loan.<sup>101</sup>

3.94. Applications to make use of COBEX may be made by MSMEs directly or indirectly related to foreign trade, exporting companies and start-ups. The percentages of the guarantee that COBEX offers to companies are determined based on the value of the companies' annual sales (or of their projected sales, in the case of start-ups), expressed in inflation-indexed units of account (UF), as indicated in Table 3.8.<sup>102</sup> Moreover, a maximum amount of coverage per company is established based on the category of the company concerned. The maximum amounts have remained unchanged during the period under review, except for the amount allocated to large exporting companies, which has increased from 23,000 UF (USD 1,039,265) to 35,000 UF (USD 1,581,490).

**Table 3.8 COBEX: beneficiary companies, percentages and maximum amounts guaranteed**

Company category	Annual sales in UF <sup>a</sup> (excluding VAT)	Percentage guaranteed	Maximum amount per company (UF)
<b>Companies directly or indirectly related to trade</b>			
Micro enterprise	Up to 2,400	60%	5,000
Small enterprise	2,401 - 25,000	60%	7,000
Medium-sized enterprise	25,001 - 100,000	60%	9,000
<b>Exporting companies</b>	<b>Up to 600,000</b>	<b>40%</b>	<b>35,000</b>

a As of 9 May 2023, the UF was equivalent to CLP 35,943.2 and the value of the US dollar was USD 1=CLP 795.46.

Source: CORFO. Viewed at: <https://www.corfo.cl/sites/cpp/convocatorias/cobex>.

3.95. Table 3.9 contains information on the number of guarantee operations, the amount of the loans guaranteed and the amount of the coverage under COBEX for the period under review.

<sup>99</sup> Information provided by ProChile.

<sup>100</sup> The guarantees may be in Chilean pesos, euros, dollars or inflation-indexed units of account (UF).

<sup>101</sup> CORFO online information. Viewed at: <https://www.corfo.cl/sites/cpp/programasyconvocatorias>.

<sup>102</sup> Maximum sales limits are not applied to investment projects in indigenous areas.



**Table 3.9 CORFO foreign trade guarantee operations (COBEX), 2015-22**

(CLP million)

Year	Number of operations	Loan amount	Coverage amount
2015	2,873	165,829	..
2016	3,282	161,514	..
2017	3,810	159,121	67,002
2018	4,596	170,576	73,796
2019	3,534	168,618	73,291
2020	2,384	157,953	67,709
2021	3,176	206,814	90,654
2022	4,150	320,496	138,080

.. Not available.

Source: CORFO, <https://www.corfo.cl/sites/cpp/movil/informespublicos>, section: "Gerencia de Inversión y Financiamiento" ("Management of Investment and Financing"), subsection: "Informes de Garantía CORFO" ("CORFO Guarantee Reports").

3.96. CORFO also administers the Market Network Programme, the objective of which is to support groups of companies in acquiring the skills and knowledge needed to access international markets, whether directly or indirectly. The programme operates through competitions, which may be entered by companies developing and marketing services with export potential. Candidates must have annual sales of between 2,400 UF (USD 108,445) and 100,000 UF (USD 4,518,543), lack regular access to export markets and conduct the business export capability assessment provided by CORFO. The support consists of financing and involves two stages: (i) the assessment stage - financing of up to CLP 4 million per project; and (ii) the development stage - financing of up to 90% of the total cost of the stage, with a maximum amount of CLP 40 million per project. The beneficiaries must co-finance at least 10% of the total cost of the project's development stage.<sup>103</sup>

3.97. Exporting companies may also access the Small Business Guarantee Fund (FOGAPE), administered by BancoEstado, which seeks to guarantee a percentage of the loan capital, leasing operations and other types of financing granted by public or private financial institutions to micro and small enterprises and exporters, which lack the guarantees required to access the formal financial system.<sup>104</sup> In recent years, medium-sized and, temporarily, large enterprises were able to access the Fund<sup>105</sup> (Section 3.3.1.2).

### 3.3 Measures affecting production and trade

#### 3.3.1 Incentives

3.98. Chile continues to pursue various incentive programmes, with objectives such as promoting investment and the economy in remote areas of the country; supporting MSMEs; boosting competitiveness and production diversification; and fostering innovation and new technologies. Incentives may include tax concessions, financing, technical training or business management support.

3.99. During the period under review, Chile notified the following programmes to the WTO Committee on Subsidies and Countervailing Measures: the tax credit for investment in certain provinces and regions; tax exemptions in free trade zones; the Fund for the Promotion and Development of Remote Areas; and financing to promote the development of artisanal fisheries and small-scale aquaculture. These programmes have been extended but have not changed substantially since the last review.<sup>106</sup>

<sup>103</sup> CORFO online information. Viewed at: <https://www.corfo.cl/sites/cpp/inf/red-mercados>.

<sup>104</sup> FOGAPE is governed by Decree Law No. 3.472 of 2 September 1980 and the amendments thereto, Ministry of Finance, and by the Regulations of the Financial Market Commission.

<sup>105</sup> Law No. 21.207 of 20 January 2020.

<sup>106</sup> WTO documents G/SCM/N/284/CHL of 4 April 2016; G/SCM/N/315/CHL of 10 October 2017; G/SCM/N/343/CHL of 12 July 2019; G/SCM/N/343/CHL/Suppl. 1 of 21 August 2020; G/SCM/N/372/CHL of 8 October 2021; and G/SCM/N/401/CHL, of 30 June 2023.



### 3.3.1.1 Support for remote areas

3.100. The Tax Credit for Investment in the Arica and Parinacota Provinces is intended to attract investment to these provinces and stimulate their economies.<sup>107</sup> The beneficiaries of this programme receive an income tax credit for investments of more than 500 UTM (about USD 39,228)<sup>108</sup> made in these provinces. For investment in Arica, the tax credit is 30%, save for tourism projects, which receive a credit of 40%. In Parinacota, investors are entitled to a 40% credit for any type of project. Since the previous review, the deadline to qualify for this programme has been extended to 31 December 2035 (previously it was the end of 2025) and the time limit for recovery of the credit has been extended to 2055 (previously 2045).

3.101. The Tax Credit for Investment programme is also being pursued in the Aysén and Magallanes Regions and in the Palena Province of the Los Lagos Region.<sup>109</sup> Under this programme, companies making investments of more than 500 UTM (around USD 39,228) in these remote regions are entitled to an income tax credit. The percentage of the credit varies between 10% and 32%, depending on the amount invested, but may not exceed 80,000 UTM (USD 6,276,488). The deadline to qualify for this benefit is 31 December 2035 (in the previous review it was 31 December 2025) and the credit can be claimed until 2055.

3.102. The free trade zones located in the cities of Iquique and Punta Arenas, which have been operating since the late 1970s, enjoy tax and customs benefits.<sup>110</sup> Service companies and user companies established in these zones are exempt from income tax (on profits), VAT (on sales of goods and services within the zones) and import duties and other taxes. In addition, as of 2020, owners of companies in free trade zone that take advantage of the tax transparency regime for MSMEs receive a credit equivalent to 50% of the income tax that would have been payable by their company (and that it does not pay because it is exempt), which they can defray against their personal taxes.<sup>111</sup>

3.103. Firms engaged in all types of activities, with the exception of mining, fishing and financial services firms, may take advantage of the free trade zone regime. Sales of goods from a free trade zone to another free trade zone or abroad are exempt from VAT. Persons selling domestic products to firms in the free trade zones can obtain reimbursement of customs duties and taxes paid on imports of inputs (such as raw materials, semi-processed goods, parts or components) have been directly incorporated or used in those products, where the inputs have a c.i.f. value of 10% or more of the sales value of the product. However, the sale of goods from a free trade zone to Chilean customs territory is considered an import and is subject to the payment of import duties, other import taxes and VAT.

3.104. In addition to the Iquique and Punta Arenas free trade zones, extended free trade zones have been created in the regions adjacent to the primary free trade zones.<sup>112</sup> Residents of the extended free trade zones can import foreign goods from the primary free trade zones of Iquique and Punta Arenas without paying duties and other import taxes. They only have to pay an excise duty of 0.46% (rate effective from 1 April 2019) on the c.i.f. value of the goods. In general, sales within the extended free trade zone are exempt from VAT. However, in the case of goods coming from a primary free trade zone, their sale is subject to VAT.

3.105. Arica Province has an industrial free trade zone. Manufacturing firms established in that zone and that perform irreversible processing of foreign raw materials, parts and components may, when selling the final product, be exempted from customs duties and VAT on the raw materials, parts and components imported and incorporated into the production of that product. These companies also

<sup>107</sup> Law No. 19.420 of 23 October 1995 and its amendments. The latest amendment was made by Law No. 21.210 of 24 February 2020.

<sup>108</sup> As at 31 May 2023, the *Unidad Tributaria Mensual* (UTM), or Monthly Tax Unit, was equivalent to CLP 63,074 and the value of the US dollar was USD 1=CLP 803.94. Source: Central Bank.

<sup>109</sup> Law No. 19.606 of 14 April 1999 (the *Ley Austral*) and its amendments. The latest amendment was by means of Law No. 21.210 of 24 February 2020.

<sup>110</sup> Decree No. 1.055 of 25 June 1975, Ministry of Finance.

<sup>111</sup> Decree No. 341 of 8 June 1977, Ministry of Finance, and Decree with the Force of Law No. 2 of 10 August 2001, Ministry of Finance. Latest amendments made by Laws No. 20.780 of 29 September 2014, No. 20.997 of 13 March 2017 and No. 21.210 of 24 February 2020.

<sup>112</sup> In the north, the extended free trade zones cover the Arica and Parinacota Region (including Alto Hospicio) and in the south, the Aysén and Magallanes Region and Palena Province.

benefit from income tax exemption and VAT recovery for services or supplies used in the production of exported products.<sup>113</sup>

3.106. In addition, there is the Tocopilla industrial free trade zone, created in 2002 for a 25-year term.<sup>114</sup> This zone is intended for the production of inputs, parts and components and the repair of capital goods for the mining industry established in the commune of Tocopilla (Region of Antofagasta). The benefits enjoyed by industrial companies established in this zone include exemptions from income tax, VAT, customs duties and other import taxes.

3.107. The Fund for the Promotion and Development of Remote Areas aims to support disadvantaged regions in the extreme north and south of Chile<sup>115</sup>, offering non-refundable financing to small and medium-sized investors<sup>116</sup> interested in investing in capital goods in these regions.<sup>117</sup> Funding may only be granted to SMEs producing goods and services in the construction, machinery, equipment, fine animal feed and small-scale artisanal fishing sectors (large-scale mining and industrial fishing are excluded). The annual amount of the investment or reinvestment cannot exceed 50,000 UF (about USD 2,259,275)<sup>118</sup> and, during the period 2012-35, the subsidy granted may not exceed 20% of the value of the investment. The Fund is approved annually through the Budget Law and the resources are administered by CORFO through bidding processes.<sup>119</sup> In 2022, the budget approved for this programme was CLP 3,282 million, of which CLP 2,762.9 million was disbursed.<sup>120</sup> For 2023, the allocated budget was CLP 3,488.8 million (about USD 4.4 million).

3.108. There is also an incentive for hiring labour in remote areas.<sup>121</sup> Employers that apply for this benefit receive a payment equivalent to 17% of the taxable remuneration of employees resident and working permanently in these areas. The subsidy may not exceed CLP 182,000 (adjusted annually) per employee.

### 3.3.1.2 Business support

3.109. In addition to the incentives mentioned above, Chile has numerous business support programmes, mainly for MSMEs, most of which are administered by CORFO. CORFO is a decentralized public service, the purpose of which is to advance the economic development and diversification of the country by promoting investment, innovation, entrepreneurship, human capital and technological capabilities. It implements a wide range of programmes (around 50) through its different departments, aimed at supporting companies, regions or economic sectors. In general, the programmes offer financing or guarantees to start or expand a company or business activity, innovate, improve management, improve quality, develop supplier networks, stimulate business partnerships and encourage the creation and adoption of new technologies.<sup>122</sup> In many cases, resources are awarded through calls for tenders, which are launched regularly. Not all programmes are continuously available. Table 3.10 shows the amounts disbursed for the programmes of the different CORFO departments.

<sup>113</sup> Law No. 19.420 of 23 October 1995 and Decree with the Force of Law No. 1 of 11 September 2001, Ministry of Finance. See also Cavada Herrera, J. P., *Comparación de regímenes tributarios de Zonas Francas: Chile y Perú*, Library of the National Congress of Chile, Parliamentary Technical Assistance, July 2022. Viewed at:

[https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/33367/2/Comparacion\\_de\\_Zonas\\_Francas\\_JPC\\_ED\\_PA.pdf](https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/33367/2/Comparacion_de_Zonas_Francas_JPC_ED_PA.pdf).

<sup>114</sup> Law No. 19.709 of 31 January 2001 and Law No. 20.333 of 4 February 2009.

<sup>115</sup> Arica, Parinacota, Tarapacá, Aysén, and Magallanes Regions, and Chiloé and Palena Provinces of Los Lagos Region.

<sup>116</sup> Investors whose annual net sales do not exceed 40,000 UTM.

<sup>117</sup> Law No. 3.529 of 6 December 1980 and its amendments and Decree with the Force of Law No. 15 of 20 April 1981, Ministry of Finance.

<sup>118</sup> As at 9 May 2023, 1 UF was equivalent to CLP 35,943.2 and the value of the US dollar was USD 1=CLP 795.46.

<sup>119</sup> CORFO. Viewed at: <https://www.corfo.cl/sites/cpp/movil/df15>.

<sup>120</sup> Information provided by CORFO.

<sup>121</sup> Law No. 19.853 of 11 February 2003 and its amendments.

<sup>122</sup> CORFO programmes can be found at: <https://www.corfo.cl/sites/cpp/area/movil/redes-y-territorios>.

**Table 3.10 Amounts disbursed by CORFO departments, 2022**

CORFO department	Total amount disbursed (CLP million)	Percentage distribution
Networks and territories	63,902	35%
Entrepreneurship	22,150	12%
Startups	6,454	4%
Technological capabilities	17,440	10%
Innovation	29,392	16%
Investment and financing <sup>a</sup>	32,769	18%
<b>Total</b>	<b>172,106</b>	<b>100%</b>

a Corresponds to CORFO programme guarantees paid to financial intermediaries as contingent subsidies.

Source: Information provided by CORFO. See also: <https://www.corfo.cl/sites/cpp/programasyconvocatorias>.

3.110. In some cases, CORFO is involved in the administration of tax incentive programmes. One example is the research and development (R&D) tax benefit programme, which grants a tax credit against first category income tax (on profits), equivalent to 35% of the total payments related to R&D activities under CORFO-certified contracts.<sup>123</sup> In addition, the taxpayer receives an income tax rebate on the remaining 65% of the amount invested, which can be deducted as a necessary expense. The maximum amount of the tax credit to which the taxpayer is entitled in each tax year is 15,000 UTM (about USD 1,176,841). Companies may carry out their own R&D activities or subcontract them, including to R&D centres registered with CORFO. The amount of R&D investment must exceed 100 UTM (about USD 7,845.6) and companies of all sizes and from all sectors are eligible for this benefit.

3.111. Another CORFO programme is the Integrated Promotion Initiatives (IFI) for technological investment.<sup>124</sup> This programme offers support in order to bring to fruition or expand technological investments for an amount equal to or greater than USD 2 million, which have an impact on relevant productive sectors or geographic areas. Eligible investments are in the areas of information technology and telecommunications, biotechnology, new materials, electronics and process engineering, and projects that apply new production techniques to process and add value to natural resources. The beneficiary company obtains a co-financing of 30% of the resources invested in the first two years of project implementation, up to a maximum of USD 5 million. The incentive applies to investment expenses in technological fixed assets, human capital and supplier development activities.

3.112. While CORFO programmes are generally open to all types of enterprises, some are specifically targeted at MSMEs. This is true for the CORFO MSME Credit, aimed at improving the supply of financing for MSMEs through non-bank financial intermediaries (NBFIs). Through the programme, CORFO offers NBFIs credit to finance MSMEs. Companies whose annual revenues from sales, services and other activities do not exceed 100,000 UF (about USD 4,518,543) are eligible. Financing is provided directly by NBFIs (for example, savings and credit cooperatives, compensation funds, agricultural, rural and fishing cooperatives, etc.) through credit and leasing operations (up to 10 years) and factoring operations. NBFIs evaluate credits in accordance with their commercial and credit risk policies and report to CORFO on the operations financed. On the basis of this information, CORFO assesses the eligibility of the operations, in accordance with the rules of the programme.<sup>125</sup>

3.113. CORFO also runs a Technology Dissemination Programme which seeks to improve knowledge of and access to technologies of groups of SMEs, through dissemination and technology transfer activities that boost the enterprises' competitiveness. The Digital Assistance Network – Strengthening SME Programme seeks to help these companies increase their income and productivity through the adoption and use of digital technologies in their business processes (production, management or commercial). The support consists of co-financing of up to 80% of projects that deliver services in these fields, with a maximum total subsidy of CLP 200 million.

<sup>123</sup> Law No. 20.241 of 19 January 2008 and its amendments.

<sup>124</sup> CORFO Resolution No. 56 of 28 July 2020, available at <https://bcn.cl/3czw4>.

<sup>125</sup> CORFO Resolution No. 37 of 2 June 2020, Regulation of the Credit Programme for Non-Banking Financial Intermediaries - CORFO MSME Credit (last amended in 2022).

3.114. Meanwhile, the Guarantee Fund for Small and Medium-Sized Enterprises (FOGAPE), a state fund that has been in operation since 1980, supports access to financing for SMEs.<sup>126</sup> FOGAPE guarantees a percentage of loans, leasing operations and other types of financing granted by public and private financial institutions to SMEs that lack sufficient collateral or equity backing to apply for credit in the formal financial system. The total amount of financing guaranteed and the percentage covered by the Fund depend on the firms' level of annual sales, expressed in UF, as well as on the different FOGAPE programmes, as shown in Table 3.11.

3.115. During the period under review, the FOGAPE regime was amended to, *inter alia*, increase the Fund's capital, adjust the amount of annual sales required for enterprises to be eligible, alter the percentages and amounts of guaranteed financing, and to include medium-sized enterprises, which were previously ineligible. Special time-limited programmes were also introduced to address the economic effects of the COVID-19 pandemic. According to its own data, in 2022 (the last full year for which data are available) FOGAPE guaranteed 103,453 financing operations for a total value of 57.17 million UF and a total amount in guarantees of 40.41 million UF. The guarantees corresponded mainly to loans in the services sector, including commerce, construction and transport and communications (75.5%), followed by agriculture and fisheries (18.8%) and the industrial sector (5.7%).<sup>127</sup>

**Table 3.11 FOGAPE programmes: percentages and maximum amounts guaranteed according to the value of companies' sales, number of operations and amounts financed**

Programme	Annual sales in UF (excluding VAT)	Percentage of coverage	Maximum amount of funding per company (UF)	Number of operations granted	Amount of funding (million UF)
<b>Traditional FOGAPE<sup>a</sup></b>	Up to 25,000	80%	6,250	105,573	45.31
	25,001 - 100,000	50%	25,000	12,812	21.39
				<b>118,385</b>	<b>66.71</b>
<b>FOGAPE COVID<sup>b</sup></b>	Up to 25,000	85%	6,250	253,939	104.65
	25,001 - 100,000	80%	25,000	21,088	83.51
	100,001 - 600,000	70%	150,000	7,892	107.60
	600,001 - 1,000,000	60%	250,000	812	28.86
				<b>283,761</b>	<b>324.63</b>
<b>FOGAPE REACTIVA<sup>c</sup></b>	Up to 25,000	85%	6,250	203,492	89.06
	25,001 - 100,000	80%	25,000	12,560	47.12
	100,001 - 600,000	70%	150,000	5,602	71.48
	600,001 - 1,000,000	60%	250,000	721	23.33
				<b>222,375</b>	<b>230.98</b>
<b>FOGAPE CHILE-APOYA<sup>d</sup></b>	Up to 2,400	95%	4,000	64,104	11.91
	2,401 - 25,000	90%	6,250	31,423	28.01
	25,001 - 100,000	85%	25,000	8,569	18.40
				<b>104,096</b>	<b>58.31</b>

a Operates on a permanent basis. The data covers the period from 1 January 2022 to 6 July 2023.

b Effective for credits from 28 April 2020 to 30 April 2021.

c Effective for credits from 5 February 2021 to 31 December 2021.

d Effective for credits from 26 December 2022 to 31 December 2023. The data is valid up to 6 July 2023.

Source: Information provided by FOGAPE.

3.116. There is also a General Investment Guarantee Fund (FOGAIN), which is open to companies with annual sales of up to 100,000 UF (some USD 4,518,543). Through this Fund, CORFO facilitates access to financing for companies requiring investment and working capital, by providing risk coverage to financial institutions that grant loans to such companies. The financial assessment depends on the credit and risk policies of the financial institutions. Maximum guarantee amounts are applied depending on the size of the company and the term of the operations.<sup>128</sup>

3.117. In 2023, the Special Guarantees Fund (FOGAES) was established to develop specific guarantee programmes with flexibilities in terms of beneficiaries, conditions, sectors and participating financial institutions. Two programmes have been created under the aegis of FOGAES:

<sup>126</sup> Legislative Decree No. 3.472 of 2 September 1980 and its amendments, Ministry of Finance. Law No. 21.207 of 20 January 2020 allowed medium-sized enterprises to apply for FOGAPE assistance.

<sup>127</sup> Information provided by FOGAPE.

<sup>128</sup> Online information from CORFO. Viewed at: <https://www.corfo.cl/sites/cpp/convocatorias/fogain>.

one to support construction guarantees for large companies affected by the pandemic; and the other to support access to financing for housing (up to 90% of the purchase or transaction value). Both programmes are valid for one year, until April 2024.

3.118. In addition, CORFO has several programmes to support specific activities, such as artisanal fishing, renewable energy and forestry and agricultural activities. The agricultural support programmes that Chile has notified to the WTO Secretariat are described in Section 4.1.

### 3.3.2 Standards and other technical requirements

#### 3.3.2.1 Legal and institutional framework

3.119. During the period under review, there were no major changes to Chile's legal and institutional framework for the preparation and application of technical regulations, standards and conformity assessment procedures. As stated in the previous report, the development of technical regulations and standards in Chile is based on the principles of non-discrimination and transparency and on the use of international standards. Furthermore, pursuant to the Transparency Law in force since 2008, Chile is required to publish through the websites of its regulatory agencies all technical regulations and conformity assessment procedures in force. Chile also has a Technical Regulations Gateway, which is intended to centralize this information by making it easier for potential new exporters to find information on access to its market. During the period under review, Chile prepared and notified a large number of technical regulations.

3.120. Chile's legislation on technical regulations includes: the WTO Agreement on Technical Barriers to Trade (TBT Agreement), which came into force in Chile in May 1995 pursuant to Supreme Decree No. 16 of 1995 issued by the Ministry of Foreign Affairs<sup>129</sup>; Law No. 19.912 of 2003<sup>130</sup> creating a mechanism for compliance with the notification commitments under the TBT Agreement; Decree No. 77 of 2004 of the Ministry of the Economy<sup>131</sup> laying down the requirements to be met by competent institutions when preparing, adopting and applying technical regulations and conformity assessment procedures; Decree No. 308 of 2008<sup>132</sup> amending Decree No. 77; and the series of regional trade agreements that Chile has signed, most of which contain a chapter on technical regulations, standards and conformity assessment procedures.

3.121. Decree No. 77 of the Ministry of Economy, entitled "Regulations for the Implementation of Title I of Law No. 19.912 and Requirements for the Preparation, Adoption and Application of Technical Regulations and Conformity Assessment Procedures", contains the primary regulations for the preparation of technical regulations and conformity assessment procedures for all government agencies. The Decree specifies that the Regulations shall apply to the preparation, adoption and application of technical regulations and conformity assessment procedures, consistent with the provisions of the TBT Agreement.<sup>133</sup> The Regulations apply on a suppletive basis in cases where other laws establish special procedures.

3.122. Decree No. 316 of 7 July 2023 approves the Regulations for Article 28(11) of Law No. 21.080 of 7 March 2022.<sup>134</sup> This Decree concerns the notification of technical regulations and conformity assessment procedures to the WTO and other resulting obligations. The main objective of the Decree is to establish the basis for the preparation of technical regulations and conformity assessment

<sup>129</sup> Supreme Decree No. 16 of 17 May 1995, Ministry of Foreign Affairs.

<sup>130</sup> Law No. 19.912 of 4 November 2003.

<sup>131</sup> Decree No. 77 of 14 June 2004, Ministry of the Economy, Development and Reconstruction.

<sup>132</sup> Decree No. 308 of 15 February 2010, Ministry of the Economy, Development and Reconstruction.

<sup>133</sup> According to the Regulation, the term "adoption" is used to refer to the point at which technical regulations and/or conformity assessment procedures have completed their legal process and are published in the Official Journal. The term "application" is used to refer to the moment from which compliance with a technical regulation or conformity assessment procedure becomes enforceable. Decree No. 77 of 14 June 2004, Ministry of Economy, Development and Reconstruction.

<sup>134</sup> Article 28(11) of Law No. 21.080 states that it is the function of the Under-Secretariat for International Economic Relations of the Ministry of Foreign Affairs to "evaluate, propose and execute the appropriate measures for the implementation and administration of international agreements in the field of international economic relations, in particular the notification of technical regulations and conformity assessment procedures to the World Trade Organization and to fulfil the other obligations deriving therefrom. To this end, in coordination with other competent state administration bodies, it shall form, coordinate and chair the working groups and teams required for such administration".



procedures in all government agencies. The Decree specifies that the Regulations shall apply to the preparation, adoption and application of technical regulations and conformity assessment procedures, consistent with the provisions of the TBT Agreement. The Regulations apply on a suppletive basis in cases where other laws establish special procedures.

3.123. The Regulatory Affairs Division of the Under-Secretariat for International Economic Relations (SUBREI), within the Ministry of Foreign Affairs, is responsible for administering the TBT Agreement, acting as the enquiry point for matters relating to technical regulations and conformity assessment procedures. It also serves as the official point of contact on TBT matters, notifies the WTO and chairs the National Commission on Technical Barriers to Trade, which aims to implement the obligations of the TBT Agreement and coordinate Chile's position in trade negotiations in this area among the participating entities.

3.124. The National Commission on Technical Barriers to Trade (CNTOC), constituted *ex officio* and originally chaired by the Ministry of Economy, through the Department of Foreign Trade (DECOEX), is currently chaired by SUBREI, through the Regulatory Affairs Division.<sup>135</sup> The CNTOC is composed of public institutions related to the drafting, adoption and implementation of standards, technical regulations and conformity assessment procedures, including the Under-Secretariat of Transport, the Under-Secretariat of Telecommunications, the General Directorate of Public Works (MOP), the Ministry of Housing and Urban Development (MINVU), the Ministry of the Environment (MMA), the Agriculture and Livestock Service (SAG), the Electricity and Fuels Supervisory Authority (SEC), the National Fisheries Service (SERNAPESCA), the Ministry of Health (MINSAL), the Public Health Institute (ISP), the National Consumer Service (SERNAC), the National Standardization Institute (INN), the Sanitary Services Supervisory Authority (SISS), the Ministry of Mining, the Under-Secretariat of Fisheries (SUBPESCA), the Ministry of Defence, the Ministry of Energy, the Office of Agrarian Studies and Policies (ODEPA), the Office of the Secretary-General of the Office of the President (SEGPRES), the Chilean Food Quality and Safety Agency (ACHIPIA) and the National Energy Commission (CNE).

3.125. The purpose of the CNTOC is to ensure compliance with obligations under the TBT Agreement, coordinate Chile's position in the relevant trade negotiations and promote standardization as a tool in support of Chile's technological modernization process, among other tasks. It meets three times a year, prior to the quarterly meeting of the TBT Committee in Geneva.<sup>136</sup>

3.126. Chile is a member of various international standardization, accreditation and metrology bodies. For standardization: the International Organization for Standardization (ISO), the Pan American Standards Commission (COPANT) and the Codex Alimentarius; Chile participates as a non-voting associate member of the MERCOSUR Standardization Association (AMN). For accreditation: the International Accreditation Forum (IAF), the International Laboratory Accreditation Cooperation (ILAC) and the Inter-American Accreditation Cooperation (IAAC). For metrology: the International Bureau of Weights and Measures (BIPM) and the Inter-American Metrology System (SIM).

### 3.3.2.2 Technical regulations

3.127. The preparation, adoption and application of technical regulations shall be the responsibility of the respective ministries or agencies that are so authorized.<sup>137</sup> Technical regulations should be based, as far as possible, on national or international standards, should not create unnecessary obstacles to trade, and should be based on performance criteria, that is, they should be defined in

<sup>135</sup> SUBREI, Regulatory Affairs Division/Coordination and Participation on Boards and Committees, National Commission on Technical Barriers to Trade. Viewed at: <https://www.subrei.gob.cl/ejes-de-trabajo/aspectos-regulatorios-del-comercio/mesas-y-comites>.

<sup>136</sup> SUBREI, Regulatory Affairs Division/Coordination and Participation on Boards and Committees, National Commission on Technical Barriers to Trade. Viewed at: <https://www.subrei.gob.cl/ejes-de-trabajo/aspectos-regulatorios-del-comercio/mesas-y-comites>.

<sup>137</sup> The Decree defines a "technical regulation" as "a provision whereby the competent authority, through an administrative act, lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory". It also defines "conformity assessment procedure" as "any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations are fulfilled [and] includes, *inter alia*, procedures for sampling; testing and inspection; evaluation, verification and assurance of conformity; registration, accreditation and approval as well as their combinations".



terms of the products' performance rather than design or descriptive characteristics. Technical regulations are issued at central government level in the form of laws, decrees or resolutions.

3.128. Technical regulations are prepared, adopted and applied such that imported products are accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country. Likewise, conformity assessment procedures are prepared, adopted, and applied so as to grant access for suppliers of like products originating in another country under conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country, in a comparable situation.

3.129. The preparation, adoption and application of technical regulations and/or conformity assessment procedures shall follow the following steps: (a) the Ministry or agency with regulatory authority shall publish, by means of a notice in the national media or on its website, the proposed technical regulation or conformity assessment procedure; (b) the notice shall include, at a minimum, an extract from the draft technical regulation or conformity assessment procedure and a link to its full text; (c) a report shall be included explaining the objective of the planned measure and the existence of applicable international standards on the subject; (d) the notice shall be published far enough in advance of the date of adoption of the measure to allow written comments to be made for at least 60 days, which must be analysed and taken into account; and (e) the technical regulations and/or conformity assessment procedures shall provide for a reasonable period of not less than six months between the date of their adoption and their application. The above steps may be omitted in cases where urgent problems of safety, health, environmental protection or national security arise or threaten to arise.

3.130. The Agriculture and Livestock Service (SAG) is one of the entities responsible for providing technical support in the preparation of certain technical regulations, such as those governing organic products, veterinary medicines, animal feed, animal welfare and meat grading. SAG is directly responsible for the regulation of products such as pesticides, fertilizers and seeds.

3.131. Decree No. 77 of 2004 and its amendment (Decree No. 308 of 2010) provide that the Ministry of Economy shall notify draft regulations and/or conformity assessment procedures to the WTO and receive comments from other WTO Members. Such drafts may only be issued at least 60 days after their notification. Technical regulations and/or conformity assessment procedures shall include: (a) identification of the product, including its classification according to the Harmonized Commodity Description and Coding System (HS) and the objective of the measure; (b) the specifications and characteristics of the product; (c) conformity assessment methods; (d) the data and other information to be displayed on the products or else on their containers or packaging and their marking requirements; (e) the degree of consistency with international standards and guidelines used as a basis in their preparation; (f) mention of the institution or institutions responsible for enforcing the regulations; and (g) any other information necessary for the proper understanding of the regulations or procedure including their scope.

3.132. After approval, technical regulations and conformity assessment procedures are published in the Official Journal and on the website of the respective regulatory agencies, since, according to the Transparency Law, each regulatory agency must publish its technical regulations and conformity assessment procedures in force. In general, there is no single procedure for the review of technical regulations, as this depends on each agency and its needs. Nevertheless, it is customary practice for the competent agencies to review technical regulations and conformity assessment procedures regularly to amend or repeal them, as appropriate. For example, technical regulations for electrical and fuel products are reviewed by the Electricity and Fuels Supervisory Authority (SEC) every year and, according to information provided by the authorities, at least 15 regulations are updated or produced every year. The procedure for modifying technical regulations is the same as for their preparation. However, in the case of the SAG, there is no explicit and systematic procedure for *ex post* review; instead, there are review and adjustment processes triggered upon request or detection of application difficulties, save where the relevant legal body has established a specific period. All domestic and imported goods must comply with the corresponding technical regulations.

3.133. Between January 2015 and early March 2023, Chile submitted 535 notifications to the WTO Committee on Technical Barriers to Trade, of which 328 were new notifications and the remainder

were addenda or corrigenda.<sup>138</sup> Of the 328 notifications of new measures, 183 were related to technical regulations, 4 to urgent technical regulations, 1 to local government technical regulations and 136 to conformity assessment procedures. Five of these notifications involved both technical regulations and conformity assessment procedures. The objective of the majority of the technical regulations notified (101) was protection of human health or safety, and they mainly concerned foodstuffs, household appliances, building materials, vehicles, toys, pharmaceutical products and cosmetics, among others. The remaining objectives include quality requirements (47); environmental protection (46); labelling (27); prevention of deceptive practices (16); protection of plant or animal life or health (10); and others (9). The government authorities involved in preparing the measures notified included the Ministries of Health, Economic Affairs, Housing and Urban Planning, Transport and Telecommunications, and the Environment.

3.134. During the period under review, Members raised six new trade concerns regarding Chilean technical regulations in the TBT Committee, relating to the efficiency analysis and/or test protocol for electrical products (ID 704) (Republic of Korea); amendment to the general regulation of the compulsory system for livestock classification and the grading, marking and marketing of Beef (ID 693) (Brazil); technical specifications for the design of energy efficiency labels for washing machines (ID 654) (Republic of Korea); regulations on the classification, labelling and notification of chemical substances and mixtures (ID 570) (Mexico); public consultation for draft legislation setting out rules on the preparation, description and labelling of milk products deriving from milk (ID 566) (European Union; New Zealand; Russian Federation; and United States); and proposed amendment to the Food Health Regulations, Supreme Decree No. 977/96 (ID 370) (Argentina; Australia; Brazil; Canada; Colombia; Costa Rica; European Union; Guatemala; Mexico; Peru; Switzerland; and United States).<sup>139</sup>

### 3.3.2.3 Standards

3.135. Standardization is the responsibility of the National Standardization Institute (INN), a non-profit, private law foundation, set up by the Economic Development Agency (CORFO) as a technical body in matters of quality infrastructure. The INN is responsible for developing and disseminating the use of voluntary Chilean technical standards (NCh); coordinating the National Metrology Network; and accrediting conformity assessment bodies. It is also tasked with helping to ascertain the need for new standards. Its mission is to be the national reference point in matters of quality, leading a process that results in the adoption of best practices in this field.<sup>140</sup>

3.136. The INN develops technical standards for the different productive sectors through various funding schemes, and provides an online service to access technical documents, both NCh and international standards. It also carries out accreditation work for system certification bodies, product certification bodies, personal certification bodies, testing laboratories, calibration laboratories, clinical laboratories, inspection bodies, verification bodies and proficiency testing providers. The INN administers and coordinates the National Metrology Network, composed of various public and private laboratories in the international fields of physics and chemistry.

3.137. The INN represents Chile in the International Organization for Standardization (ISO), the Pan American Standards Commission (COPANT) and is an invited member of the MERCOSUR Standardization Association. In the field of accreditation, the Institute is a founding member of the Inter-American Accreditation Cooperation (IAAC) and, since 2010, is a signatory member of the IAAC's Multilateral Recognition Agreements (MLA/MRA) for the accreditation of: certification bodies for quality management systems (ISO 9001), certification bodies for environmental management systems (ISO 14001), testing laboratories, clinical laboratories and calibration laboratories. Since 2016, the INN also has MLAs for the accreditation of product certification bodies and inspection bodies. The INN is also a full member of the International Laboratory Accreditation Cooperation (ILAC) and, since 2010, is a signatory to the ILAC Mutual Recognition Arrangements (MRA), covering the accreditation of testing laboratories, clinical laboratories and calibration laboratories and, since 2016, the accreditation of inspection bodies. The INN is similarly a full member of the International

<sup>138</sup> WTO SPS and TBT Platform. Viewed at:

<https://eping.wto.org/en/Search/Index?domainIds=1&countryIds=C152&distributionDateFrom=2015-01-&distributionDateTo=2023-03-02&notificationTypes=Regular%20notification>.

<sup>139</sup> WTO SPS and TBT Platform. Viewed at:

<https://eping.wto.org/es/Search/TradeConcerns?domainIds=1&memberResponding=C152>.

<sup>140</sup> Information provided by INN. Viewed at: <https://www.inn.cl/quienes-somos>.

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Accreditation Forum (IAF) and a signatory member of the IAF's MLA for the accreditation of quality management systems certification bodies (ISO 9001) and environmental management systems certification bodies (ISO 14001) and, since 2016, the accreditation of inspection bodies.

3.138. In the field of metrology, the INN represents Chile at meetings of the General Conference on Weights and Measures (CGPM) and the International Bureau of Weights and Measures (BIPM). In 2000, the INN signed the MLA of the International Committee of Weights and Measures (CIPM-MRA), which allows test and calibration certificates issued by the National Metrology Network to be recognized internationally. Since 1995, the INN has been part of the Inter-American Metrology System (SIM).<sup>141</sup>

3.139. The internal procedures for the drafting of Chilean Standards are specified in the Standardization Service Regulations, following the criteria internationally accepted by the ISO and the International Electrotechnical Commission (IEC).<sup>142</sup> The INN Council, sitting on 24 June 2019, approved new Standardization Service Regulations that establish the processes and requirements that apply to the production of normative documents, whether Chilean Standards or Technical Publications, drafted by the INN and stemming from a standardization service. From the date of approval of the new Regulations, the INN abrogated the following Chilean Standards: NCh1:2011 Chilean Standards (NCh) – Definitions and procedure for their consideration and maintenance, and NCh2851:2012 Technical Publications – Definitions and procedure for their consideration and revision, since the contents of these are dealt with in the new Standardization Service Regulations and in the Internal Procedures of the Standards Division.

3.140. The standardization process is initiated at the request of a person or public or private entity. Natural or legal persons wishing to make use of the standardization service may make a request using the Standardization Service Request Form available on the INN website, or in person or virtually to receive technical assistance to complete the form. The INN Standards Division submits this information to the Standards Committee for its opinion. The Standards Committee is empowered to approve the standardization service request, reject it or request further information from the Standards Division and/or the client, as appropriate. If the Standards Committee agrees to study a standards document, it must indicate the type of standard to be prepared and the process to be used, sending the applicant a quotation for the type of service to be provided; once approved by the client, the draft contract will be sent to the client for signature. Once both parties have signed the contract, the standardization process can begin.

3.141. The procedure for developing a standard starts with a draft standard, which may be drawn up by the INN or by an external organization. The draft may be produced on the basis of international, regional or foreign standards, or from national precedents. The INN may determine that the draft should be submitted to a Draft Committee or move directly to the public consultation stage, which is announced on the INN website, indicating the identification code, the title of the draft standard and the consultation closing date.

3.142. The INN may invite those organizations and individuals with an interest in the subject under consideration to participate in the public consultation. The public consultation period for a draft standard is set by the Standards Committee, taking into account, among other factors, whether the draft standard is a revision, or whether there are reasons of safety, health or risk of environmental damage. At the end of the public consultation period, if the draft standard has received no comments, it may be submitted to the Executive Director of the INN, thereby ending the standardization service. If comments are made on the draft standard under public consultation, the Standards Division will set up a technical committee open to the participation of interested parties and led by a technical secretary appointed by the INN. Once the analysis of the comments has been completed, the final version is prepared and submitted for approval by the members of the technical committee, which must be by consensus, and for validation by the INN's Standards Division. Based on this version, the final draft of the standard is prepared and submitted to the Executive Director of the INN, thus completing the standardization service contracted.

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<sup>141</sup> Information provided by the INN. Viewed at: <https://www.inn.cl/quienes-somos>.

<sup>142</sup> National Standardization Institute (2019), *Reglamento del Servicio de Normalización*. Viewed at: <https://www.inn.cl/sites/default/files/ReglamentoNormalizacion.pdf>.

3.143. Chilean Standards are updated and reviewed when a need is detected by a public or private third party and is financed by that party. Internal requests may also be triggered by the needs of the INN. The procedure for updating standards is the same as drafting procedure described above.

3.144. The INN keeps a catalogue of Chilean standards and gathers information on standards under consideration, which can be viewed on its website.<sup>143</sup> As at 30 June 2023, there were 4,301 Chilean Standards.

#### **3.3.2.4 Conformity assessment and certification**

3.145. The preparation and application of conformity assessment procedures defined by the competent regulatory authority follow the same stages and time limits as technical regulations. In general, each technical regulation includes its conformity assessment process. The regulation defines the requirements to be fulfilled by the conformity assessment bodies involved. According to the authorities, for both imported and domestic products, compliance with technical regulations is, for the most part, verified after the products have been placed on the market. Only in case of imports of certain products, mostly foodstuffs, beverages, medicines, weapons, radioactive substances, electrical goods and fuels, does verification take place at the border.

3.146. In most cases, conformity assessment is the responsibility of bodies accredited by the INN, although in some cases, the ministry or government authority that issued the technical regulation carries out the verification using its own facilities. The government authorities which recognize INN accreditation include SAG, the Ministries of the Economy, Health, Housing and Urban Planning, Labour and Social Security, and Women and Gender Equity, the Public Health Institute (ISP), Sanitary Services Supervisory Authority (SISS), the National Customs Service, the National Training and Employment Service (SENCE), the Under-Secretariat of Fisheries and Aquaculture (SUBPESCA), the National Fisheries Service (SERNAPESCA), the National Tourism Service (SERNATUR) and the Electricity and Fuels Supervisory Authority (SEC). A declaration of conformity from the supplier is not acceptable.

3.147. All goods which, in accordance with the legislation in force, must be subject to checks prior to importation by a state body must be certified upon entry into Chile. A list of these goods is set out in Table 3.1. Among the products requiring pre-market certification are electrical products, cosmetics and hygiene products. In the case of electrical products and products that use fuels, the SEC is responsible for establishing, maintaining and enforcing the mandatory certification system, by drawing up the specific protocols that domestic and international electrical products and fuel-related equipment marketed in the country must follow for their proper safety and energy efficiency performance, and authorizing certification bodies and testing laboratories. The certification of these products is governed by the Regulation for the Certification of Electrical Products and Fuel-Related Equipment, which establishes the procedures for the safety and quality certification of electrical products.<sup>144</sup> Each product has its own protocol pursuant to Article 6 of the Regulation, which states that whatever the origin of the products, they must be certified prior to being commercialized in the country, through one of the certification systems indicated in Article 5 of the Regulation<sup>145</sup>, in accordance with the testing protocols established by the Supervisory Authority.

3.148. Chapter VII of Decree No. 298 of 10 November 2005 deals with the recognition of foreign certificates. According to Article 21, persons interested in marketing products with certificates issued abroad may opt for the Special Certification System, for which, among other requirements, they must provide a document issued by an accreditation body certifying that the certification body issuing the certificates is properly empowered to certify the products, and a copy of the foreign standard or technical specification used for the certification of each particular product. In addition, the accreditation body must be a signatory to the multilateral recognition agreement of the International Accreditation Forum (IAF). Once the background information has been evaluated and it has been determined that the standards or technical specifications submitted comply with those established in the national protocols, the SEC will issue a resolution specifying the body issuing the foreign certificates, the list of products authorized for certification and the technical standards or

<sup>143</sup> The approved rules are available at: <https://www.inn.cl/nch-aprobadas>.

<sup>144</sup> Decree No. 298 of 1 February 2006 and its amendments, Ministry of the Economy, Development and Reconstruction.

<sup>145</sup> The systems laid down in the Regulation are based on the ISO/CASCO Guide, "Assessment and verification of conformity to standards and technical specifications".

specifications applicable to each product. This resolution is an essential requirement for the subsequent issuance of the certificate establishing the conformity of the batch by the certification body.

3.149. The SEC website contains the list of electrical products and fuel-related equipment subject to certification, certification bodies and authorized testing laboratories. The products subject to mandatory certification are those determined by the Ministry of Energy by means of a resolution, as suggested by the SEC.<sup>146</sup> Electrical products subject to compulsory certification include appliances, apparatuses, accessories, equipment, instruments, devices, materials or machinery that use, store or transport electrical energy or are electrical insulators, or parts thereof. In the case of fuel-related equipment, this generally concerns apparatuses, fittings, cylinders, devices, tanks, materials, equipment, instruments and piping, which are used to release energy or to store, transport, dispense and measure liquid or gaseous fuels, or parts thereof. The certification requirements apply to both manufacturers and importers and/or traders, who must obtain a certificate of approval for their product, irrespective of its origin, from a certification body authorized by the SEC. If this certification is obtained, these products receive the SEC Seal, which identifies those products that comply with current Chilean regulations and minimum safety standards.

3.150. Pharmaceutical products and cosmetics, whether imported or manufactured in Chile, must have a sanitary authorization from the Ministry of Health and be registered with the Institute of Public Health prior to their commercialization. Authorization is subject to compliance with the health regulations approved by the Ministry of Health. The registration application form is available on the Institute's website. The regulations on pharmaceutical products are set forth in Decree No. 3 of 2011 of the Under-Secretariat of Public Health.<sup>147</sup> The regulations governing cosmetics are contained in Decree No. 239 of 2002 of the Ministry of Health.<sup>148</sup>

3.151. Labelling, classification and packaging requirements also apply. For example, pursuant to Supreme Decree No. 977/96 of the Ministry of Health, approving the food health regulations, all packaged or canned foods imported into Chile must display labels in Spanish and specify, *inter alia*, all ingredients and additives, dates of manufacture and expiry, together with the name of the country of manufacture and the importer's details. The labels must also include the nutritional value of all packaged foods and beverages per 100g/ml and per serving typically consumed for both domestic and imported products, as well as a black octagonal symbol with a white border and the words "HIGH IN", where appropriate.<sup>149</sup>

3.152. SAG is responsible for establishing the rules and procedures for the importation and release, under confined conditions, of genetically modified (GM) vegetative propagating material imported or developed in Chile. The confined sowing of an imported or domestically-developed genetically modified organisms (GMO) is allowed with prior authorization from SAG, following a case-by-case risk analysis process, depending on the species and the genetic modification incorporated, and the establishment of biosafety measures. The only activities that SAG permits are growing seedlings for export purposes and carrying out evaluation trials. SAG inspects and oversees all GMO seedbeds and trials in the country, for the entire crop cycle, in order to verify compliance with the biosafety measures established for each species so as to be able to guarantee their complete traceability.

3.153. Law No. 20.656 of 28 January 2013, which regulates commercial transactions in agricultural products, establishes mechanisms and instruments to regulate the procedures that determine the quantity and quality of products traded in the agricultural market.<sup>150</sup> This Law sets forth a mandatory procedure for the analysis of samples and counter-samples, and measurement, as appropriate, of agricultural products traded in the domestic market and not regulated by a special law. It provides for specific regulations to be issued by the Ministry of Agriculture, determining the agricultural products that will be subject to the procedure established by law and laying down the methodologies for the measurement of the quantity, mass or volume of the products, as well as for taking, collecting, handling, preserving, transporting and the custody of samples and counter-samples and

<sup>146</sup> Information from the SEC. Viewed at: [https://sec.custhelp.com/app/answers/detail/a\\_id/265](https://sec.custhelp.com/app/answers/detail/a_id/265).

<sup>147</sup> Decree No. 3 (Regulations for the National Control System for Pharmaceuticals for Human Use) of 25 June 2011 and its amendments, Ministry of Health.

<sup>148</sup> Decree No. 239 (Regulation of the National Control System for Cosmetics) of 20 June 2003 and its amendments, Ministry of Health.

<sup>149</sup> The "HIGH IN" sticker is the symbol that must be displayed on foods that exceed established limits for calories, total sugars, sodium and saturated fat.

<sup>150</sup> Decree No. 19 of 2013 approved the regulations for Law No. 20.656.

the analysis of their characteristics. Regulations are currently in force for maize, wheat, wine grapes and oats. The analysis is conducted in SAG laboratories.<sup>151</sup>

### 3.3.2.5 Accreditation

3.154. The INN is the accreditation body in Chile. Through its Accreditation Division, it operates the National Accreditation System, which evaluates the competence of conformity assessment bodies (CABs) in accordance with internationally defined and accepted criteria and requirements. While accreditation is voluntary, the regulatory authority sometimes requires accreditation in the National Accreditation System of the INN in order to authorize and recognize certification bodies, inspection bodies and laboratories.

3.155. According to the authorities, the National Accreditation System complies with the principles of transparency, confidentiality, independence and impartiality. To this end, the National Accreditation System applies a policy of impartiality and has a document (DA-I03) which sets out the sources of income of the INN, available for consultation at the offices of its Accreditation Division.<sup>152</sup>

3.156. The different types of CAB which may request accreditation include systems certification bodies, products and persons, inspection bodies, testing laboratories, calibration laboratories, medical laboratories and proficiency test providers. CABs wishing to become and remain accredited in the National Accreditation System of the INN must comply with the provisions of the Regulations for the Accreditation of Conformity Assessment Bodies and, as the case may be, with the requirements set out in the corresponding standards.<sup>153</sup> Applicant and accredited CABs shall also consider the specific requirements and provisions for the different areas of conformity assessment activity set forth in standards, regulations, guidelines or other publications.<sup>154</sup>

3.157. The accreditation process comprises the following main stages: (a) submission of the application; (b) review of the application; (c) initial assessment; (d) review of corrective action, if applicable; (e) accreditation decision; (f) maintenance of accreditation – surveillance assessments; and (g) renewal of accreditation – renewal must be requested one year before the end of the accreditation cycle. Accreditation is granted for a five-year period. The product certification system does not restrict the country of accreditation bodies, with foreign accreditations allowed for domestic certification bodies.

3.158. Several Chilean institutions recognize as equivalent the technical regulations or conformity assessment procedures of other countries. The main requirements for the recognition of foreign certification are that the certificates must be based on the international standards used in Chile and that the issuer of the foreign certificates is accredited by a signatory member of the International Accreditation Forum (IAF). For instance, in the case of the SEC, the regulations on certification of electrical products and fuel-related equipment, approved by Decree No. 298 of 2005, provides for the recognition of foreign certification. This recognition makes it possible to obtain the type of certification required in Chile and then, with the regular control or monitoring certification, to obtain the certificate of approval. In the case of SAG, there are equivalence agreements with the European Union and the United Kingdom concerning trade in organic products (2018); unprocessed plant products (only products listed in the Agreement); live animals or unprocessed animal products (only natural honey); processed plant products for use as food, including wine (only products listed in the Agreement); and vegetative propagating material and seeds for cultivation (only products listed in

<sup>151</sup> SAG has a network of laboratories that include agricultural laboratories, fishery laboratories, a seed analysis laboratory and a biotechnology laboratory. Information provided by SAG. Viewed at: <https://www.sag.gob.cl/content/red-laboratorios>.

<sup>152</sup> Information provided by the INN. Viewed at: <https://www.inn.cl/sistema-nacional-de-acreditacion>.

<sup>153</sup> (a) Systems certification bodies: NCh-ISO 17021/1 (ISO/IEC 17021-1); (b) product certification bodies: NCh-ISO 17065 (ISO/IEC 17065), also applies to tourist services certification bodies; (c) testing and calibration laboratories: NCh-ISO/IEC 17025 (ISO/IEC 17025); (d) inspection bodies: NCh-ISO 17020 (ISO/IEC 17020), also applies to verification bodies; (e) medical laboratories: NCh-ISO 15189 (ISO 15189); (f) proficiency test providers: NCh-ISO 17043 (ISO/IEC 17043); (g) bodies certifying persons : NCh-ISO 17024 (ISO/IEC 17024); and (h) other CABs: in accordance with the applicable national or international standard.

<sup>154</sup> INN, Regulations for the Accreditation of Conformity Assessment Bodies. Viewed at: <https://www.inn.cl/node/252>.



the Agreement). Chile also has an agreement with the European Union on the beef carcass classification (grading) scheme and nomenclature of beef cuts (2016).

3.159. As regards accreditations issued by Chile's internationally recognized accreditation body, as at 31 December 2022, the INN had 593 accredited entities (CABs) with a total of 1,522 accreditations in force, as a CAB can have more than one accreditation. As of June 2023, 1,502 accreditations were in force.<sup>155</sup>

### 3.3.2.6 Metrology

3.160. Metrology in Chile is regulated by Supreme Decree No. 215 of 2009 of the Ministry of Economy, Development and Reconstruction, which recognizes the INN as the coordinating and supervising body of the laboratories designated by this Ministry and members of the National Metrology Network (RNM). Supreme Decrees No. 347 of 2007, No. 775 of 1999, No. 487 of 2000, No. 96 of 2001 and No. 76 of 2003, all from the Ministry of Economy, Development and Reconstruction, stipulate the standards of mass, temperature, force, length and pressure and designate the laboratory responsible for chemical metrology for minerals. Supreme Decrees No. 188 of 2010, No. 116 of 2012, No. 69 of 2017 and No. 114 of 2018, all from the current Ministry of Economy, Development and Tourism, designate laboratories in the fields of microbiology and food chemistry, electrical metrology, humidity and ionizing radiation. Supreme Decree No. 158 of 2010, which designated the laboratory in the field of liquid flow, was repealed by Supreme Decree No. 2 of 2022.

3.161. The current Ministry of the Economy, Development and Tourism is responsible for extending membership of the RNM to laboratories, once they have met the requirements laid down by the INN, according to the RNM regulations, in their specific area of metrology. The INN is the coordinating and supervisory authority for laboratories belonging to the RNM and also has the task of administering the public funds transferred to it.

3.162. The RNM consists of a first set of designated laboratories in the area of physics, where instruments and measurement standards are calibrated, and a second set of designated laboratories in the area of chemistry, which are the point of reference in the area of chemical metrology. The RNM performs the functions of a national metrological institute and its main purpose is to establish the groundwork for the national quality infrastructure and thus ensure the quality of products, their interchangeability and the rights of consumers. The RNM coordinates and manages the metrological assurance system, which guarantees that measurements originating in Chile are comparable and traceable to the International System of Units (SI) and accepted in other countries. Their function is to ensure that measurements made in Chile are SI-traceable. The RNM member laboratories provide SI-traceability to the industrial calibration and testing laboratories, which serve industry and commerce.<sup>156</sup> The RNM member laboratories also conduct research in metrology and for the development of new measurement standards and methods, and provide standard calibration services to calibration laboratories and reference material to testing laboratories. They also act as pilot laboratories for proficiency testing at the national level.

3.163. The INN supports the establishment of metrology technical committees coordinated by its Metrology Division in conjunction with the designated institutes of the RNM, whose functions include helping to establish the metrological SI-traceability of measurements carried out in laboratories; helping to disseminate metrological traceability in Chile; and providing tools that allow continuous updating of theoretical and practical knowledge of industrial and scientific metrology to ensure the quality of the results issued by the laboratories.

3.164. The metrology technical committees are composed, in principle, of technical representatives of the existing laboratories in the country, whether accredited, unaccredited or in the process of being accredited. However, preference is given to laboratories that regularly participate in proficiency testing organized by the RNM. Stakeholders whose participation in the committee may be necessary to produce conclusions in relation to its work may be invited to join said committee.

<sup>155</sup> Information provided by INN. Viewed at: <https://acreditacion.innonline.cl/>.

<sup>156</sup> INN: Metrology in Chile. Viewed at : <https://www.inn.cl/la-metrologia-en-chile>.

### 3.3.3 Sanitary and phytosanitary measures

3.165. Chile has a relatively extensive legal and regulatory framework regarding the sanitary and phytosanitary system, and the preparation and application of sanitary and phytosanitary (SPS) measures is the responsibility of a number of authorities. Chilean regulations on food safety and animal and plant health are summarized in Box 3.1.

#### Box 3.1 Principal laws governing the sanitary and phytosanitary system, 2023

<b>Animal health</b>
Animal Health Law, DFL No. 16 of 9 March 1963 (last amended on 4 July 2012), Ministry of Finance.
Organic Law on the Agriculture and Livestock Service, Law No. 18.755 of 7 January 1989 (last amended on 10 October 2014).
General Law on Fisheries and Aquaculture, Decree No. 430 of 21 January 1992 amended by Law No. 18.892 of 1989 (last amended on 24 July 2023). General Law on Fisheries and Aquaculture, Decree No. 430 of 21 January 1992 amended by Law No. 18.892 of 1989. Updated text of 31 January 2023, which includes the amendment introduced by Law No. 21.532 of 23 January 2023, amending Law No. 18.892, General Law on Fisheries and Aquaculture, regarding the ban on the capture of salmon species from aquaculture farms.
Regulations on Certification and Other Sanitary Requirements for the Import of Hydrobiological Species, DS Minecon No. 72-11.
Regulations on the First Import of Species, Decree No. 730 of 4 May 1996, Ministry of Economic Affairs, Development and Reconstruction.
<b>Plant health</b>
Organic Law on the Agriculture and Livestock Service, Law No. 18.755 of 7 January 1989 (last amended on 10 December 2022, Law No. 21.507).
Decree-Law No. 3.557 of 9 February 1981 (last amended on 26 June 2021 - Law No. 21.349) establishing provisions on agricultural protection.
<b>Food safety and other matters</b>
Sanitary Code, DFL No. 725 of 31 January 1968 (last amended on 17 March 2023), Ministry of Public Health.
Sanitary Regulations on Foodstuffs, Decree No. 977 of 13 May 1997 (last updated on 5 July 2022), Ministry of Health.
Law No. 19.937 of 31 December 2008 establishing a new structure for the sanitary authority and different management methods and strengthening public participation.
Organic Law on the Agriculture and Livestock Service, Law No. 18.755 of 7 January 1989 (last amended on 14 December 2022, Law No. 21.507), Title 1, Article 3, letter m final sentence.

Source: Information provided by the authorities.

3.166. The main institutions in charge of drafting and applying SPS measures are still the Ministries of Agriculture (through the Agriculture and Livestock Service (SAG)); Health (through the Under-Secretariat of Public Health) and the Economy (through the Under-Secretariat of Fisheries (SUBPESCA) and the National Fisheries and Aquaculture Service (SERNAPESCA)). Each of these bodies is responsible for drafting and applying the SPS measures within their sphere of competence both as regards the domestic market and imports and exports. The Under-Secretariat for International Economic Relations (SUBREI) of the Ministry of Foreign Affairs heads the Ministerial Committee on Sanitary and Phytosanitary Matters.

3.167. SAG is the national service that acts as the national notification authority and enquiry point for the purposes of the WTO SPS Agreement. The drafting and notification process for SPS measures is governed by the "Recommended procedures for implementing the transparency obligations of the SPS Agreement" (G/SPS/7/Rev.5).

3.168. The authorities noted that SAG, in its role as national notification authority for the purposes of the SPS Agreement, has developed additional tools for national application to strengthen the application of the principle of transparency, one of which is the "Guide to Good Practices for National Notification Authorities of the Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures of the World Trade Organization (WTO)", published in November 2020.<sup>157</sup>

<sup>157</sup> SAG. Viewed at: [https://www.sag.gob.cl/sites/default/files/guia\\_de\\_buenas\\_practicas\\_gestion\\_de\\_notificaciones\\_msf\\_chile\\_0.pdf](https://www.sag.gob.cl/sites/default/files/guia_de_buenas_practicas_gestion_de_notificaciones_msf_chile_0.pdf).

3.169. The Ministry of Health, through the Food Health Regulations, regulates the production, import, processing, packaging, storage, distribution and sale of food for human consumption. Food must undergo sanitary controls and laboratory analysis based on risk criteria related to the nature of the food, the form of distribution, and the type of processing and packaging involved. These controls are carried out by the Regional Secretariats of the Ministry of Health (SEREMIs). The competent authority for animal health for hydrobiological species and the safety of foods of aquatic origin is the National Fisheries and Aquaculture Service (SERNAPESCA), which is responsible for verifying compliance with fishing and aquaculture regulations and conducting sanitary management. SERNAPESCA develops Aquaculture Health Programmes, in accordance with the provisions of the Aquaculture Health Regulations.

3.170. The process of drafting an SPS measure begins when the need to update an existing measure is identified or when a sanitary event occurs that requires a new regulation. The procedure for drafting and notifying SPS measures is governed by the "Recommended procedures for implementing the transparency obligations of the SPS Agreement". Draft SPS measures are drawn up by technical committees and are based, in general, on the international regulations of the International Plant Protection Convention (IPPC), the World Organisation for Animal Health (WOAH) and the Codex Alimentarius, all organizations to which Chile belongs.

3.171. Regarding SAG's regulatory procedure, a new resolution proposal or amendment to an existing resolution can be initiated upon the request of the affected sectors or when issues have been identified by the relevant SAG Division. Once the issue has been identified and a regulatory solution formulated, the necessary internal consultations take place, the comments resulting therefrom are processed and the resolution is drafted. If the resolution involves a new origin or a new species of plant or plant product, a pest risk analysis needs to be conducted to establish the phytosanitary measures required. For animal health, the WOAH standards are followed. The revised resolution proposal is sent for review by the Legal Division, specifically the Regulatory Department, where the legal and technical coherence and consistency of the draft is evaluated. Where there is a need for clarification, technical meetings are coordinated in order to clarify terms, actions and anything else required. After the draft has been agreed, it is returned with the approval of the Legal Division to proceed to public consultations and notification under the SPS Agreement. The consultation period is 60 days, unless requests are made to extend this period, or if the measure is being introduced in the event of an emergency or in order to facilitate trade. Comments are taken into account after being analysed and depending on their basis. Once they have been received and processed, the resolution is revised again and undergoes another legal review before becoming the final version that will be signed by the National Directorate of the service.

3.172. Once the resolution is signed, it is sent to the Official Journal for publication and is incorporated into the Regulatory Library, making it available to all users. SPS measures are enacted by means of a decree, resolution or other pertinent legal instrument issued by the competent institution. These instruments are available on the website of the relevant institution.<sup>158</sup>

3.173. Between 2015 and 2022, SAG established 310 SPS measures related to the entry of different products and merchandise into Chilean territory. Of these measures, around 80% correspond to regulations on plant health and the remaining 20% to animal health. Forty eight % of these measures amend previous regulations, while 19% repeal old regulations, replacing them with updated ones. The authorities are of the view that the implementation of international standards by SAG, including the conduct of a risk assessment to ensure compliance with international agreements, has contributed to protecting animal and plant health, and has facilitated international trade.

3.174. Between January 2015 and March 2023, Chile submitted 444 notifications to the WTO's SPS Committee, including addenda and corrections (233 new regular notifications, 157 addenda to regular notifications, 12 corrections, 14 revisions, 18 notifications of emergency measures, 9 addenda and a revision to notifications of emergency measures). During the review period, no WTO Member filed new complaints against Chile in the SPS Committee.<sup>159</sup>

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<sup>158</sup> Information from the Agriculture and Livestock Service (SAG), viewed at: <https://www.sag.gob.cl>; the Ministry of Health, viewed at: <https://www.minsal.cl>; and the National Fisheries Service, viewed at: <https://www.sernapesca.cl>.

<sup>159</sup> WTO information. Viewed at: <https://eping.wto.org/en/Search/TradeConcerns?domainIds=2&memberResponding=C152>.

3.175. Most of the SPS measures notified to the WTO during the 2015–22 period were based on international standards. If a risk assessment reveals the need for more stringent regulations than the international ones, the regulations are drafted internally.

3.176. SAG defines the general and specific animal and plant health requirements to be met when importing livestock or plant products into Chile. The import of animal and plant products into Chile requires an animal or plant health certificate issued by the competent health authority of the country of origin.<sup>160</sup> In addition, the import and transit of animals, and livestock and plant products must occur through ports authorized by SAG, with verification of compliance with animal and plant health regulations.<sup>161</sup> Furthermore, imports of plants and plant products must comply with SAG's phytosanitary requirements, which are contained in specific regulations published in the Official Journal in the form of resolutions. Any natural or legal person can request an import authorization. To obtain an import authorization for a regulated article or dangerous goods of material subject to a post-entry quarantine regime, the specific regulations and procedures for this type of material must be followed. The phytosanitary requirements and entry conditions for a regulated article or goods dangerous to plants can be consulted on the SAG website or at SAG's regional directorates or offices in each region of the country. Where importing regulated articles or goods dangerous to plants for which no phytosanitary requirements are published in the Official Journal, an application for authorization to import regulated articles must be submitted to the corresponding SAG office. There, an assessment of the phytosanitary requirements for product entry can be initiated through a pest risk analysis (PRA).<sup>162</sup> In addition, depending on the risk, SAG determines whether the import can be authorized and establishes the phytosanitary requirements, which must be submitted for public consultation nationally, notified to the WTO and finally published in the Official Journal.

3.177. The Regional Secretariats of the Ministry of Health (SEREMIs) determine whether imported food is suitable for human consumption. This is done through in-person or document-based sanitary inspection, according to the risk criteria involved and the history of compliance with the regulation recorded for previous imports. This process is carried out for all food items through the health authority's digital platform. The criteria are set out in the Exempt Resolution establishing the "Manual on the Importation of Food Destined for Human Consumption".<sup>163</sup> With regard to exports, the SEREMIs issue certificates of free sale (CLV), which certify that the foods declared by the exporters or their representatives are authorized for use, consumption and marketing in Chile. To request a CLV, one must have sanitary authorization from the food facility and this document must be authenticated by the Ministry of Foreign Affairs.

3.178. Importers must ensure that they have the necessary certification in accordance with the established requirements. Such certification is verified through documentary and physical inspection at the border via the Import System. Some goods, such as live animals and plants (including seeds), are required to enter post-entry quarantine (PEQ) before their definitive release to the national market. All imported animals, regardless of their origin, must enter PEQ once approval has been given during the documentary and physical inspection at the border entry control. During quarantine, the health status of the animals is verified and species-specific inspection and diagnostic tests are carried out. In the case of plants and vegetables, phytosanitary assessments are carried out at the time of importation to check for the presence of pests. Plants and seeds undergo PEQ depending on the phytosanitary status of their country of origin and on the basis of a phytosanitary risk analysis (see below) based on IPPC guidelines. Plant materials that must enter PEQ are plants or parts thereof intended for planting or grafting.

3.179. Exempt Resolution No. 3.815/2003, as amended by Exempt Resolutions No. 2.781/2006 and No. 1.634/2016, establishes rules for the importation of regulated articles or goods dangerous to plants, which are classified according to their phytosanitary risk in the categories 0, 1, 2, 3, 4 and 5.

<sup>160</sup> Law No. 18.164 of 17 September 1982.

<sup>161</sup> Information from SAG, viewed at: <https://www.sag.gob.cl/ambitos-de-accion/puertos-habilitados>. The authorized ports are listed in Ministry of Agriculture Exempt Decree No. 510 of 21 December 2016. Viewed at: [https://www.sag.gob.cl/sites/default/files/dto-510\\_exento\\_28-dic-2016\\_5.pdf](https://www.sag.gob.cl/sites/default/files/dto-510_exento_28-dic-2016_5.pdf).

<sup>162</sup> General Rules governing the import of products of agricultural and forestry origin, contained in Resolution No. 3.815/2003 of 22 December 2003, as amended by SAG Resolutions No. 2.781/2006 and No. 1.634/2016, which establishes rules for the importation of regulated articles or goods dangerous to plants. Viewed at: [https://www.sag.cl/sites/default/files/RES\\_3815\\_2003.pdf](https://www.sag.cl/sites/default/files/RES_3815_2003.pdf).

<sup>163</sup> Exempt Resolution No. 322 of 19 June 2015. Viewed at: [https://www.minsal.cl/sites/default/files/files/Manual%20para%20la%20Importaci%C3%B3n%20de%20Alimentos%20destinados%20al%20consumo%20humano%20MINSAL%202015\(1\).pdf](https://www.minsal.cl/sites/default/files/files/Manual%20para%20la%20Importaci%C3%B3n%20de%20Alimentos%20destinados%20al%20consumo%20humano%20MINSAL%202015(1).pdf).

Regulated articles require an import authorization and must comply with the phytosanitary and/or biosafety requirements for entry into the country, as well as with the entry conditions established in specific resolutions. Regulated articles must be packed in new, first-use containers, and each import unit must include information about the country of origin, name or code of the producer, plant species and other conditions required by the specific resolution.

3.180. Exempt Resolution No. 1.284/2021 of the Ministry of Agriculture establishes the categorization of plant products according to their pest risk, considering the method and extent of processing applied and their intended use. That includes goods entering the country for use as animal feed.<sup>164</sup> Products are sorted into four categories: (a) category 1 covers processed products that are no longer susceptible to infestation by quarantine pests and therefore do not require phytosanitary measures or certification; (b) category 2 covers products that although processed, may still be infested by some quarantine pests (in this case, according to the method and extent of processing, the intended use of the product and the result of the inspections of imported goods, SAG may establish the phytosanitary certification requirement for certain processes or goods); (c) category 3 covers products that have not been processed, that have the potential to introduce or spread quarantine pests, and whose intended use is for a purpose other than propagation, such as consumption or processing (in these cases, a pest risk analysis is necessary. Products in this category include fresh fruits, fresh vegetables, fresh cut flowers and branches, stems for consumption, and roots, rhizomes, tubers, bulbs and corms); and (d) category 4 covers products that have not been processed, that have a higher possibility of introducing or spreading regulated pests and whose intended use is propagation (in this case a pest risk analysis is also necessary. This category includes: cuttings, stakes, roots, rhizomes, tubers and bulbs; micropropagated material; plants; in vitro plants; pollen; branches and twigs; seeds; stems; and other plant material for propagation).<sup>165</sup>

3.181. In accordance with SAG Exempt Resolution No. 1.284/2021, products in categories 2, 3 and 4 and products in category 1 destined for animal consumption and that require livestock approval, or organic products destined for human or animal consumption, must be presented to SAG at the authorized point of entry for the respective import procedure to be carried out. SAG uses pest risk analysis to determine the risk of regulated pests and to establish phytosanitary measures for products classified in categories 2, 3 and 4. The products classified in the aforementioned categories must arrive in Chile with a phytosanitary export or re-export certificate issued by the corresponding phytosanitary authority of the country of origin or provenance. These products must comply with the phytosanitary requirements established by SAG in current regulations and specific resolutions. Any other regulated article not considered in the previous categories, the importation of which carries a phytosanitary risk of introduction and establishment of a regulated pest, must arrive in the country already in compliance with the phytosanitary requirements established by SAG in specific resolutions.<sup>166</sup>

### 3.3.4 Competition policy and price controls

#### 3.3.4.1 Legal and institutional framework

3.182. During the period under review, Chile's legal framework regarding competition underwent important reforms aimed at improving the system for the defence of free competition and aligning national regulations with international standards, particularly the recommendations of the

<sup>164</sup> In its recitals, the Exempt Resolution specifies that the categorization of products according to their pest risk will facilitate the establishment of phytosanitary import requirements and the comprehensive application of animal health regulations, as well as the requirements applicable to organic products, in procedures established at the inspection sites of the authorized ports of entry into the country. In addition, the risk classification facilitates the making of decisions regarding the need for, or intensity of, the inspection of imported goods, with a view to maximizing the effectiveness of plant or animal health actions aimed at detecting regulated pests or other instances of non-compliance in imported goods. Exempt Resolution No. 1.284/2021 of the Ministry of Agriculture. Viewed at: <https://www.sag.gob.cl/sites/default/files/res.1.284.de.2021.con.anexo.pdf>.

<sup>165</sup> Exempt Resolution No. 1.284/2021 establishing the categorization of products of plant origin according to their pest risk and potential effects on animal health and according to their organic certification requirements and respective control measures at the border, and repealing Resolution No. 3.589 of 2012. Viewed at: <https://www.sag.gob.cl/sites/default/files/res.1.284.de.2021.con.anexo.pdf>.

<sup>166</sup> Exempt Resolution No. 1.284/2021. Viewed at: <https://www.sag.gob.cl/sites/default/files/res.1.284.de.2021.con.anexo.pdf>.



Organisation for Economic Co-operation and Development (OECD).<sup>167</sup> The reforms were introduced by Law No. 20.945 of August 2016<sup>168</sup> and include the following: the establishment of a preventive and mandatory control system for mergers that exceed certain thresholds; the tightening of sanctions against collusive practices, including the reintroduction of criminal liability for offenders; new mechanisms so that the victims of anti-competitive behaviour can be compensated for the damages suffered; additional powers for competition authorities; and institutional and procedural improvements.

3.183. Chilean competition regulations are mainly established in Decree-Law No. 211 of 1973 (the Competition Law), which has been amended multiple times since then. Its consolidated, coordinated and systematized text is found in Decree with Force of Law No. 1 of 2005, the updated version of which includes the amendments made by Law No. 20.945 of 2016.<sup>169</sup> The Competition Law applies to any individual or company, whether Chilean or foreign, and to the State. It does not establish exclusions and is applicable to foreign trade operations insofar as they have an effect on competition in the Chilean market.

3.184. The bodies in charge of monitoring the implementation of, and compliance with, Chile's competition regulations are the National Economic Prosecutor's Office (FNE) and the Competition Tribunal (TDLC). The FNE acts as a specialized service for conducting investigations concerning free competition in the markets, while the TDLC is the jurisdictional body responsible for hearing and settling conflicts arising from acts that violate free competition. The Supreme Court is empowered to review the decisions of the TDLC.

3.185. The FNE safeguards and promotes competition in all markets and production sectors of the economy. It is a decentralized public service with its own legal personality and assets and is independent although subject to the supervision of the President of the Republic through the Ministry of Economic Affairs, Development and Tourism. It may initiate investigations into possible infringements of competition regulations; draft technical reports requested by the TDLC; ensure compliance with the decisions of the TDLC; sign extrajudicial agreements; and carry out activities to promote free competition. The FNE is empowered to act as a party before the TDLC, representing the general public economic interest, and may also defend or contest rulings of the TDLC before the Supreme Court. In addition, Law No. 20.945 of 2016 empowered the FNE to hear cases on economic mergers requiring prior notification, file criminal lawsuits for crimes of collusion, carry out assessments on the competitive evolution of the markets, and draft regulatory recommendations to the executive.<sup>170</sup>

3.186. The FNE carries out investigations, at the request of a party or *ex officio*, concerning any occurrence, act or agreement that prevents, restricts or hinders free competition, or that tends to have such effects. Its investigations focus on collusive practices, abuse of monopolistic position and mergers that affect or may affect the efficient functioning of markets or consumer well-being. It should be noted that the FNE does not directly penalize non-compliance with free competition regulations; rather, if deemed appropriate, it submits the results of its investigations to the TDLC, requesting the latter to adopt the appropriate measures or penalties to prevent or remedy the anti-competitive effects of the conduct or occurrence investigated. This can be done through non-contentious proceedings or injunctions (petitions) of a contentious nature.

3.187. The TDLC is a special and independent court made up of five ministers, the function of which is to prevent, remedy and penalize acts contrary to free competition. It is not part of the judiciary but is subject to oversight by the Supreme Court. The TDLC can initiate proceedings at the request of the National Economic Prosecutor or an individual. It may also initiate proceedings *ex officio*.<sup>171</sup> It is empowered to rule on any contentious process concerning acts or occurrences that may violate the Competition Law, and adopt the measures (including preventative measures) and penalties necessary to prevent or remedy their anti-competitive effects. Such measures may include the amendment or termination of contracts, orders to modify anti-competitive conduct, the dissolution

<sup>167</sup> OECD (2014), *Assessment of Merger Control in Chile*. Viewed at: <https://www.oecd.org/daf/competition/chile-merger-control-2014-en.pdf>.

<sup>168</sup> Law No. 20.945 of 30 August 2016.

<sup>169</sup> DFL No. 1 of 7 March 2005, Ministry of Economic Affairs, Development and Reconstruction.

<sup>170</sup> Article 39 of Decree-Law No. 211 of 22 December 1973 and amendments thereto, Ministry of Economic Affairs, Development and Reconstruction.

<sup>171</sup> Article 18 of Decree-Law No. 211 of 22 December 1973, Ministry of Economic Affairs, Development and Reconstruction.



of companies and the imposition of fines.<sup>172</sup> The TDLC may also be consulted in non-contentious proceedings. Likewise, it can issue general instructions on competition matters for a specific market and propose regulatory recommendations to the President of the Republic. Law No. 20.945 of 2016 also empowered it to decide on appeals for special review filed against FNE resolutions that prohibit mergers, and to hear and decide compensation for damages due to a final judgment (a competency that previously corresponded to the civil courts). The decisions of the TDLC may be appealed before the Supreme Court.

3.188. Decree-Law No. 211 seeks to promote and defend free competition in the markets, and penalizes any occurrence, act or agreement, executed individually or collectively, that prevents, restricts or hinders free competition, or that tends to have such effects. It defines as anti-competitive conduct collusive practices, including price fixing, limiting production, assigning market quotas or zones and bid rigging, regardless of the market power of the parties. Similarly, the law penalizes the abuse of a dominant position and predatory or unfair competition practices the aim of which is to attain, maintain or increase a dominant position.<sup>173</sup> In addition, Law No. 20.945 of 2016 defined as anti-competitive conduct, under certain circumstances, a person's simultaneous holding of relevant executive positions or directorship in two or more competing companies (interlocking).

3.189. Among the reforms made by Law No. 20.945, the strengthening of the penalty system for collusive practices stands out. First, collusion was classified as a criminal offence, with prison sentences of between three and 10 years, and an effective prison sentence of at least one year. Secondly, fines were increased, introducing a flexible maximum amount of up to double the profits obtained by the offender (the economic benefit) or up to 30% of the offender's sales corresponding to the line of products or services associated with the infringement during the period that the collusive practice lasted. Thirdly, the offender may be disqualified, for seven to 10 years, from acting as director or manager in certain types of companies, and prohibited, for up to five years, from entering into any type of contract with state agencies and entities or from being awarded any concession granted by the State. It should be noted that the fines and the penalty of disqualification are applied to all violations of free competition, not only to collusive practices.

3.190. One of the most important changes introduced by Law No. 20.945 is the establishment of a regime of prior and mandatory control of mergers, filling a gap in Chilean legislation. This change is expected to provide greater legal certainty to all those involved in these operations and protect the interest of consumers and society in general. Under the new regime, when the sales of the companies planning a merger exceed certain thresholds, the parties must notify the operation to the FNE before its execution. The FNE has the power to determine and modify the corresponding thresholds.<sup>174</sup> Once the notification is submitted and accepted, the FNE evaluates the operation within a period of 30 days, at the end of which the National Economic Prosecutor must adopt one of the following decisions: (a) approve the merger as notified; (b) approve it on the condition that the notifier complies with certain measures; or (c) extend the investigation for up to 90 days through a justified resolution. If the period has elapsed without a decision by the Prosecutor, it is understood that the operation has been approved.<sup>175</sup> The law prohibits the notifying parties from executing the merger before it is approved. In the event that, after having extended the investigation, the FNE decides to prohibit a merger, the parties may request the TDLC to review that decision through a special procedure.

3.191. In addition to the prior notification requirement for economic mergers, the 2016 reform made it mandatory to inform the FNE of the acquisition of a stake of more than 10% of the capital of a competing company, no later than 60 days after the merger. This obligation is applicable when

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<sup>172</sup> Article 26 of Decree-Law No. 211 of 22 December 1973, Ministry of Economic Affairs, Development and Reconstruction.

<sup>173</sup> Article 3 of Decree-Law No. 211 of 22 December 1973, Ministry of Economic Affairs, Development and Reconstruction.

<sup>174</sup> The thresholds refer to the sales, separated and combined, of the companies that plan to merge, generated in Chile during the fiscal year prior to the one in which the notification is made. According to Exempt Resolution No. 157 of the National Economic Prosecutor of 25 March 2019, the thresholds are: 450,000 UF (about USD 20 million) or more for separate sales (of at least two of the parties that plan to merge) and 2,500,000 UF (about USD 113 million) or more for the sum of the sales of all parties.

<sup>175</sup> Article 54 of Decree-Law No. 211 of 22 December 1973, Ministry of Economic Affairs, Development and Reconstruction.

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the annual income of both parties involved in the acquisition exceeds 100,000 UF (approximately USD 4.5 million).

3.192. The 2016 amendment to the Competition Law also introduced penalties (including fines and imprisonment) for those who obstruct FNE investigations by giving false information when notifying the merger, hiding information or providing false information in response to a request from the FNE, or in the event that the investigated parties do not respond or do so partially without justification.

3.193. In addition, the reform empowered the FNE to assess the competitive evolution of the markets. To this end, it may obtain information from both individuals and public institutions. Previously, the FNE was not authorized to request information from private entities. The reform also established a more expeditious procedure so that victims of unlawful anti-competitive conduct can be compensated for the damages suffered and also empowered the TDLC to resolve compensation claims once a final condemnatory ruling has been issued.

3.194. Chilean legislation on safeguarding competition also includes Law No. 20.169 of 2007, which regulates unfair competition.<sup>176</sup> This law defines as unfair competition "any conduct contrary to good faith or customs that, through illegitimate means, seeks to divert customers from a market operator". Among the forms of conduct classified as such are free-riding on the reputation of third parties, disseminating false information on the characteristics or the price of one's own goods and services or those offered by others, defamation of third parties, the misuse of legal action to hamper the operations of a competitor and the use of contractual clauses or abusive conduct to the detriment of suppliers. Those affected by acts of unfair competition may bring proceedings before civil courts to take action, including the cessation and prohibition of the act, a declaratory ruling that it is an unfair act, the elimination of its effects and compensation for damage. If the existence of acts of unfair competition is established, the courts forward their ruling to the National Economic Prosecutor, who may request the TDLC to impose a fine. The Unfair Competition Law was amended by Law No. 21.666 of 4 July 2019, allowing smaller supplier companies to claim compensation when they are harmed by the non-payment of unpaid balances.

3.195. Regulations to protect competition also include the relevant chapters included in the trade agreements to which Chile is party, in addition to the international cooperation agreements on competition signed by the FNE.<sup>177</sup>

#### **3.3.4.2 Enforcement**

3.196. Both the FNE and the TDLC ensure compliance with competition law. As indicated above, the FNE is responsible for investigating anti-competitive conduct. Completed investigations may result in any of the following actions: submission of a request (petition) to the TDLC; consultation procedures at the TDLC (non-contentious proceedings); extrajudicial agreement approved by the TDLC; agreement or conciliation; closure of the investigation following cessation of conduct (change of conduct of the investigated operator) and closing of the investigation with forwarding of recommendations to the investigated operator. The FNE issues the technical reports requested by the TDLC in contentious cases in which it is not a party. The FNE's activity in these areas during the period under review is shown in Table 3.12. In addition, in its work to promote free competition, the FNE publishes guides, as well as reports on the competitive evolution of the markets. To carry out its functions, the FNE recently created the Intelligence Unit, which reports to the Anti-Cartel Division and is in charge of implementing a cartel detection system, improving investigation techniques and promoting international cooperation. In 2021, the Compliance Inspection Division was created to monitor compliance with the decisions of the TDLC and the Supreme Court, with a view to ensuring that the mitigation measures established by the FNE when approving mergers are upheld. The Compliance Inspection Division also investigates offences concerning the merger control system.

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<sup>176</sup> Law No. 20.169 of 16 February 2007.

<sup>177</sup> Agreements have been signed with Argentina, Ecuador, Honduras, Mexico, Morocco, Paraguay, Peru, the United States and the United Nations Conference on Trade and Development (UNCTAD).

**Table 3.12 FNE: enforcement actions, 2015-23**

Year	Requests	Consultations	Extrajudicial agreements	Agreement or conciliation	Closure resolution cessation of conduct	Resolution with recommendation	Reports to the TDLC
2015	3	3	2	2	9	0	4
2016	4	0	1	1	4	6	4
2017	2	0	1	1	10	2	5
2018	5	0	2	2	6	0	8
2019	2	0	0	1	7	2	11
2020	7	1	2	2	1	1	11
2021	4	0	4	2	3	0	12
2022	1	2	1	4	5	1	10
2023 <sup>a</sup>	1	0	2	0	1	2	1

a From January to March.

Source: FNE information online. Viewed at:

<https://www.fne.gob.cl/wp-content/uploads/2023/05/Presentacion-Cuenta-Publica-Participativa-2022.pdf>.

3.197. Since being empowered to hear and investigate economic mergers, the FNE has been very active in this area. From June 2017 to March 2023, the FNE received 241 prior notifications of mergers and initiated 218 investigations. Of the investigations for which a termination (closure) resolution was issued, 195 operations received direct approval (approved under the notified terms), 17 were approved with recommendations for measures to economic operators, and 4 mergers were prohibited (Table 3.13).

**Table 3.13 FNE: Annual statistics on economic mergers, 2017–23**

Year	Notifications received	Investigations initiated	Investigations completed	Termination resolutions		
				Direct approval	Approval with measures	Prohibition
2017 <sup>a</sup>	29	24	18	14	4	0
2018	55	56	54	47	5	2
2019	40	37	41	38	2	1
2020	31	28	28	26	2	0
2021	46	36	38	34	2	0
2022	35	30	33	30	2	1
2023 <sup>b</sup>	5	7	6	6	0	0
<b>Total</b>	<b>241</b>	<b>218</b>	<b>218</b>	<b>195</b>	<b>17</b>	<b>4</b>

a From June to December.

b From January to March.

Source: FNE. Viewed at:

<https://www.fne.gob.cl/wp-content/uploads/2023/01/Estadisticas-Division-Fusiones-Ano-2022.pdf> and <https://www.fne.gob.cl/wp-content/uploads/2023/04/Estadisticas-Division-Fusiones-Marzo-2023.pdf>.

3.198. The TDLC is dedicated exclusively to hearing cases concerning free competition, at the request of the FNE or an individual, and is empowered to adopt the appropriate measures or sanctions. Between May 2016 and April 2023, the TDLC received a total of 304 cases, of which 206 were contentious cases.<sup>178</sup>

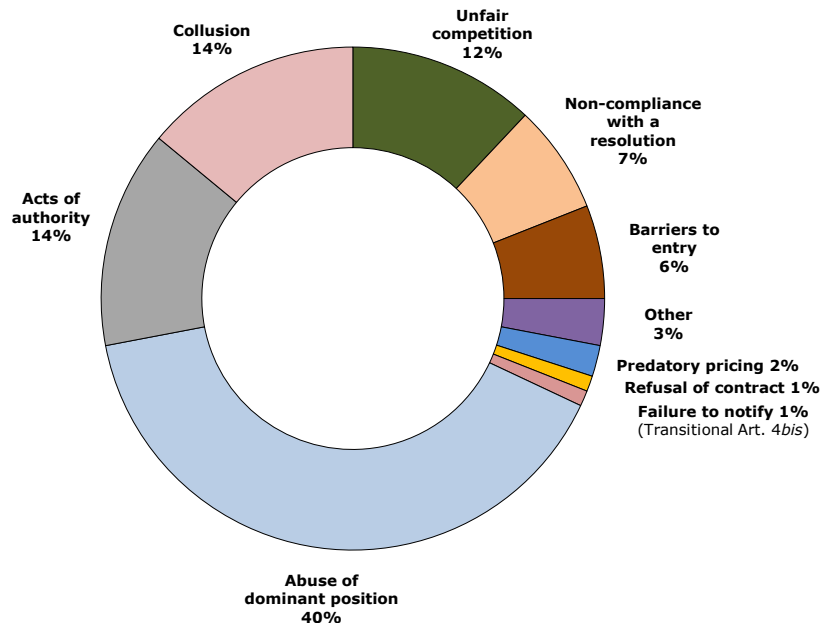
3.199. In the contentious cases examined so far by the TDLC<sup>179</sup>, the most recurrent conduct has been the abuse of a dominant position. According to collected data, as of 30 April 2022, 40% of the cases tried concerned abuse of a dominant position, 28% concerned collusion and acts of authority (14% each), 12% concerned unfair competition, and the rest concerned other practices, including the failure to notify (Chart 3.1). This trend did not change significantly in the most recent reported year (from May 2022 to April 2023). There, abuse of a dominant position represented 43% of all

<sup>178</sup> TDLC yearbooks (multiple years). Viewed at: <https://www.tdlc.cl/anuario/>.

<sup>179</sup> Since its creation in 2004, the TDLC has handed down 182 rulings regarding contentious matters.

contentious cases, followed by collusion and acts of authority (13% each), unfair competition (10%), non-compliance (8%) and others (9%).<sup>180</sup>

**Chart 3.1 TDLC: contentious proceedings by category of conduct at 30 April 2022**



Source: TDLC, May 2021 – May 2022 yearbook. Viewed at: <https://www.tdlc.cl/anuario/>.

3.200. The industry most represented in TDLC proceedings has been telecommunications, which was the subject of 12% of contentious cases, according to accumulated data as of 30 April 2022. The statistics of the past year show no change. Other sectors particularly affected by anti-competitive practices have been transportation, concessions, retail trade, pharmaceuticals, food and beverages, fuel, financial services, electricity, waste management, and the port sector. In the year 2022–23, the sector most represented in contentious proceedings was the financial sector, with 31% of all cases.<sup>181</sup>

3.201. Empowered by Law No. 20.945, the TDLC has heard and resolved two appeals for special review of FNE decisions prohibiting economic mergers.<sup>182</sup> In the first case, the appeal was accepted. The TDLC revoked the FNE resolution and approved the merger in question.<sup>183</sup> The second appeal was rejected and the TDLC confirmed the prohibition of the merger.<sup>184</sup> However, the parties filed a complaint against this ruling and the Supreme Court modified the prohibition, accepting the operation with mitigation measures.<sup>185</sup>

### 3.3.4.3 Price control

3.202. Under Chilean legislation, the State has no power to regulate or control the prices of goods or services in a general way. However, price control or regulation policies can be implemented under the Competition Law or some of the laws governing public services. Currently, regulated prices only apply to certain basic services, namely sanitary services (drinking water and sewage), electricity and some telecommunications services. Their application is based on the argument that these activities constitute natural monopolies and that, given their relevance to the community, it is

<sup>180</sup> TDLC, May 2022 – May 2023 yearbook. Viewed at: <https://www.tdlc.cl/anuario/>.

<sup>181</sup> TDLC, May 2022 – May 2023 yearbook. Viewed at: <https://www.tdlc.cl/anuario/>.

<sup>182</sup> These are: (i) Appeal for special review by Ideal S.A. and others, against the FNE Resolution of 10 May 2018, and (ii) Appeal for special review by Nexus Chile SpA and another, against the FNE Resolution of 3 February 2022.

<sup>183</sup> TDLC ruling. Viewed at: <https://consultas.tdlc.cl/download/c17eaac18c1f226a3aebca23c03a487e?inlineifpossible=true>.

<sup>184</sup> TDLC ruling. Viewed at: <https://consultas.tdlc.cl/download/1719563f21638b065e261d710a4136b7?inlineifpossible=true>.

<sup>185</sup> Ruling viewed at: <https://www.pjud.cl/prensa-y-comunicaciones/getRulingNew/30593>.

necessary to establish a tariff mechanism that makes it possible to avoid overpricing, while ensuring the profitability of the companies. In addition, Law No. 21.365, enacted on 27 July 2021, regulates the exchange rates applicable to payment card transactions.

3.203. The maximum rates that may be charged for drinking water and sanitation services are set by the Sanitary Services Supervisory Authority.<sup>186</sup> Electricity rates are regulated by the National Energy Commission.<sup>187</sup> In 2022, a rate stabilization fund and a new transitional electricity price mechanism were created for customers subject to price regulation.<sup>188</sup> Law No. 18.168, the General Law on Telecommunications, establishes the conditions and services subject to the tariff regime (fixed and wireless networks access services, and data roaming services).<sup>189</sup>

### 3.3.5 State trading, state-owned enterprises and privatization

#### 3.3.5.1 State trading

3.204. Chile has notified the WTO that Comercializadora de Trigo S.A. (COTRISA) is the country's only state trading enterprise.<sup>190</sup> COTRISA is a public limited company, created by public deed, whose purpose is to "buy, sell, package, store, transport, distribute, deliver and trade" the following products: wheat (HS heading 1001 and subheadings), maize (HS heading 1005 and subheadings), rice (HS heading 1006 and subheadings) and other cereals (tariff headings in Chapter 10). COTRISA enjoys no special privileges and is governed by Law No. 18.046 on Public Limited Companies and its implementing regulations.

3.205. According to the authorities, COTRISA is involved in the marketing of cereals, especially wheat, with the sole aim of mitigating the flaws in the setting of grain prices, which result from the oligopsonistic structure of agro-industry and which affect the negotiating power of small producers. COTRISA implements the Wheat Purchasing Programme, which is a support policy for the agricultural sector that seeks to promote an equitable relationship between the import price of wheat and domestic prices. COTRISA also provides paid grain packaging and storage services and grain quality certification and training services, and disseminates trade information, with which it seeks to promote better and more transparent market performance.

3.206. COTRISA is not empowered to set and/or determine import or export levels, or prices. While the company is authorized to carry out foreign trade operations, its participation in this area has been limited. Until the end of 2020, COTRISA had only exported on one occasion (where prices were determined through public bidding) and had not carried out any import operations (Section 4.1.).<sup>191</sup>

#### 3.3.5.2 State-owned enterprises

3.207. Pursuant to the Constitution, the creation of state-owned enterprises (public companies created by law), as well as the participation of the State, whether as a majority or minority shareholder, in the management or ownership of companies (state-owned companies or companies with state participation) must be authorized by law adopted by a qualified quorum. State-owned companies are subject to the regulations applicable to private firms and to oversight by the competent state agencies (Comptroller's Office, Supervisory Authorities, among others).

3.208. In 2023, there were 29 state-owned enterprises, including public companies created by law and companies with state participation (Table 3.14). Three companies were liquidated during the review period, while one, Fondo de Infraestructura S.A, was created. On the whole, state companies

<sup>186</sup> Decree with Force of Law No. 70 of the Ministry of Public Works, of 30 December 1988, as amended by Law No. 21.075 of 15 February 2018.

<sup>187</sup> Decree with Force of Law No. 4 of the Ministry of Economic Affairs, Development and Reconstruction, of 5 February 2007, establishes the consolidated, coordinated and systematized text of the General Electricity Services Law (most recent amendment in 2022).

<sup>188</sup> Law No. 21.472 of 2 August 2022.

<sup>189</sup> Articles 24 *bis* and 25 of Law No. 18.168 of 2 October 1982 and amendments thereto (most recent amendment in June 2022).

<sup>190</sup> WTO documents G/STR/N/16/CHL of 31 October 2016, G/STR/N/17/CHL of 12 October 2018 and G/STR/N/18 of 18 November 2020.

<sup>191</sup> WTO document G/STR/N/18 of 18 November 2020.

had revenues of CLP 27,054,176 million in 2021, representing 11.2% of Chilean GDP (compared to CLP 17,875,536 million and 9.4% of GDP in 2015).<sup>192</sup>

**Table 3.14 List of state-owned enterprises, June 2023**

Name	Ownership structure (%)	Subject to the SEP
Corporación Nacional del Cobre de Chile (CODELCO)	100% Treasury	No
Empresa Nacional del Petróleo (ENAP)	100% Treasury	No
Empresa Nacional de Minería (ENAMI)	100% Treasury	No
Banco Estado de Chile (BECH)	100% Treasury	No
Televisión Nacional de Chile (TVN)	100% Treasury	No
Astilleros y Maestranzas de la Armada (ASMAR)	100% Treasury	No
Empresa Nacional de Aeronáutica (ENAER)	100% Treasury	No
Fábrica y Maestranzas del Ejército (FAMAE)	100% Treasury	No
Fondo de Infraestructura S.A.	99% Treasury, 1% CORFO	No
Empresa Portuaria Arica (under a concession)	100% Treasury	Yes
Empresa Portuaria Iquique (under a concession)	100% Treasury	Yes
Empresa Portuaria Antofagasta (under a concession)	100% Treasury	Yes
Empresa Portuaria Coquimbo (under a concession)	100% Treasury	Yes
Empresa Portuaria Valparaíso (under a concession)	100% Treasury	Yes
Empresa Portuaria San Antonio (under a concession)	100% Treasury	Yes
Empresa Portuaria Talcahuano-San Vicente (under a concession)	100% Treasury	Yes
Empresa Portuaria Puerto Montt	100% Treasury	Yes
Empresa Portuaria Chacabuco	100% Treasury	Yes
Empresa Portuaria Austral	100% Treasury	Yes
Empresa de los Ferrocarriles del Estado (EFE)	100% Treasury	Yes
Empresa de Transporte de Pasajeros METRO S.A.	55.55% CORFO, 44.45% Treasury	Yes
Empresa de Correos de Chile	100% Treasury	Yes
Empresa Concesionaria de Servicios Sanitarios S.A. (ECONSSA)	99% CORFO, 1% Treasury	Yes
Zona Franca de Iquique S.A. (ZOFRI)	71.28% CORFO, 1.4% Treasury, 27.2% other	Yes
Polla Chilena de Beneficencia S.A.	99% CORFO, 1% Treasury	Yes
Comercializadora de Trigo S.A. (COTRISA)	97.24% CORFO, 2.76% other	Yes
Sociedad Agrícola SACOR SpA	100% CORFO	Yes
Sociedad Agrícola y Servicios Isla de Pascua SpA (SASIPA)	100% CORFO	Yes
Casa de Moneda de Chile S.A.	99% CORFO, 1% Treasury	Yes

Source: Information from the Budget Directorate (DIPRES). Viewed at: <https://www.dipres.gob.cl/599/w3-channel.html>.

3.209. Some of the state-owned companies stand out for their significance to the Chilean economy. Such is the case of the Corporación Nacional del Cobre, the world's leading copper producer, which generated revenues of CLP 18,017,218 million in 2021, equivalent to 7.5% of the country's GDP, and the Empresa Nacional del Petróleo, which had revenues of CLP 6,544,102 million in 2021 and accounted for 2.7% of GDP.<sup>193</sup> Other companies of note are the Banco Estado de Chile and the Empresa Nacional de Minería. In addition, the State is the owner or shareholder in companies that operate in sectors such as land transport, media, postal services, health services, defence, free zones, and coin production, among others. The Chilean Economic Development Agency (CORFO) has a majority shareholding in many of these companies. One third of state-owned companies are concentrated in the port sector.

3.210. The Enterprise System (SEP) is the technical advisory body that represents the interests of the State in companies where the State is a partner, owner or shareholder. SEP appoints the directors and oversees the management of the state-owned companies under its supervision, and ensures the efficient allocation of the resources of those companies, all with a view to maximizing the benefit for society.<sup>194</sup> SEP oversees 20 state-owned companies, whose total revenues amounted to USD 1.05 billion in 2021, whose assets totalled USD 14 billion, and which had more than

<sup>192</sup> Budget Directorate, Ministry of Finance. *Estadísticas de las Finanzas Públicas 2013-2022*. Viewed at: <https://www.dipres.gob.cl/598/w3-propertyvalue-15407.html>.

<sup>193</sup> Budget Directorate, Ministry of Finance. *Estadísticas de las Finanzas Públicas 2013-2022*. Viewed at: <https://www.dipres.gob.cl/598/w3-propertyvalue-15407.html>.

<sup>194</sup> SEP online information. Viewed at: <https://www.sepchile.cl>.



12,000 employees.<sup>195</sup> The SEP Code establishes guidelines, minimum parameters and good corporate practices aimed at enabling these companies to engage in more efficient, responsible and transparent management. It should be noted that in 2021 Law No. 21.356 was enacted, establishing that persons of the same gender may not exceed 60% of board members of companies supervised by SEP.<sup>196</sup> In 2021, female participation in the boards of these companies reached 49% and in 2022, 51.8%.

3.211. State-owned enterprises are not subject to the Government Procurement Law, Law No. 19.886 (Section 3.3.6), but to different regimes. Public companies created by law are governed by Law No. 18.575, the Constitutional Organic Law of 2001 on the general foundations of state administration, Article 9 of which establishes that the tendering process for procurement shall be governed by the principles of free competition among bidders and equality in respect of the bases governing the contract. State-owned companies subject to SEP oversight follow the SEP Code guidelines, which mandate public bidding for acquisitions and contracts for goods and services for amounts equal to or greater than 1,000 UTM (USD 78,456). Finally, state-owned port companies are governed by Law No. 19.542 of 1997, which stipulates that the contracting of goods and services requires public bidding, unless the amount is less than 1,000 UTM.

### 3.3.6 Government procurement

#### 3.3.6.1 Overview

3.212. In 2003, Chile set up the Chilean Government Procurement and Contracts System based on a best practices mechanism. During the review period, amendments to legislation and directives continued to be introduced to improve the System's functioning and efficiency. National treatment applies generally. There is no discrimination whatsoever between products, services or suppliers on the basis of origin. Purchasing by state-owned enterprises and for public works is governed by the respective regulations.

3.213. Chile uses an electronic procurement platform. To purchase and procure what they need, government entities use ChileCompra's transaction platform<sup>197</sup>, which consolidates in one place public buyers' requests and suppliers' tenders.<sup>198</sup> Over 850 state agencies use ChileCompra's tendering platform to independently purchase and procure goods and services from more than 110,000 suppliers.<sup>199</sup> The ChileCompra Directorate is the institution responsible for managing the platform, operating in accordance with a single regulatory framework based on transparency, efficiency, universality, accessibility and non-discrimination. ChileCompra is a decentralized public service attached to the Ministry of Finance and overseen by the President of the Republic. It was established under Law No. 19.886 of 11 July 2003 on government procurement<sup>200</sup> and began operations formally on 29 August 2003.<sup>201</sup>

3.214. One of the strategic objectives of ChileCompra's Strategic Plan 2020-24 is to promote the good conduct of all government procurement system stakeholders through high levels of transparency and probity. To achieve this objective, the Plan seeks to create a traceable record of procurement processes at all stages of the supply cycle, and to enhance visibility and facilitate access across all methods of procurement, thereby boosting participation. It also aims to maximize efficiency in public procurement, in terms of both total cost (price) and cost per transaction (process). This is intended to harness the State's purchasing power by aggregating demand (synergy among government agencies), with ChileCompra taking on the role of facilitator between the State and the market in order to maximize efficiency and savings. The goal is also to have simpler, modern, digital and interconnected procurement processes that would allow public procurement to be managed with a focus on savings and providing greater added value to users. This is achieved by awarding framework agreements and coordinating purchases through demand aggregation. This

<sup>195</sup> SEP, *Memoria 2021*. Viewed at: <https://www.sepchile.cl/wp-content/uploads/2022/09/Memoria-Anual-2021.pdf>.

<sup>196</sup> Law No. 21.356 of 3 July 2021.

<sup>197</sup> The website address is: [www.mercadopublico.cl](http://www.mercadopublico.cl).

<sup>198</sup> Information from ChileCompra. Viewed at: <https://www.chilecompra.cl/que-es-chilecompra/>.

<sup>199</sup> ChileCompra Directorate, Strategic Plan 2020-24. Viewed at: <https://www.chilecompra.cl/wp-content/uploads/2021/11/Estrategia2020-2024-1.pdf>.

<sup>200</sup> The Law was published on 30 July 2003 and has been amended several times since then. The most recent amendment was introduced by Law No. 21.445 of 28 April 2022.

<sup>201</sup> ChileCompra's website address is: <https://www.chilecompra.cl/>.

objective means having a fully digital supply chain and optimizing time lines, without compromising on quality.<sup>202</sup>

3.215. In 2022, procurement by the Chilean Government (excluding state-owned enterprises and concessions) amounted to around USD 15 billion, equivalent to 5.0% of GDP (Table 3.15). Of this, 70% was transacted by tender, 21% by direct contracting, 6% by framework agreement and 3% by the agile procurement module, *Compra Ágil*. Over 1.8 million purchase orders were processed in 2022 via ChileCompra's government procurement platform, with 15% corresponding to direct contracting, 38% to tendering, 35% to *Compra Ágil* and 12% to framework agreements. Some 58% of purchase orders processed by ChileCompra involved smaller enterprises.

**Table 3.15 Amounts transacted by government procurement purchasing procedure, 2015-22**

(USD and units)

Year	Procedure	Amount in USD (including VAT)	Purchase orders	Number of suppliers
2015	Framework agreement	2,057,089,330	868,221	78,974
	Tendering	5,439,321,242	880,049	
	Direct contracting	2,000,587,013	459,468	
	<b>Total</b>	<b>9,496,997,585</b>	<b>2,207,738</b>	
2016	Framework agreement	2,482,341,485	1,034,680	79,127
	Tendering	5,069,177,677	850,509	
	Direct contracting	1,939,636,857	420,983	
	<b>Total</b>	<b>9,491,156,019</b>	<b>2,306,172</b>	
2017	Framework agreement	3,708,307,362	1,154,534	77,996
	Tendering	6,381,599,230	813,339	
	Direct contracting	2,040,716,267	391,913	
	<b>Total</b>	<b>11,384,432,795</b>	<b>2,359,786</b>	
2018	Framework agreement	2,962,117,298	1,209,291	76,343
	Tendering	8,826,951,750	785,779	
	Direct contracting	2,262,817,709	386,746	
	<b>Total</b>	<b>14,051,886,757</b>	<b>2,381,816</b>	
2019	Framework agreement	2,598,398,196	1,143,988	75,713
	Tendering	7,611,424,429	748,106	
	Direct contracting	2,270,473,762	382,232	
	<b>Total</b>	<b>12,480,296,387</b>	<b>2,274,326</b>	
2020	Framework agreement	2,168,329,716	590,214	73,834
	Tendering	6,802,944,771	559,934	
	Direct contracting	3,355,636,944	466,697	
	<b>Total</b>	<b>12,326,911,431</b>	<b>1,616,845</b>	
2021	Framework agreement	1,512,232,120	375,643	70,818
	Tendering	9,756,979,472	596,590	
	Direct contracting	3,746,382,485	677,596	
	<b>Total</b>	<b>15,015,594,077</b>	<b>1,649,829</b>	
2022	Framework agreement	849,371,737	221,548	77,884
	Tendering	10,551,421,201	684,814	
	Direct contracting	3,622,036,852	903,205	
	<b>Total</b>	<b>15,022,829,790</b>	<b>1,809,567</b>	

Source: Information provided by the authorities.

3.216. The share of foreign suppliers in government procurement in Chile is relatively low, amounting to USD 45.3 million, or 0.3% of the amounts transacted in 2022. The share of suppliers for most years in the period 2015-22 was similar to that in 2022, except 2015 (0.9% of the total) and 2018 (1.7%) (Table 3.16).<sup>203</sup>

<sup>202</sup> ChileCompra Directorate, Strategic Plan 2020-24. Viewed at: <https://www.chilecompra.cl/wp-content/uploads/2021/11/Estrategia2020-2024-1.pdf>.

<sup>203</sup> The authorities indicated in this regard that, because the share of foreign companies is very low relative to the total transacted, it is likely that only a few purchase orders explain the fluctuations in these years.

**Table 3.16 Amounts transacted by foreign suppliers, 2015-22**

(USD and %)

Year	Amount in USD	Purchase orders	Number of suppliers	Share in amounts
2015	88,979,730	725	257	0.9%
2016	25,989,780	782	270	0.3%
2017	57,359,502	689	272	0.5%
2018	243,150,039	600	258	1.7%
2019	52,313,034	500	212	0.4%
2020	29,179,823	429	158	0.2%
2021	46,055,371	573	175	0.3%
2022	45,282,843	560	184	0.3%

Source: Information provided by the authorities.

3.217. Chile is an observer in the WTO Committee on Government Procurement. Although it has not set thresholds at the multilateral level, Chile has accepted commitments on government procurement under the trade agreements it has concluded. The thresholds vary depending on the agreement and are reviewed every two years, except for the agreement with Argentina, in which case the thresholds are reviewed annually (Table 3.17).<sup>204</sup>

**Table 3.17 Government procurement thresholds by agreement, 2023**

Agreement	Threshold for goods and services (CLP)	Threshold for construction services (CLP)	Effective since
Argentina	A 55,477,981 B 221,911,923 C 244,103,115	Not covered	1 January 2023
Australia	(Section A) 61,607,000 (Section B) 377,388,000 (Section C) 308,034,000	5,317,180,000	1 January 2022
Brazil	102,402,079	5,389,583,116	1 January 2022
Canada	Annex <i>Kbis</i> -01.1-1: 63,740,967 Annex <i>Kbis</i> -01.1-2: 318,704,834	364,815,495 10,199,044,843	1 January 2022
Colombia	Section A: 53,627,372 Section B: 214,509,488 Section C: 235,960,437	5,362,737,196	1 January 2022
CPTPP	Section A: 105,408,163 Section B: 21,911,923 Section C: 244,103,115	5,547,798,069	21 January 2023
Ecuador	Section A: 102,402,079 Section B: 215,583,325 Section C: 237,141,657	5,389,583,116	1 January 2022
EFTA	(Appendix 1) 152,379,640 (Appendix 2) 234,430,215 (Appendix 3) 468,860,429	5,860,755,366	1 January 2022
European Union	(Appendix 1) 139,446,697 (Appendix 2) 214,533,380 (Appendix 3) 429,066,761	5,363,334,507	1 January 2022
Hong Kong, China	140,974,764	5,422,106,317	1 January 2022
Japan	Subsection A: 109,145,810 Subsection B: 218,291,621 Subsection C: 327,437,431	5,457,290,517 10,914,581,034 10,914,581,034	1 January 2022
Korea, Rep. of	Appendix 1: 53,627,372 Appendix 2: 214,509,488 Appendix 3: 450,000	5,362,737,196 16,088,211,588 16,088,211,588	1 January 2022
Mexico	Central government entities: 49,694,007 Subcentral government entities: 403,467,534 Other covered entities: 248,469,267	6,460,209,391 5,681,528,557 7,951,399,316	1 January 2022

<sup>204</sup> Information available on the SUBREI website. Viewed at: <https://www.subrei.gob.cl/ejes-de-trabajo/compras-publicas-internacionales/umbrales-thresholds>.

Agreement	Threshold for goods and services (CLP)	Threshold for construction services (CLP)	Effective since
Pacific Alliance	Section A 53,895,831 Peru: 102,402,079  Section B 215,583,325  Section C 237,141,657	5,389,583,116 Mexico: 10,335,931 United States: 8,012,922,672 Mexico: 12,721,740 United States: 9,862,519,290	1 January 2022
P4 <sup>a</sup>	53,627,372	5,362,737,196	1 January 2022
United States	(Section A) 63,734,000 (Section B) 381,949,000 (Section C) 318,671,000	5,374,899,000	1 January 2022
Uruguay	112,596,947	4,691,539,474	1 January 2022

a Chile, Brunei Darussalam, Singapore and New Zealand.

Note: CLP 862:USD 1 in August 2023.

Source: SUBREI. Viewed at:

<https://www.subrei.gob.cl/ejes-de-trabajo/compras-publicas-internacionales/umbrales-thresholds>.

### 3.3.6.2 Legal framework and procedures

3.218. The legal basis for the Chilean government procurement regime for goods and services lies in the Primary Law on Administrative Contracts for the Supply and Rendering of Services (Law No. 19.886 of 30 July 2003 and amendments thereto) and its implementing regulations (Ministry of Finance Decree No. 250 of 24 September 2004).<sup>205</sup> This legal framework applies to procurement by all central government departments, regional and provincial governments, municipal authorities, the armed forces and the Comptroller-General of the Republic. Law 19.886 does not apply to state-owned enterprises, which follow their own regulations on procurement. In the case of public works tendered by agencies other than MOP and MINVU, Law No. 19.886 applies as regards the mandatory use of the electronic procurement information system and the Government Procurement Tribunal (see below) and, in general, its application is supplementary.<sup>206</sup> Public works tendered by MOP and MINVU are governed by their own regulations; the use of the electronic procurement information system and the Government Procurement Tribunal is optional for such tenders.<sup>207</sup>

3.219. During the review period, several amendments were made to the legal framework for government procurement. Amendments made to Law No. 19.886 include, in chronological order:

- Law No. 20.883 of 2 December 2015 raising the maximum number of monthly sessions in which members of the Government Procurement Tribunal may participate;
- Law No. 20.940 of 8 September 2016, amending Article 6, on specifications for tenders, providing that procuring entities shall give priority to undertakings that have existing collective agreements with the labour organizations representing their workers;
- Law No. 21.005 of 7 April 2017, amending Article 1, clarifying that the government procurement law will also apply to the National Television Council;
- Law No. 21.056 of 2 January 2018, amending Article 6, incorporating specific regulations applicable to tenders for the contracting by municipalities of solid waste collection, transport or final disposal services;

<sup>205</sup> Laws No. 20.088 of 2006 and No. 20.238 of 2008, and Decree-Law No. 11 of 10 March 2010 introduced amendments to Law No. 19.886. The regulations were amended by Ministry of Finance Decree No. 1.562, published on 20 April 2006, and by Decree No. 260 of 13 July 2007.

<sup>206</sup> Law No. 19.886 and its implementing regulations can be viewed on the ChileCompra website: <http://chilecompra.cl>.

<sup>207</sup> Law No. 19.886 and its implementing regulations can be viewed on the ChileCompra website: <http://chilecompra.cl>.

- Law No. 21.362 of 18 August 2021, amending Article 6, establishing that in tenders aimed at providing food services to early childhood, primary and secondary education institutions managed by the National School Assistance and Scholarship Board (JUNAEB), and in higher education and technical-professional training institutions or similar that have exchange points for higher education food scholarship cards, public health establishments, prisons and casinos and cafeterias within or affiliated with any institution or body of the state administration, the tender specifications must include conditions for the provision of food services for individuals with food intolerances, celiac disease or food allergies; and
- Law No. 21.445 of 28 April 2022, amending Article 6, supplementing the specific regulations for municipal tenders for the collection, transport or final disposal of solid waste.

3.220. Several amendments were also made to the regulations implementing Law No. 19.886. In May 2015, certain articles of these regulations were amended.<sup>208</sup> The changes introduced include: the creation of the Temporary Suppliers Union arrangement, which allows companies to work together without the need to establish new legal entities; a duty of abstention for officials participating in procurement procedures in the event of any circumstance that detracts from their impartiality; a stipulation that when the amount awarded exceeds the estimated amount by more than 30%, entities must explain the technical and economic reasons for the difference in amount; a limitation on indefinite renewals of contracts; the clear distinction of roles among officials and teams involved in the procurement cycle; additions to the regulation of purchases for larger amounts in framework agreements ("large procurement" procedure); in tenders, the awarding of points for matters of high social impact; an increase to the threshold for requesting bid security; a limit to the possibility of modifying contracts awarded in previous tenders; regulations on the timely payment of suppliers; and regulations on the application of contractual penalties. Further amendments to the regulations were made by Ministry of Finance Decree No. 821 of 21 January 2020.<sup>209</sup> These include the creation of the agile procurement process, *Compra Ágil*, applicable to lower value purchases; regulations on coordinated purchases; and a provision whereby procuring entities may waive the requirement for performance guarantees in certain cases where there are grounds for direct contracting.

3.221. On 29 March 2021, a draft law was introduced to the National Congress aimed at updating Law No. 19.886 and other laws in order to enhance the quality of public expenditure, improve probity and transparency standards, and incorporate circular economy principles into government procurement practices. The draft text seeks to: (i) improve probity and transparency in public procurement procedures; (ii) improve efficiency and foster innovation in government procurement; (iii) establish needs analysis as the first step in the procurement procedure for goods and services; (iv) implement circular economy principles in government procurement; (v) improve the functioning of the Government Procurement Tribunal; (vi) improve the functions of the Directorate of Purchasing and Government Procurement in the public procurement system; and (vii) promote the participation of SMEs in public procurement procedures.

3.222. The institution responsible for the development and implementation of government procurement policy is the Directorate of Purchasing and Government Procurement (DCCP) or the ChileCompra Directorate. Established by Law No. 19.886, the DCCP is also in charge of maintaining and managing the electronic information system for purchasing and government procurement (public market). All entities whose procurement is covered by Law No. 19.886 must use this system to obtain quotes, invite bids, source contractors, award contracts and carry out procurement procedures for goods, services and public works.<sup>210</sup> ChileCompra aims to ensure efficiency in government procurement by applying high standards of probity and transparency. Access to <https://www.mercadopublico.cl/> is open to the public and free of charge. All procurement procedures must be conducted through the electronic information system managed by ChileCompra. Invitations

<sup>208</sup> Information from the Government of Chile. Viewed at: <https://www.bcn.cl/leychile/navegar?idNorma=1077185>.

<sup>209</sup> Ministry of Finance Decree No. 821 can be viewed at: <https://www.bcn.cl/leychile/navegar?idNorma=1141363&idParte=10093986&idVersion=2020-01-21>.

<sup>210</sup> Further information on the government procurement process can be found on the ChileCompra website: <https://www.chilecompra.cl/>.

for public tenders may also be published in other international, national or regional media, in addition to official publication at [www.mercadopublico.cl](http://www.mercadopublico.cl).

3.223. Law No. 19.886 and its implementing regulations define five government procurement procedures: (1) public tendering; (2) private tendering; (3) direct contracting; (4) framework agreements; and (5) *Compra Ágil*, which was introduced only recently.

3.224. The public tendering procedure is an "administrative procedure of a competitive nature through which the administration issues a public call, inviting interested parties to submit proposals, subject to the established specifications, from which it will select and accept the most suitable" (Article 7(a) of Law No. 19.886). This is the general rule in government procurement. Public tendering is mandatory when procurement exceeds 1,000 UTM and tenders must be published through the platform [www.mercadopublico.cl](http://www.mercadopublico.cl) managed by ChileCompra. This method must always be used, unless the procuring entity can provide justification for exceptional, less competitive mechanisms, such as private tendering and direct contracting. This administrative process is of a competitive and open nature. Interested parties are invited to submit proposals through a public call for tenders, in accordance with the established specifications, from which the most suitable proposal will be selected and accepted. Each government agency is responsible for the tender specifications it publishes on [www.mercadopublico.cl](http://www.mercadopublico.cl), describing the goods and services to be contracted, the relevant terms, deadlines and budget, and the criteria used to evaluate the suppliers' proposals in order to select the best bid. These specifications will also govern the purchasing process and the final contract.<sup>211</sup>

3.225. Public bodies must set out the criteria for evaluating bids in their tender specifications. Such criteria should include the price of the bid, the experience of the bidders, the technical quality of the goods or services offered, technical assistance, after-sales service and delivery date. The criteria must be clearly specified with the applicable scores for each. The technical specifications for the goods or services to be procured must be generic and cannot refer to any specific brands. Bids are opened electronically. The contract is awarded to the bid that provides the most competitive combination in respect of the criteria set out in the specifications, through an administrative act that is also duly notified to other bidders. The administrative act awarding the procurement procedure and detailing the evaluation criteria and points scored that resulted in the awardee being declared as having made the most competitive bid, must be published.<sup>212</sup> A contract cannot be awarded to a bid that does not meet the criteria and requirements set out in the tender specifications.

3.226. If the amount of a contract is 1,000 UTM or more, the call for tenders must be published at least 20 calendar days before the deadline for receiving bids. For lesser amounts, the minimum period is 10 days. These time frames may be shortened in the case of simple standard goods or services.

3.227. In order to make the public bidding process more transparent and efficient, ChileCompra promotes the use of specification template documents. ChileCompra encourages the use of these templates in the procurement process to facilitate the participation of state suppliers in larger public tenders. The documents have a standardized format with standardized administrative clauses that have been subject to constitutional review by the Office of the Comptroller-General of the Republic.<sup>213</sup> Before creating each specification template document, ChileCompra conducts market consultations and/or participatory public consultations to gather comments from industry and national and international suppliers in each area.<sup>214</sup>

3.228. There is no provision in Chile's legislation for margins of preference for national suppliers and no discrimination whatsoever between products, services or suppliers on the basis of origin. Nor is there any provision for offsets as a condition for awarding a contract or any set-asides for certain bidders. However, Ministry of Finance Decree No. 250 of 2004 provides that, in addition to the content of the specification documents, tendering entities may establish criteria and weightings for bidders, on the basis of matters of high social impact. Matters of high social impact are defined as

<sup>211</sup> Information from ChileCompra. Viewed at: <https://www.chilecompra.cl/licitacion-comprador/>.

<sup>212</sup> Articles 6 and 41 of the implementing regulations and Articles 18 et seq. of Law No. 19.886.

<sup>213</sup> The constitutional review is a preliminary, general and compulsory legal control, which is specific to the Chilean system, carried out by the Office of the Comptroller-General of the Republic of Chile in relation to the legality and constitutionality of decrees, decrees having force of law and resolutions.

<sup>214</sup> Information from ChileCompra. Viewed at: <https://www.chilecompra.cl/bases-tipo/>.



compliance with environmental standards, inclusiveness and the promotion of smaller enterprises. There are also recommendations (directives) from ChileCompra to incorporate sustainability, gender and SME promotion criteria into tenders.

3.229. Private tendering and direct contracting are exceptional methods to be used following a substantiated resolution and only in the circumstances defined in the legislation. Private tendering is an administrative procedure of a competitive nature, following a substantiated resolution, through which the administration invites certain persons to submit proposals, subject to established specifications, from which it will select and accept the most suitable (Article 7(b) of Law No. 19.886). Private tendering is permitted, irrespective of the amount, if no interested parties have submitted bids in the respective public tenders.

3.230. Direct contracting is a non-competitive process, where contractual terms are established directly with a supplier, with no prior competitive bidding process. Article 7(c) defines it as "the procurement process which, owing to the nature of the negotiations involved, must be carried out without the requirements laid down for public and private tenders or proposals". This procedure applies on an exceptional basis, and the procuring entity must justify the circumstances established in Law No. 19.886 and its implementing regulations. In some cases, it requires a minimum of three quotations and must be authorized by a substantiated administrative act, for which the head of service is responsible. The authority of the public body must prove the grounds for direct contracting and issue a substantiated resolution authorizing it. This justification must be documented and evidenced, and published in a timely manner at [www.mercadopublico.cl](http://www.mercadopublico.cl) no later than 24 hours after being issued.

3.231. Article 8 of Law No. 19.886 and Article 10 of its implementing regulations list and describe the grounds for the use of direct contracting. These provisions provide for a total of 20 circumstances, including: the absence of submissions from interested parties in previous public and private tenders; the continuation of a contract that had to be terminated early; emergency, urgency or unforeseen circumstances; sole supplier; suppliers with industrial or intellectual property, or patent holders; extension of, or services relating to, a previously signed contract, only for the time taken to launch a new procurement process and provided that the amount involved does not exceed 1,000 UTM; replacement or complementing of, or services incidental to, previously acquired infrastructure; strategic consultancies in special consideration of the powers of consultants; contracting for reasons of security and confidence in the supplier; if the services in question are of a confidential nature or the disclosure thereof would affect national security or interests; if the services are provided by foreign legal entities to be rendered outside Chile; and if the cost of the tender is disproportionate in relation to the amount of the contract and the latter does not exceed 100 UTM.

3.232. Framework agreements involve a competitive procurement process conducted by ChileCompra for the direct supply to government agencies of standardized goods or services for which there is a regular and cross-cutting demand. Such agreements are aimed at ensuring efficiency and help save on transaction costs. ChileCompra assesses whether it is opportune or desirable to conduct a procurement process through framework agreements, which are generally used to procure standardized products that are required by all state administration bodies and recurrently and regularly used by those bodies. For each framework agreement, ChileCompra, either on its own initiative or at the request of one or more government agencies, carries out a public tender, selecting suppliers based on what has been set out in the specifications. These selected suppliers then list their products in the shop's electronic catalogue, which contains a description of the goods and services offered, their prices, their contracting conditions, and the details of the suppliers who were awarded the framework agreement. The tenders are open to all bidders (Chilean or foreign natural or legal persons) for the respective goods or services, with multiple suppliers being selected.

3.233. Under framework agreements, the supply and delivery terms, prices and discounts for goods and services are set out in advance in the specifications for a certain period of time. On this basis, government agencies procure through direct purchase orders in accordance with the terms set out in the framework agreements. Framework agreements are administered through an e-shop hosted on [www.mercadopublico.cl](http://www.mercadopublico.cl) where public buyers can procure goods and services at the click of a button. Government agencies are required to make their purchases under a framework agreement, unless they independently obtain more advantageous conditions, or cannot find the product or service required under a framework agreement. In such cases, agencies must resort to public

tendering, private tendering or, in exceptional cases, to direct contracting via the Internet portal [www.mercadopublico.cl](http://www.mercadopublico.cl).

3.234. In 2021, framework agreement transactions amounted to USD 1,512 million, i.e. 10% of the total of all amounts.<sup>215</sup>

3.235. In the pursuit of greater efficiency, ChileCompra promotes the use of coordinated purchases, a practice that the authorities believe can save resources and reduce transaction costs. The process involves two or more entities joining together to conduct a procurement process where higher volumes yield better prices for the State. The decision to participate in a coordinated procurement process rests with the institutions, which can decide to coordinate with other government agencies (joint coordinated procurement) or mandate ChileCompra to represent them in the process (coordinated procurement by mandate), thereby aggregating demand for a particular product or service. In regard to joint coordinated procurement, the coordination between the agencies concerned and ChileCompra is formalized through a collaboration agreement, with new agencies able to join the agreement via an official commitment letter. In accordance with the Law and its implementing regulations, these purchases must be conducted through a competitive process, either through a tender or a large framework agreement purchase.<sup>216</sup>

3.236. *Compra Ágil* was introduced into the regulations in 2020 in order to facilitate procurement in smaller amounts, thereby reducing bureaucracy by easing the formal requirements involved in these processes.<sup>217</sup> This form of procurement applies to purchases below the threshold of 30 UTM (the threshold was increased from 10 to 30 UTM through Decree No. 821 of 21 January 2020). Buyers from more than 850 government agencies can use the *Compra Ágil* method to make purchases below 30 UTM through <https://www.mercadopublico.cl/>. The authorities believe that this new process has led to increased transparency in procurement processes involving smaller amounts by opening the market to various sectors and suppliers nationwide. It facilitates competitive, fast and flexible access to business opportunities, particularly benefiting MSMEs. This method is believed to simplify and standardize the processes involved in smaller-scale public procurement, thereby broadening access and reducing the costs involved (estimated at USD 250,000 for a simple tender with a specification of between 10 and 30 UTM).<sup>218</sup> This purchasing decision does not require an administrative act.

3.237. ChileCompra keeps a national register of public administration suppliers, an electronic register created by Law No. 19.886, where natural or legal persons, whether Chilean, or foreign and not domiciled in Chile, can register if they wish to participate in tenders. The register is public. Being listed in the register attests to the legality and financial and technical capacity of the suppliers. Although not an essential requirement to participate in procurement, when contracting, public bodies may require bidders to be listed in the national register. According to information provided by the authorities, as at March 2023, there were 67,917 registered suppliers. Information on all government procurement processes, sorted by entity, is available online on ChileCompra's open data web page.<sup>219</sup>

3.238. The Government Procurement Tribunal, set up in 2005, is one of the cornerstones of the public procurement system. As a jurisdictional body, the Tribunal is empowered to hear and decide on action taken to challenge any illegal or arbitrary act or omission that may have occurred in administrative procurement processes involving public bodies governed by Law No. 19.886.<sup>220</sup> The directives, sentences and economic situation of the Tribunal are subject to oversight by the Supreme Court, although it is not part of the judicial branch. The Tribunal's statutory regime is set out in Articles 22 and 23 of Law No. 19.886. The Tribunal's judges do not deal exclusively with its cases. The number of months that the courts, including the Tribunal, operate throughout the year was changed by Law No. 20.774, which eliminated the judicial recess, so since 2015, the Tribunal has sat for 12 consecutive months of the year. ChileCompra provides the infrastructure, technical

<sup>215</sup> Information from ChileCompra. Viewed at: <https://www.chilecompra.cl/convenio-marco-3/>.

<sup>216</sup> Information from ChileCompra. Viewed at: <https://www.chilecompra.cl/comprascoordinadas/>.

<sup>217</sup> Viewed at:

<https://www.bcn.cl/leychile/navegar?idNorma=1141363&idParte=10093986&idVersion=2020-01-21>.

<sup>218</sup> Information from ChileCompra. Viewed at: <https://www.chilecompra.cl/compraagil/>.

<sup>219</sup> Information from ChileCompra. Viewed at: <https://datos-abiertos.chilecompra.cl/organismos-compradores>.

<sup>220</sup> Information from the Public Procurement Tribunal. Viewed at: <https://www.tribunaldecontratacionpublica.cl/>.

support, and human and material resources needed for the proper functioning of the Tribunal. Natural or legal persons with a proven interest in a procurement procedure may submit an application to the Tribunal challenging the award within 10 working days from the time when the contested act or omission became known or was published. After the Tribunal has agreed to hear the challenge, it may decree the suspension of the procurement procedure. The Tribunal subsequently issues a final ruling on the legality or arbitrariness of the act or omission challenged and orders the necessary corrective measures. An appeal may be made against the Tribunal's rulings to the Appeals Court in Santiago.

3.239. The MOP organic law (DFL No. 850 of 1997) and the Regulations on Public Works Contracts (Supreme Decree No. 75 of 2004, as amended by Decree No. 810 of 2008) set out the rules to be followed for public works contracts. The Law on Public Works Concessions (Supreme Decree No. 900 of 1996 of the MOP) and its implementing regulations (DS No. 956 of 1997) regulate the procurement of public works under the system of concessions to private entities.<sup>221</sup> However, Chile does not have a unified regulatory framework that fully regulates the contracting and awarding process for public works contracts. The procurement processes of MOP and MINVU are governed by their own special regulations, as described above, whereas public works tenders of bodies other than these ministries, such as municipalities and health services, do not have their own special regulations and are governed by Law No. 19.886 and its implementing regulations.

### 3.3.7 Intellectual property rights

#### 3.3.7.1 Overview

3.240. Since its last review, Chile has introduced significant legislative reforms aimed at strengthening its intellectual property system, and aligning it with international commitments and international best practices. In particular, in 2021, substantial reforms were introduced to industrial property legislation in order to update it; these changes came into force on 9 May 2022 (see below). As a result of Chile's commitments under bilateral agreements with various trading partners, protection of intellectual property rights (IPRs) in Chile in some cases goes beyond the obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), for instance, as regards copyright and industrial property rights.

3.241. Chile is a member of the World Intellectual Property Organization (WIPO) and is a signatory to most WIPO-administered treaties. It is also a member of the International Union for the Protection of New Varieties of Plants (UPOV). Since its previous trade policy review in 2015, Chile has acceded to the Madrid Protocol (4 April 2022) and ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (10 May 2016) (Table 3.18).

**Table 3.18 WIPO treaties to which Chile is party, 2023**

Treaty	Instrument	In force
Rome Convention	Ratification: 5 June 1974	5 September 1974
Phonograms Convention	Accession: 15 December 1976	24 March 1977
Berne Convention	Accession: 9 April 1970	5 June 1970
Brussels Convention	Accession: 8 March 2011	8 June 2011
Paris Convention	Accession: 13 March 1991	14 June 1991
WIPO Convention	Accession: 25 March 1975	25 June 1975
UPOV Convention	Accession: 5 December 1995	5 January 1996
Madrid Protocol	Accession: 4 April 2022	4 July 2022
Beijing Treaty on Audiovisual Performances	Ratification: 22 June 2015	28 April 2020
Budapest Treaty	Accession: 5 May 2011	5 August 2011
Patent Cooperation Treaty	Accession: 2 March 2009	2 June 2009
Marrakesh Treaty for Visually Impaired Persons	Ratification: 10 May 2016	30 September 2016
Nairobi Treaty	Ratification: 14 November 1983	14 December 1983
WIPO Copyright Treaty	Ratification: 11 April 2001	6 March 2002

<sup>221</sup> MOP's rules can be viewed at: <https://www.mop.gob.cl/>.

Treaty	Instrument	In force
WIPO Performances and Phonograms Treaty	Ratification: 11 April 2001	20 May 2002
Trademark Law Treaty	Accession: 5 May 2011	5 August 2011

Source: WIPO. Viewed at:

[https://www.wipo.int/wipolex/en/treaties/ShowResults?start\\_year=ANY&end\\_year=ANY&search\\_where=C&country\\_id=36C&treaty\\_all=ALL](https://www.wipo.int/wipolex/en/treaties/ShowResults?start_year=ANY&end_year=ANY&search_where=C&country_id=36C&treaty_all=ALL).

3.242. The creation and implementation of intellectual property policies, as well as the granting, recognition, registration and administration of various intellectual property rights is the responsibility of a number of specialized state administration agencies. These include the National Industrial Property Institute (INAPI) of the Ministry of Economic Affairs; the Seeds Department of the Agriculture and Livestock Service (SAG) and the Office for Agricultural Studies and Policy Development (ODEPA) of the Ministry of Agriculture; the Public Health Institute (ISP) of the Ministry of Health; and the Copyright Unit, Cultural Heritage Service (SMPC) and National Council of Culture, the Arts and Heritage of the Ministry of Culture, the Arts and Heritage (MINCAP) (Table 3.19).

**Table 3.19 Intellectual property rights and administering institutions**

	INAPI	MINAGRI SAG ODEPA	MINSAL ISP	MINCAP SMPC	Council of Culture
Patents for inventions	X				
Utility models	X				
Layout designs of integrated circuits	X				
Copyright				X	X
Plant varieties		X			
Trademarks	X				
Appellations of origin	X	X			
Geographical indications	X	X			
Industrial drawings and designs	X				
Trade secrets	X				
Undisclosed information	X	X	X		
Traditional knowledge and genetic resources		X			X

Source: INAPI. Viewed at:

<https://www.inapi.cl/propiedad-intelectual-e-industrial/para-informarse/derechos-de-propiedad-intelectual-y-las-instituciones-que-los-administran>.

3.243. The National Industrial Property Institute (INAPI) – established by Law No. 20.254, published on 14 April 2008 and in force since 2009 – is the autonomous, technical and legal body responsible for the administration and management of industrial property services (trademarks, patents, utility models, industrial drawings and designs, integrated circuits, geographical indications, appellations of origin, trade secrets and undisclosed information). INAPI is the body responsible for handling all administrative matters relating to the recognition and validity of the registration protection granted by law to industrial property. In this respect, it is responsible for the registration and promotion of industrial property rights and maintains a database where applications and/or registrations of trademarks and patents may be viewed.<sup>222</sup> INAPI is also tasked with promoting industrial property protection and distributing technological resources and the information it has at its disposal. INAPI also regulates all aspects pertaining to industrial and business secrets and undisclosed information, which are not subject to a registration system, as well as traditional knowledge and genetic resources.

3.244. INAPI is subject to oversight by the President of the Republic, through the Ministry of Economic Affairs, Development and Tourism. It is also the advisory and consultative body to the President of the Republic on matters related to industrial property and is responsible for, *inter alia*, proposing, through the Ministry of Economic Affairs, Chile's accession to international treaties on industrial property. INAPI's mission is to strengthen the national industrial property system by protecting rights, disseminating knowledge and promoting a balanced and comprehensive view of industrial property, in order to contribute to the economic and social development of Chile. INAPI incorporates considerations relating to environmental impact (energy consumption, recycling,

<sup>222</sup> INAPI's database can be consulted at: <https://ion.inapi.cl/Patente/ConsultaAvanzadaPatentes.aspx> (patents); <https://ion.inapi.cl/Marca/BuscarMarca.aspx> (trademarks).

carbon footprint measurement), inclusion measures and the timely payment of suppliers in all its processes.<sup>223</sup>

3.245. In regards to copyright and related rights, it is the responsibility of the Ministry of Culture, the Arts and Heritage, created by Law No. 21.045 of 3 November 2017, to promote the respect and protection of copyright and related rights and the enforcement thereof in all areas of cultural relevance, while also fostering their dissemination. One of the principles governing the Law is respect for the rights of creators and culturists, and specific reference is made to promoting the rights of creators in the field of intellectual property (Article 1.7). Accordingly, the Copyright Unit, attached to the Under-Secretariat for Culture and the Arts, began operating in 2019, assuming the functions that Law No. 21.045 grants to the Ministry in the area of copyright. The Department of Intellectual Rights (DDI), which belongs to the National Cultural Heritage Service of the Ministry of Culture, the Arts and Heritage, maintains the Intellectual Property Register and is the body responsible for following up on these issues. The DDI's mission is to manage the state registration system for copyright and related rights, to offer services to the public and respond to queries from users regarding all matters pertaining to registration and other matters within its remit, and to conserve the fixation of the intellectual productions that make up its collections, thereby contributing to the formation, development and sustainability of a national culture of respect for intellectual property rights relating to literary, artistic and scientific works.<sup>224</sup>

3.246. SAG is one of bodies responsible for monitoring compliance in respect of matters such as the protection of new plant varieties, the authorization of agrochemicals and of medicines exclusively for veterinary use, information on which has been protected as undisclosed information, and the regulation of the appellations of origin Pisco, Pajarete and Vino Asoleado, and those referring to viticultural zoning. SAG's Department of Seeds and Plants deals with applications for the protection of new plant varieties, while its New Plant Variety Assessment Committee grants registration for them. SAG's Department for the Regulation and Control of Agroforestry Products and Inputs is responsible for registering agrochemicals, information on which has been protected as undisclosed information.

3.247. The Public Health Institute (ISP) keeps the register of medicines, and is responsible for the safekeeping of information that has been protected as undisclosed information.

3.248. The Interministerial Intellectual Property Committee is the informal mechanism for the coordination and exchange of information between different public sector entities that deal with intellectual property. The Committee is headed by the Ministry of Foreign Affairs and is composed of various agencies and/or departments of the Ministries of Economic Affairs, Health, Agriculture, and Culture, the Arts and Heritage, the ISP and the National Customs Service. The Committee coordinates the national position in international forums and facilitates the implementation of the international commitments undertaken by Chile.

3.249. INAPI is a body of first instance in opposition proceedings involving applications for trademarks, patents, utility models, industrial drawings and designs, trade secrets, the protection of undisclosed information, integrated circuits, geographical indications and appellations of origin, the cancellation of the aforementioned rights, and registration transfers, as well as any other claim relating to the validity or effects of the protection of the rights referred to in that legal body and brought by parties interested in such matters.

3.250. The Industrial Property Tribunal, a special tribunal established by Article 17 *bis* C of Law No. 19.039 on industrial property, is the court of second instance responsible for hearing appeals against "final or interlocutory decisions" issued by the National Director of INAPI, as a court of first instance.<sup>225</sup> The Industrial Property Tribunal also hears in second-instance disputes relating to oppositions and cancellations concerning plant varieties registered with SAG. Appeals against the Tribunal's rulings may be made to the Supreme Court. Infringements of rights relating to industrial property, intellectual property and registered plant varieties are also brought before the ordinary civil or criminal courts. The Tribunal is governed by Law No. 19.039, its implementing regulations and amendments thereto. The reasons are given in accordance with the rules contained in the Code

<sup>223</sup> INAPI. Viewed at: <https://www.inapi.cl/acerca-de/inapi>.

<sup>224</sup> Information provided by the DDI. Viewed at: <https://www.propiedadintelectual.gob.cl/>.

<sup>225</sup> INAPI. Viewed at: <https://www.inapi.cl/propiedad-intelectual-e-industrial/para-informarse/tribunal-de-propiedad-industrial>.



of Civil Procedure. The Tribunal is composed of six members and four alternates, appointed by the President of the Republic from a short list proposed by the Supreme Court. Four of the selected members and two of the alternates are required to have specialist knowledge of industrial property. The President of the Tribunal is elected by the members of the Tribunal. The members and alternate members of the Tribunal serve for three years, and may be appointed for successive periods.<sup>226</sup>

3.251. The trade agreements signed by Chile generally include special chapters on intellectual property.<sup>227</sup> Some contain provisions on geographical indications or enforcement measures.<sup>228</sup> Chile has also signed agreements with the European Union on trade in wines and spirits, which are annexed to its trade agreement. Both parties have undertaken to provide protection for the geographical indications listed in the annexes to the agreements and to refrain from using certain generic indications and trademarks that are identical or similar to those of the other party.

3.252. Chile has notified the WTO of the texts of its intellectual property laws and regulations, as well as the amendments thereto. However, the most recent notifications were in 2009.<sup>229</sup> Since then, no new notifications have been made. For example, the significant changes adopted in Chile's industrial property legislation in 2021, which came into effect in 2022, have not been notified to the TRIPS Council; nor have previous amendments been notified.<sup>230</sup> During the review period, Chile continued to participate in the work of the TRIPS Council and issued several joint communications with other WTO Members. These statements focus, in particular, on matters such as the role of intellectual property in the financing of startups; intellectual property, innovation and microfinancing; women and intellectual property; intellectual property and innovation; intellectual property for investment and financing; and making MSMEs competitive in green tech.<sup>231</sup>

3.253. Chile's legislation provides for the international exhaustion of rights. The country therefore allows parallel imports for all industrial and intellectual property rights. Patents do not give the right to prevent third parties from marketing the product covered by the patent if they legitimately acquired it after the product was legally introduced into trade in any country by the patent holder or by a third party, with their consent. Likewise, the registration of a trademark does not authorize the holder to prohibit third parties from using it for products legitimately marketed in any country by the holder or with their explicit consent. As regards copyright and related rights, the legislation provides that the first sale or other transfer of ownership in Chile or abroad exhausts the right of national and international distribution in respect of the original or the transferred copy of the protected work.

### 3.3.7.2 Overall legal framework

3.254. The WTO TRIPS Agreement was incorporated into Chile's legislation by Ministry of Foreign Affairs Supreme Decree No. 16 of 5 January 1995. Chile's legislation covers all the categories of intellectual property provided for in the TRIPS Agreement, as well as areas negotiated within the framework of bilateral agreements. During the review period, Chile made subsequent amendments to its industrial property legislation.

<sup>226</sup> INAPI. Viewed at: <https://www.inapi.cl/propiedad-intelectual-e-industrial/para-informarse/tribunal-de-propiedad-industrial>.

<sup>227</sup> This applies to the Association Agreement with the European Union; the agreement with the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland); the free trade agreements with Mexico, Türkiye, Uruguay, Australia, the Republic of Korea and the United States; the economic partnership with the P4 (Brunei Darussalam, New Zealand and Singapore); the Economic Complementarity Agreement with Cuba; the Economic Partnership Agreement with Japan; and the CPTPP.

<sup>228</sup> This applies to the agreements with Canada; Central America; China; Hong Kong, China; Malaysia; Panama; Viet Nam; Thailand; Indonesia; the United Kingdom; and the Digital Economy Partnership Agreement (DEPA).

<sup>229</sup> WTO documents IP/N/1/CHL/I/7 of 7 September 2009; IP/N/1/CHL/I/8 of 7 September 2009; and IP/N/1/CHL/I/9 of 7 September 2009.

<sup>230</sup> For example, amendments to Law No. 17.336 on intellectual property (copyright) by Law No. 20.435 of 4 May 2010; Supreme Decree No. 425 of 24 May 2011; Supreme Decree No. 277 of 28 October 2013; and Law No. 20.750 of 29 May 2014.

<sup>231</sup> WTO documents IP/C/W/692 of 29 September 2022; IP/C/W/686 of 25 February 2022; IP/C/W/685, IP/C/W/685/Add.1, IP/C/W/685/Add.2 of 14 October 2021; IP/C/W/679 of 27 May 2021; and IP/C/W/675 of 26 February 2021.



### 3.3.7.3 Industrial property

#### 3.3.7.3.1 Legislation

3.255. The principal legislation on industrial property can be found in Industrial Property Law No. 19.039, which was revised, coordinated and consolidated in Decree with Force of Law (DFL) No. 4 of 2022, published on 6 August 2022, and its implementing regulations (Decree No. 236 of 2005), which were amended by Decree No. 82 of 2021 approving the regulations implementing Industrial Property Law No. 19.039 and published on 9 May 2022.

3.256. The most recent amendment to the Law was made through Law No. 21.355 of 5 July 2021, also known as the INAPI Short Law. This amendment entered into force on 9 May 2022, through the publication, also in May 2022, of Decree No. 82 containing the implementing regulations. All of the amendments are included in DFL No. 4.

3.257. The INAPI Short Law introduced major amendments to the Industrial Property Law; they relate mainly to the introduction of provisional patent applications, exceptions to patentability, the expiration of unused trademarks, the registration of trademarks for industrial property and a broader definition of what constitutes a trade secret, as well as changes to the regulations applicable to geographical indications and appellations of origin. In its summary concerning the amendments to the Industrial Property Law and to Law No. 20.254 establishing INAPI, the Ministry of Economic Affairs, Development and Tourism noted that the changes had been made "with a view to making adjustments to the industrial property system through the introduction of measures that will contribute to investment and production, while fostering innovation and entrepreneurship" and that "in this way, the provisions are in place to better protect and enforce the industrial property rights of users of the system, providing them with more streamlined procedures while also equipping INAPI with more efficient and effective granting mechanisms".<sup>232</sup> A summary of the main changes introduced through Law No. 21.355 amending Industrial Property Law No. 19.039 and Law No. 20.254 establishing INAPI, enacted on 22 June 2021 and published on 5 July 2021, is provided in Box 3.2.

#### Box 3.2 Main points of Law No. 21.355

The key amendments set out in Law No. 21.355 are as follows:

##### (1) Notifications

The Law stipulates that all notifications relating to the granting of industrial property rights, oppositions, cancellations and any other matter brought before INAPI will be issued through the official daily statement.<sup>3</sup> It also authorizes notifications of opposition to a registration application to be issued via the electronic channel selected by the applicant.

To be able to receive notification of an application to cancel a registration or declare it invalid, foreign applicants must have a domicile in Chile, failing which their agent or representative will be notified. The Industrial Property Tribunal issues notifications through the official daily statement.

##### (2) Payment of fees

INAPI is now authorized to issue a filing date for a patent application, even when payment of the filing fee has not been received, subject to the conditions and penalties provided for by the Law.

An additional fee is charged for patent applications exceeding 80 pages. It is charged on every 20 extra pages or part thereof.

Rights holders can now opt to pay fees on an annual basis during the second 10-year term of the patent, during the second five-year term for utility models and layout designs and topographies of integrated circuits, and during the second and third five-year terms for industrial drawings and designs.

The Law stipulates that fees already paid cannot be refunded.

##### (3) Registration, use and other aspects of commercial trademarks

It is no longer possible to register names of commercial or industrial establishments as trademarks; this concept has been replaced with Class 35 (services involving business management, operation, organization and administration of a commercial or industrial enterprise, as well as advertising, marketing and

<sup>232</sup> Law No. 21.355 amending Industrial Property Law No. 19.039 and Law No. 20.254 establishing INAPI. Summary. Viewed at: <https://www.bcn.cl/leychile/navegar?idNorma=1162253>.

promotional services) and Class 40 (services rendered by the mechanical or chemical processing, transformation or production of objects or inorganic or organic substances) trademarks.

Other signs, such as smells and non-traditional, three-dimensional forms, can now be registered as trademarks.

The regulations governing collective and certification marks have also been updated.

The Law now stipulates that the rights conferred on holders of registered trademarks do not in any way prevent another person from exercising the right to use, in the course of their business operations, their name or pseudonym or the name of their predecessor in business, except where the name is used in such a manner as to mislead or confuse the public.

The time frame and procedure for renewing commercial trademarks has also been amended.

The Law now includes grounds for the total or partial cancellation of a registered trademark, such as its real and effective non-use, under certain circumstances and subject to certain conditions.

Trademark counterfeiting is now punishable with a short prison sentence. In addition, where trademark counterfeiting has occurred, damages may be replaced with a one-off compensatory amount determined by the court based on the seriousness of the infringement but not exceeding 2,000 UTM per infringement (USD 158,000).

#### **(4) Patents for inventions**

A provisional patent application has been introduced, with the provisional patent recognized by INAPI for a 12-month period, subject to payment of the corresponding fee.

Exemptions have been introduced for invention patents. The patent does not entitle the owner to prevent third parties from importing, exporting, manufacturing, producing or using the patented material for the sole purpose of obtaining the sanitary registration or authorization for a pharmaceutical, agrochemical or other product. The Law also sets out activities and situations that constitute exemptions to the rights conferred by patents.

The Law now includes the option of taking patent usurpation action, entitling legitimate patent owners to bring a request before a civil judge for the transfer of the patent registration and the payment of damages.

A time limit has also been set for filing applications for supplementary patent protection in the circumstances and conditions laid down in the Law; the term of the supplementary protection cannot exceed five years.

The processing of industrial design registrations has been streamlined, and the term of registration has been extended from 10 to 15 years.

#### **(5) Service inventions**

The Law stipulates that disputes relating to these inventions must be resolved promptly and briefly by the ordinary courts and are no longer brought before and settled by the Industrial Property Tribunal.

#### **(6) Trade secrets**

The definition has been broadened, provided that certain requirements are also met.

#### **(7) Geographical indications and appellations of origin**

Changes have been made to the regulations applicable to geographical indications and appellations of origin.

#### **(8) INAPI powers**

INAPI is now authorized to raise funds through national and international agreements.

In judicial matters, INAPI can now be recognized as a party in appeals against the final rulings handed down in proceedings brought before INAPI.

#### **(9) Enforcement**

Pre-established damages are now provided for in the event of trademark counterfeiting, in keeping with Chile's international commitments (Chile-United States Free Trade Agreement), and trademark counterfeiting is now a criminal offence.

- a Article 50 of the Code of Civil Procedure defines the official daily statement (*estado diario*) as the form of notification for certain judicial rulings; it is contained in an electronic document that is posted temporarily on the judiciary's website.

Source: Law No. 21.355 amending Industrial Property Law No. 19.039 and Law No. 20.254 establishing INAPI. Summary. Viewed at: <https://www.bcn.cl/leychile/navegar?idNorma=1162253>.

3.258. As illustrated in Box 3.2, under the reforms to Law No. 19.039, various operational and procedural improvements have been made to the industrial property system: notifications can now be issued electronically; the fee payment schedule for registrations managed by INAPI has been modified; a filing date can now be issued without immediate payment of the application fee being required; the fees for maintaining the patent for additional 10- or five-year terms can be paid either all at once (previous system) or on an annual basis; and provisional patent applications can be filed by individual universities and inventors. In addition, application of the standard set out in the Patent Cooperation Treaty (PCT) was extended, and the legal basis was established for the use of the WIPO Digital Access Service (DAS) for the recognition of international certification.

3.259. One key reform is that it is now possible to register additional signs, such as olfactory, three-dimensional, holographic and position marks, as trademarks. In addition, trademarks in connection with commercial and industrial establishments can no longer be registered; trademarks can now be rendered invalid if they are not used; and the time limit for filing a request to renew a trademark has been modified. Other key reforms concerning industrial drawings and designs are the extension of the term of registration from 10 to 15 years and the introduction of a certificate of deposit, which can be issued without the application having to go through the substantive examination procedure. Other reforms include: the explicit recognition of certain exemptions to the rights of trademark and patent owners specifying certain uses by third parties that are not deemed infringements; improvements to the regulations applicable to collective and certification marks, trade secrets and geographical indications and appellations of origin; the setting of a maximum term for the supplementary protection of patents; and the introduction of patent usurpation action. Another major change is that disputes relating to service inventions are now under the jurisdiction of the ordinary courts, whereas before they were heard by the Industrial Property Tribunal. In terms of enforcement, pre-established damages have been established for trademark counterfeiting, which has also become a criminal offence.

3.260. Under the reforms brought in by Law No. 20.254, INAPI can, in exceptional circumstances, be recognized as a party in appeals against the final rulings handed down in INAPI proceedings. INAPI's powers to raise funds through national and international agreements have also been expanded.

3.261. In 2012, INAPI was designated by WIPO as the International Searching Authority (ISA)/International Preliminary Examination Authority (IPEA) for the purposes of the PCT. It commenced its activities as an ISA/IPEA in October 2014.<sup>233</sup> INAPI is a member of the Latin American Intellectual Property and Gender Network launched in June 2021. The aim of the Network is to promote and position intellectual property in order to bridge gaps and achieve gender equity, by facilitating the sharing of good practices and experiences among national intellectual property offices in the region, thereby enabling the development and strengthening of capacities in this area, which in turn will benefit both the offices themselves and those using their services.<sup>234</sup>

### 3.3.7.3.2 Patents, utility models and industrial designs

3.262. Patents, utility models and industrial designs are governed by Industrial Property Law No. 19.039, which was revised, coordinated and consolidated in DFL No. 4 of 2022. A patent is defined as any product or process that is new, involves an inventive step and has industrial applications. The protection lasts for 20 years from the filing date. The owner may apply for a supplementary period of protection if there were unjustified administrative delays in the patent granting process, and if the patent was granted more than five years after the filing date or three years after the examination request, whichever is later. Supplementary protection can only be granted for the length of the unjustified administrative delay and for a period of no more than five years; it is granted by the Industrial Property Tribunal. Provisional patents can be granted for 12 months in cases where a person has an invention but does not yet meet all of the requirements for filing a patent application with INAPI.

3.263. The following cannot be patented: scientific theories, business plans, and mathematical, surgical, therapeutic or diagnostic methods; plants and animals (except microorganisms) and

<sup>233</sup> Information from INAPI. Viewed at: <https://www.inapi.cl/pct>.

<sup>234</sup> INAPI (2022), INAPI report 2022, *Fostering innovation and entrepreneurship through industrial property*. Viewed at: [https://www.inapi.cl/docs/default-source/2022/cuenta-publica/reporte-inapi/reporte\\_inapi\\_2022-versi%C3%B3n-final-para-publicar.pdf?sfvrsn=31b77076\\_2](https://www.inapi.cl/docs/default-source/2022/cuenta-publica/reporte-inapi/reporte_inapi_2022-versi%C3%B3n-final-para-publicar.pdf?sfvrsn=31b77076_2).

essentially biological processes for the production of plants and animals (other than microbiological processes); and parts of living beings as encountered in nature and natural biological processes and materials. Protection is not granted if an invention is contrary to public order, security, morality, the health of persons, animals or plants, or the environment.

3.264. The Law defines utility models as instruments, devices, tools, appliances and objects or parts of objects from whose shape or structure a claim can be made, in both its external appearance and its function, and provided that some sort of utility is created, which is to say that it brings a previously non-existent benefit, advantage or technical effect to the area of use for which it is intended. The utility model must be new and have industrial applications. Protection is granted for 10 years from the filing date and is not renewable. The same exemptions apply as for patents.

3.265. Industrial drawings and designs are protected for up to 15 years from the filing date. Industrial designs are any three-dimensional form, coloured or not, and any industrial or craft product that serves as a pattern for the manufacture of others like it and is distinguished from similar products either by its form, geometrical shape or decoration, or a combination of these, insofar as those characteristics give it a special appearance, including packaging. Industrial drawings are any arrangements, collections or combinations of figures, lines or colours developed on a plan or diagram for incorporation in an industrial product for the purpose of decoration and to give said product a new appearance, including generic prints, fabrics or laminates. A deposit system is in place that provides reduced protection without the need for a substantive examination of the application until requested by the applicant or a third party. Designs or drawings whose appearance is dictated entirely by technical or functional considerations, with no input from the designer, cannot be registered. Articles of clothing cannot be registered as industrial designs.

3.266. Since its previous review, Chile has introduced major changes to Law No. 19.039 that affect the patent regime.<sup>235</sup> One such amendment is the introduction of a provisional patent, which makes it possible to apply for a patent without meeting all of the requirements of the standard patent application process; the provisional patent gives the holder priority in applying for a standard patent for the 12 months following the filing date. The provisional patent application does not require the submission of claims, but rather a clear and complete description in English or Spanish of the invention, and a drawing, if applicable. The provisional patent can be used as the basis for a standard domestic patent application or for an application through the PCT system. The reforms also cover patent usurpation, allowing the legitimate owner of a patent to request, throughout the registered patent's period of validity, the recovery of the right associated with their invention through the ordinary civil courts. In this case, ownership of the patent registration can be transferred to the legitimate owner, and damages can be claimed. Additional restrictions have been introduced for the supplementary protection afforded in the event of delays in the granting process: the term for applying for such protection has been reduced from six months to 60 days from the patent approval date, and the protection can be extended for no more than five years, regardless of the length of the unjustified delay.

3.267. For industrial drawings and designs, the reform extends the term of legal protection to a maximum of 15 years from the filing date. After the end of the first five-year registration period, the owner can also now opt to pay the registration maintenance fee on an annual basis, with the associated right lasting for as many years as the payment is made, up to a maximum of 10 years following the initial five-year period.

3.268. Applications for patents for inventions, utility models, industrial designs, industrial drawings or layout designs or topographies of integrated circuits are submitted online via the INAPI website, along with the technical documentation required for each application type and payment of 1 UTM. In exceptional cases where the applicant is unable to access INAPI's Internet portal, the application can be filed in person at the user support office, using Form FPI 40 "Patent Registration Application", together with the relevant technical documentation. Once an application has been filed, INAPI will carry out checks and a preliminary examination. If there are observations, the applicant must respond within 60 working days. If there are no observations, the application is accepted and must be published by the applicant along with the application extract issued by INAPI. During the

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<sup>235</sup> DFL No. 4 of 2022, enacted on 30 June 2022 and published on 6 August 2022, and its implementing regulations (Decree No. 236 of 2005), which were amended by Decree No. 82 of 2021 approving the regulations implementing Industrial Property Law No. 19.039, enacted on 29 October 2021 and published on 9 May 2022, revise, coordinate and consolidate Law No. 19.039.

preliminary examination, the applicant can request to suspend national publication of the application for up to 18 months for invention patents and utility models and up to six months for industrial drawings and designs. The request must be made on the grounds that publishing the application in Chile would damage the applicant's legitimate interests abroad. Once the deadline has passed, INAPI orders the application extract to be published in the Official Journal. Within 45 days of publication, any interested party may lodge an objection to the application, on the grounds that the application does not comply with one or several patentability requirements; the process then becomes a litigious procedure. If no objection has been filed at the end of the 45-day period, INAPI will decide on the amount of the expertise fee, which must be paid within 60 working days, with the applicant providing proof of payment on the INAPI website.<sup>236</sup>

3.269. Compulsory licences can be granted under certain circumstances. In the case of patents, a compulsory licence may be granted if the patent's owner has been found guilty of anti-competitive conduct or practices pursuant to a decision by the Competition Tribunal; for reasons of public health, national security, non-commercial public use, national emergency or other extremely urgent situations; or if the compulsory licence is needed to work a subsequent patent that cannot be worked without infringing a prior patent, subject to certain conditions.<sup>237</sup> As at July 2023, no compulsory licences have been requested or granted in Chile in any technological or industrial sector.

3.270. In 2016, INAPI signed Patent Prosecution Highway (PPH) agreements with the patent offices of members of the Cooperation System on Management Information and Industrial Property (PROSUR) and the Pacific Alliance, as well as with Canada. These agreements provide for a fast track procedure when evaluating a patent application that has already been submitted and approved in another country. Agreements are currently in place with the Pacific Alliance countries (Chile, Colombia, Mexico and Peru), China and the countries that make up the Global PPH.<sup>238</sup> In 2021, 61 patent applications were filed with INAPI under one of INAPI's PPH agreements.

3.271. During the period 2016–22, there was a significant increase in the number of applications for trademarks and industrial drawings and designs, while the average number of patent applications declined. On average, trademark applications recorded the greatest increase, up 24% in 2022 compared with 2015 (Table 3.20); however, they rose by more than 50% over 2020 (+40%) and 2021 (+62%) combined, which, according to the authorities, corresponds to the period when there were COVID-19-related restrictions on people's movement in the country. In 2021, 89% of the patent applications received were submitted by non-residents. The highest concentrations of patent applications were in the following fields in 2021: pharmaceuticals (30.7%), biotechnology (17.4%), processed organic products (15.3%), materials chemistry (10.5%), other special machinery (7.3%), chemical engineering (7.3%), civil engineering (5.8%), materials handling (5.6%), food chemistry (5.4%), materials, metallurgy (5.0%).<sup>239</sup>

**Table 3.20 Applications for industrial property rights received by INAPI, 2015–22**

Year/IPR	2015	2016	2017	2018	2019	2020	2021	2022	2016–22
Patents	3,271	2,907	2,891	3,098	3,239	2,813	3,082	3,184	3,131
Utility models	106	110	145	141	136	157	113	116	131
Trademarks	42,699	45,024	45,059	47,404	46,987	60,001	69,180	56,377	52,862
Industrial drawings/ designs	405	401	438	602	528	459	388	534	479

Source: INAPI statistics. Viewed at: <https://www.inapi.cl/estadisticas/patentes>.

<sup>236</sup> INAPI (2023), *Guía para Usuarios Tramitación y Conceptos Prácticos sobre el Sistema de Propiedad Industrial en Chile en el Marco de la Implementación de la Ley N° 21.355*. Update: January 2023. Viewed at: [https://www.inapi.cl/docs/default-source/2023/centro-de-documentacion/libros-y-reportes/guia\\_para\\_usuarios\\_inapi\\_2023.pdf?sfvrsn=f99081b9\\_2](https://www.inapi.cl/docs/default-source/2023/centro-de-documentacion/libros-y-reportes/guia_para_usuarios_inapi_2023.pdf?sfvrsn=f99081b9_2).

<sup>237</sup> Article 51 of Law No. 19.039 (revised, coordinated and consolidated text).

<sup>238</sup> The offices making up the Global PPH are those in Australia, Austria, Canada, Chile, Colombia, Denmark, Estonia, Finland, Germany, Hungary, Iceland, Israel, Japan, the Republic of Korea, New Zealand, Norway, Peru, Poland, Portugal, the Russian Federation, Singapore, Spain, Sweden, the United Kingdom and the United States, as well as the Visegrad Patent Institute (Czech Republic, Hungary, Poland and Slovakia) and the Nordic Patent Institute (Denmark, Iceland and Norway). Further information available from: <https://www.jpo.go.jp/e/toppage/pph-portal/globalpph.html>.

<sup>239</sup> INAPI (2022), INAPI report 2022, *Fostering innovation and entrepreneurship through industrial property*. Viewed at: [https://www.inapi.cl/docs/default-source/2022/cuenta-publica/reporte-inapi/reporte\\_inapi\\_2022-versi%C3%B3n-final-para-publicar.pdf?sfvrsn=31b77076\\_2](https://www.inapi.cl/docs/default-source/2022/cuenta-publica/reporte-inapi/reporte_inapi_2022-versi%C3%B3n-final-para-publicar.pdf?sfvrsn=31b77076_2).

### 3.3.7.3.3 Layout designs or topographies of integrated circuits

3.272. Layout designs or topographies of integrated circuits are governed by Industrial Property Law No. 19.039, which was revised in DLF No. 4 of 2022. The Law protects the three-dimensional arrangement of elements in layout designs or topographies of integrated circuits, designed for their manufacture, provided they are original. Protection is granted for 10 years from the filing date or the date of the first commercial exploitation in any part of the world; it is not renewable. The right does not cover reproductions of layout designs made for private purposes or for evaluation, analysis, research or teaching; acts of commercial exploitation of original layout designs created as a result of the evaluation or analysis of a protected layout design; acts of commercial exploitation of any article incorporating an unlawfully reproduced integrated circuit if the person carrying out such acts did not know that it incorporated an unlawfully reproduced integrated circuit.

### 3.3.7.3.4 Trademarks

3.273. In Chile, trademarks are governed primarily by Industrial Property Law No. 19.039, which was revised in DFL No. 4 of 2022, and its implementing regulations. Trademark protection is granted to any sign – such as words (including names of persons, letters and numbers), graphic elements (such as images, graphics, symbols and colour combinations), sounds, smells and three-dimensional forms – used to distinguish products or services, and any combination of these signs.<sup>240</sup> Promotional and advertising slogans that are attached or relate to a trademarked product or service are also included. The nature of the product or service has no impact on the registration of its trademark. Collective and certification marks are also protected. The following cannot be registered as trademarks: coats of arms; flags; names of States, international organizations or public government services; names of plant varieties; trademarks that are identical or similar to well-known trademarks registered in Chile or abroad; trademarks that are intended to mislead or deceive with respect to the origin, quality or type of product or service; registered geographical indications and appellations of origin; and distinctive signs that are contrary to public order or morality.

3.274. A trademark must be registered for it to be protected. Protection is granted for 10 years from the registration date; it can be renewed for further 10-year periods at the request of the trademark owner. Renewal must be requested in the six months before or after the protection expires. The trademark will expire if, five years after the date of entry in the register, it has not been subject to real and effective use within the national territory by its owner or by third parties with the owner's consent, or if its use has been suspended for that same period. Cancellation of the trademark may also be requested if the trademark has been genericized. In this case, the cancellation cannot be initiated *ex officio* but must be requested by an interested person. The regulations governing the expiry of trademarks apply to trademarks registered on or after 9 May 2022. For trademarks registered prior to that date, the regulations will come into effect five years after the trademark's first renewal after the aforementioned date.

3.275. The amendments made to Law No. 19.039 in 2021 through Law No. 21.355 of 5 July 2021, or the INAPI Short Law, introduced several changes to trademark legislation. The amendments entered into force on 9 May 2022, with the publication of Decree No. 82 of May 2022. The following articles were added in relation to trademarks: Articles 27*bis* A (expiry), 27*bis* B (burden of proof), 27*bis* C (counterclaims) and 27*bis* D. Under the amended law, the registration of trademarks that have not been used for five years can be cancelled at the request of a party. In addition, commercial trademarks registered in Chile must be in effective use in order to remain valid. It is the owner of the registered trademark who is responsible for demonstrating its use. If they fail to do so, the trademark is declared invalid unless the owner can prove that there are valid reasons preventing its use.<sup>241</sup> Trademarks cannot be registered for defensive purposes or to prevent a competitor from entering the market. Under the reform, it is also possible to request the cancellation of a registered trademark if the sign has lost its distinctive character, that is, when the trademark has become the generic name for a product or service.

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<sup>240</sup> For trademarks containing signs, shapes, figures, colours, words, prefixes, suffixes, roots or segments that are commonly used or that may be generic, indicative or descriptive, the protection is granted to the trademark as a whole rather than its individual elements.

<sup>241</sup> Under the Law, valid reasons preventing use include circumstances arising independently of the will of the owner and that constitute an obstacle to the use of the trademark, such as import restrictions on, or other government requirements for, the protected products or services.



3.276. The amendments broaden the definition of a trademark to include non-traditional marks, such as three-dimensional marks and smells. These were not afforded protection in earlier legislation, as they did not meet the graphic representation requirement, which has now been removed. The new legislation also emphasizes the distinctive nature of a trademark as a requirement for registration. Law No. 21.355 removes the possibility of registering commercial and industrial establishments as trademarks but allows those already registered to be renewed as service marks. The amended legislation also includes new offences and penalties for trademark infringement, with trademark counterfeiting becoming a criminal offence punishable with imprisonment. Previous legislation provided only for monetary penalties for intellectual property offences. The manufacture, import, storage and marketing of products or services bearing counterfeited trademarks have also become criminal offences. The new legislation introduces a system of damages in the form of a one-off compensatory sum, the amount of which is directly related to the seriousness of the infringement, up to no more than 2,000 UTM<sup>242</sup> per infringement.<sup>243</sup>

### 3.3.7.3.5 Geographical indications (GI) and appellations of origin (AO)

3.277. In Chile, GIs and AOs are protected by a particular law, through a *sui generis* administrative system or through an international agreement. Legislation governing the protection of GIs and AOs includes: Industrial Property Law No. 19.039, which was revised in DFL No. 4 of 2022; Law No. 18.455 of 1985 (Appellations of Origin); Decree No. 464 of 1994 (Viticultural Zoning), as amended by Decree No. 7 of 2015; Decree No. 56 of 2017; Decree No. 12 of 2020; Decree No. 521 of 1999, as amended by Decree No. 13 of 2020; and Decree No. 108 of 2007 enacting the Protocol to the 2007 World Wine Trade Group Agreement on Requirements for Wine Labelling concerning Alcohol Tolerance, Vintage, Variety, and Wine Regions. Under Chilean legislation, a GI identifies a product as originating from a country, region or area within the country when the quality, reputation or other characteristic of the product is essentially attributable to its geographical origin, while an AO identifies a product as originating from a country, region or area within the country when the quality, reputation or other characteristic of the product is essentially attributable to its geographical origin, but also takes into account the natural and human factors that come into play in the characterization of the product. Protection is indefinite, provided the conditions that led to recognition are still met.

3.278. Products that cannot be recognized as GI or AO products are those that: do not comply with the legal definitions; are contrary to public order or morality; could mislead or confuse the public consumer about the origin of the GI or AO or about the attributes of the products they are intended to distinguish; are common or generic indications used to distinguish the product in question, unless they are recognized as a GI or AO under an international treaty ratified by Chile; share graphic, phonetic or conceptual similarities that could lead to confusion with other previously requested or registered distinctive signs or with an unregistered distinctive sign that was in use prior to the recognition request; or constitute a total or partial reproduction, imitation, translation or transcription of a trademark, AO or GI that is well known in Chile. Cancellation proceedings can be initiated if the product is no longer made in the protected area or if it no longer fulfils the requirements for recognition, with no time limitation. In addition, a GI or AO can be removed from the register if any of the prohibitions laid down by law are breached.

3.279. Under Article 98 of the Industrial Property Law, in order to be registered, an application for a Chilean GI or AO for agroforestry and agroindustrial products requires a favourable report from the Ministry of Agriculture concerning compliance with the requirements laid down in Article 97 of the Law, which is drawn up by the Ministry's Office for Agricultural Studies and Policy Development (ODEPA). A report from the Ministry of Agriculture is also required for foreign GIs and AOs for such products. As at July 2023, 16 geographical indications, 26 appellations of origin, 39 product and service certification marks and 35 collective marks for products and services were registered.

### 3.3.7.3.6 New plant varieties

3.280. Law No. 19.342 of 1994 and its implementing regulations (Decree No. 373 of 1996) governs the protection of new plant varieties that are distinct, homogeneous and stable. Protection is afforded through registration with the Agriculture and Livestock Service (SAG) for a period of 18 years for

<sup>242</sup> 1 UTM was equivalent to USD 75 in March 2023.

<sup>243</sup> Davis Komlos, Agustina, *Ley de Propiedad Industrial chilena: sus cambios y su reglamento*. Viewed at: <https://lexlatin.com/opinion/ley-de-propiedad-industrial-chile-reglamento-cambios>.

trees and vines and 15 years for other species. The protection cannot be renewed. A breeder's right is not infringed if the farmer uses properly acquired reproduction material on their own farm. This material may not, however, be publicized or transferred as seed. The breeder's right over a variety does not prevent another person from using it to create a new variety, without authorization from the breeder of the original variety. If the original variety is to be used permanently for the production of the new variety, however, the breeder's authorization is required. Compulsory licences are granted if the breeder exercises an abusive monopoly on the exploitation or sale of the protected variety.

#### **3.3.7.3.7 Undisclosed information and trade secrets**

3.281. Undisclosed information submitted to the authorities to obtain sanitary registration is protected under Industrial Property Law No. 19.039, which was revised in DFL No. 4 of 2022, as well as under Ministry of Health Decree No. 107/2008 and Law No. 20.169 on unfair competition. By law, when the competent authority requires the submission of undisclosed test-related or other data relating to the safety and efficacy of a pharmaceutical or agrochemical product that uses a new chemical entity not previously approved by that authority, such data must be restricted. Undisclosed data are those data that have been the subject of reasonable measures to maintain them as such and that are not widely known by or readily accessible to individuals in the circles in which that type of information is usually used.

3.282. The Law establishes mechanisms for the protection of undisclosed data by the Public Health Institute and stipulates that the competent authority cannot disclose or use test-related data for a period of five years for pharmaceutical products and 10 years for agrochemical products. Protection is not afforded *inter alia*: (a) if the owner of the test-related data has been involved in conduct or practices deemed contrary to free competition in direct relation to the use or exploitation of that information; (b) for reasons of public health, national security, national emergency or other extremely urgent situations; (c) if the product is subject to a compulsory licence; or (d) if the product is not marketed in the national territory in the 12 months after its registration or sanitary authorization in Chile.

3.283. Trade secrets are protected under Industrial Property Law No. 19.039, which was revised in DLF No. 4 of 2022, and under Law No. 20.169 on unfair competition. Protection is afforded to any undisclosed information that a person has under their control and that can be used for a productive, industrial or commercial activity, provided the information is secret in the sense that: (a) it is not, as a whole or in the exact configuration or combination of its components, widely known by or readily accessible to individuals in the circles in which that type of information is usually used; (b) it has commercial value because it is secret; and (c) it has been the subject of reasonable measures to keep it secret by its legitimate owner. Protection is granted for an indefinite period, provided the three requirements continue to be met.

3.284. Under the reform to the Industrial Property Law, the definition of a trade secret was broadened to include any undisclosed information that a person or enterprise has under its control and that generates competitive advantages in relation to productive, industrial or commercial activities. This means that the definition of a trade secret is no longer limited only to information about industrial processes and products.

#### **3.3.7.4 Copyright**

3.285. The Ministry of Culture, the Arts and Heritage, created by Law No. 21.045, is responsible for the protection of copyright and related rights, for their enforcement in all areas of cultural relevance and for promoting their dissemination. In 2019, the Copyright Unit, under the Under-Secretariat for Culture and the Arts, began operating, assuming the copyright-related functions assigned to the Ministry in Law No. 21.045.

3.286. The Intellectual Property Rights Department (DDI) in the Directorate of Libraries, Archives and Museums (DIBAM) is responsible for the Intellectual Property Register in respect of copyright and related rights and for following up on these matters. The DDI was created by virtue of Article 90 of Intellectual Property Law No. 17.336 of 1970 and since then has been one of the specialized centres belonging to DIBAM. Copyright and related rights must be recorded in the DDI register. The DDI's other missions include providing services to the general public, responding to users' queries

about the register and any other matter under its jurisdiction, and conserving and preserving the fixation of intellectual works.<sup>244</sup>

3.287. Copyright is governed by Intellectual Property Law No. 17.336 of August 1970, as amended by Law No. 21.045 of 3 November 2017 and Decree No. 277 of 2013, which regulates Intellectual Property Law No. 17.336, as amended by Decree No. 7 of 12 April 2022. Other copyright legislation includes, *inter alia*: Decree No. 270 of 2003 enacting the WIPO Copyright Treaty; Decree Law No. 908 of 1975 approving the Berne Convention for the Protection of Literary and Artistic Works; and Decree No. 390 of 1974 approving the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations.<sup>245</sup> During the review period, the following laws and decrees were approved: Decree No. 155 of 2017 enacting the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled; Law No. 21.045 of November 2017 establishing the Ministry of Culture, the Arts and Heritage, as amended by Law No. 21.175 of August 2019 on promoting the performing arts; and Decree No. 122 of 2022 enacting WIPO's Beijing Treaty on Audiovisual Performances. During the review period, the Ministry of Culture, the Arts and Heritage published a copyright guide that covers many issues associated with copyright and related rights in a question-and-answer format.

3.288. Under the Law, the copyright and related rights of literary, artistic and scientific works are protected, including protection for artistic performances, the production of phonograms and broadcasts by broadcasting organizations. Also subject to copyright protection are, *inter alia*, computer programs (software), databases, video games, multimedia works, and engineering and architectural plans. Both the economic and moral rights of the owners of copyright or related rights are protected. Moral rights are only recognized if the owners are natural persons, and they cannot be renounced by the owner.

3.289. Protection is granted throughout the life of the author and for 70 years after their death, or after the first publication or fixation, depending on the type of intellectual work, performance or phonogram production. Protection lasts for 50 years for broadcasts by broadcasting organizations. Title III of Law No. 17.336 sets out a series of exemptions and limitations, and when these apply they concern both copyright and related rights.

3.290. In Chile, automatic protection applies to intellectual works or productions, and registration is voluntary. Copyright law does not protect ideas in and of themselves but rather their expression in a work. As stipulated in Article 1.1 of Law No. 17.336, the Law "protects the rights that, by the mere fact of the creation of the work, are acquired by authors of intellectual works in the literary, artistic and scientific domains, regardless of the form in which it is expressed, along with the related rights determined by it". Although the creation of the work is what generates the protection, and registration in the Intellectual Property Register is not required, in the event of a complaint, being able to include the reference to the registration title or certificate gives more weight to the complaint. Inclusion in the register provides *prime facie* proof that the registered facts and acts are accurate,

<sup>244</sup> By virtue of the amendment to Supreme Decree No. 277 of 2013.

<sup>245</sup> Decree Law No. 1.566 of 1976 approving the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms; Decree No. 56 of 1977 enacting the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms; Decree No. 326 enacting Article 15 of the International Covenant on Economic, Social and Cultural Rights, ratified by Chile on 28 April 1989; Supreme Decree No. 587 of 1993 approving the regulations of the National Fund to Promote Books and Reading, as amended by Decree No. 137 of 2011; Decree No. 75 of 1955 ordering compliance with, and implementation as a law of the Republic of, the Universal Copyright Convention; Decree No. 74 of 1955 ordering compliance with, and implementation as a law of the Republic of, the Inter-American Convention on the rights of the author in literary, scientific and artistic works; Law No. 19.912 of 2003 bringing legislation into line with the WTO Agreements signed by Chile; Law No. 19.981 of 2004 on audio-visual development; Supreme Decree No. 151 of 2005 approving the regulations of the Audio-visual Development Fund; Decree No. 139 of 2003 enacting the WIPO Performances and Phonograms Treaty; Law No. 19.928 of 31 January 2004 on the promotion of Chilean music, as amended by Law No. 21.205 of 2020; Law No. 20.243 of 2008 establishing the rules governing the moral and economic rights of performers over their performances in audio-visual format; Law No. 20.959 of 2016 extending the application of Law No. 20.243; Decree No. 425 of 2010 regulating the procedure for registering intellectual property mediators and arbitrators, the form and specifications for registration and the fees to be paid to mediators and arbitrators, as amended by Decree No. 8 of 2022; Supreme Decree No. 187 of 2011 approving the regulations of the Fund for the Promotion of National Music; and Decree No. 70 of 2011 enacting the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite.

unless proven otherwise.<sup>246</sup> Article 8 of Law No. 17.336 provides for a presumption of ownership of a work and not of authorship, which means that the copyright holder is presumed to be the person who appears as such in the registration, unless proven otherwise.

3.291. The Law distinguishes between original works and derivative works. Under Article 5 of Law No. 17.336, an original work is one that was created initially, while a derivative work is one that results from the adaptation, translation or other transformation of an original work, provided it constitutes a separate creation. Pursuant to Article 9 of the Law, anyone who adapts, translates or transforms a protected original work with the authorization of the original copyright holder will become the copyright holder of the derivative work. When an individual adapts, translates or transforms an original work that is part of the common cultural heritage, they will enjoy all the rights provided for by law for their version. However, they cannot object to others using the same original work to produce different versions of it. The Law allows for the total or partial transfer of copyright or related rights; the transfer must be recorded in the register within 60 days from the date of the conclusion of the transfer or the contract. The transfer must be carried out through a public mechanism or through an authorized private mechanism before a notary.

3.292. Law No. 17.336 contains provisions on the collective management of copyright and related rights.<sup>247</sup> Up until 2019, collective management entities required authorization from the Ministry of Education to engage in their activities. In 2019, the functions relating to collective management entities were transferred from the Ministry of Education to the Ministry of Culture's Copyright Unit. The Ministry of Culture, the Arts and Heritage is now responsible for granting authorization to, and withdrawing it from, collective management entities. These entities are required to provide the Ministry with copies of the reciprocal representation contracts they have signed with foreign management entities. They are obliged to agree, with any person who so requests, to the concession of non-exclusive authorizations for the intellectual property rights they manage, in accordance with the rates they themselves fix through the governing body designated in their statutes. These entities may have different rates for different user categories and may also set alternative tariff plans or special rates by entering into contracts with user associations. If an association representing users of a copyright or related rights has not reached an agreement on the amount of the rates with a collective management entity, this is done through a non-adversarial mandatory mediation procedure. If mediation is unsuccessful, the dispute may be put to arbitration. The rules governing mediation and arbitration procedures are set out in Law No. 17.336. The royalties collected must be shared among the owners of the works or productions used in proportion to their use.<sup>248</sup>

3.293. In 2020, with a view to improving copyright enforcement, a mechanism was set up through an agreement with the Under-Secretariat for Crime Prevention to enable people to report copyright infringements over the phone. In addition, on 5 August 2021, an agreement with the National Chamber of Commerce, Services and Tourism was approved; its aim is to foster joint efforts to promote respect for copyright in the business world. A draft law on technological protection measures has also been drawn up that makes circumvention of technological protection measures punishable by law.

### 3.3.7.5 Enforcement

3.294. Both the Industrial Property Law and Intellectual Property Law contain provisions on infringement of intellectual property rights. During the period under review, the scope of the Industrial Property Law's provisions was expanded to allow prison sentences to be handed down. No amendments were made to the infringement-related provisions of the Intellectual Property Law.

3.295. The Industrial Property Law determines what constitutes an offence against rights pertaining to trademarks, patents, utility models, industrial designs, integrated circuits and geographical indications; it determines the respective fines and authorizes the confiscation, for the benefit of the rights holder, of the tools or elements used to commit the offence, as well as the destruction of the

<sup>246</sup> Information from the DDI. Viewed at: <https://www.propiedadintelectual.gob.cl/faq>.

<sup>247</sup> Articles 91 to 102, Title V, of Law No. 17.336.

<sup>248</sup> The authorized collective management entities are: *Sociedad Chilena de Autores e Intérpretes Musicales*, *Sociedad de Derechos Literarios*, *Entidad de Gestión Colectiva de Derechos de Productores Audiovisuales de Chile*, *Sociedad de Directores Audiovisuales*, *Guionistas y Dramaturgos*, *Sociedad de Gestión de los Creadores de Imagen Fija*, *Corporación de Actores de Chile*, *Entidad de Gestión Colectiva de los Productores de Fonogramas y Videogramas*, and *Corporación de Directores y Guionistas Audiovisuales de Chile*.

articles produced illegally. Law No. 21.335 of 2021 modified the provisions of the Industrial Property Law, with Article 28*bis* amended to introduce the possibility of prison sentences for infringements of industrial property rights. More specifically, it stipulates that anyone who counterfeits a trademark that is already registered for the same products or services, or who produces, introduces into the country, possesses in order to market or markets articles bearing counterfeits of trademarks that are already registered for the same products or services, either for profit or for their commercial distribution, will be punished with short-term imprisonment of minimum to medium length.<sup>249</sup> In addition, anyone who possesses in order to market or directly markets to the public articles bearing counterfeits of trademarks that are already registered for the same products or services will be punished with short-term imprisonment of minimum length. In Chile, up until May 2022, when the amendments to the Industrial Property Law and its implementing regulations entered into force, there were no prison sentences for those who infringed industrial property rights.

3.296. The penalties laid down in the Intellectual Property Law depend on the extent of the injury caused. Terms of imprisonment range from one day to up to 10 years for the most serious cases. Fines range from 5 UTM to 2,000 UTM. If any of the offences covered by the Law are repeated, the maximum penalties applicable to each offence are imposed and the fine may not be less than double the previous fine, with a maximum amount of 2,000 UTM.

3.297. Both the Industrial Property Law and the Intellectual Property Law authorize the use of border measures. In cases where there has been an infringement, or a substantiated suspicion of infringement, of industrial property rights or of copyright and related rights, the rights holder may file a request with the civil courts for the National Customs Service to suspend clearance of the goods. Once clearance has been suspended, the rights holder is given 10 working days following notification of the suspension order to file a claim. The customs authority may also suspend clearance of goods *ex officio* for a maximum of 10 working days if it is obvious that the goods bear a counterfeit trademark or infringe copyright; in such cases, the rights holder must be notified immediately. In 2022, the Nation Customs Service seized 11,828,592 units of goods suspected of infringing trademarks or copyright, worth a total of USD 49,786,093.

3.298. The National Prosecutor's Office (*Ministerio Público*) has exclusive responsibility for leading investigations into acts that constitute offences, including those relating to industrial and intellectual property, and for initiating public criminal proceedings as provided for by law. An investigation can be initiated in response to a complaint, due to the filing of a claim or *ex officio* by the Prosecutor's Office. Chile also has a special police brigade for investigations into infringement of intellectual property (the Intellectual Property Crimes Unit (BRIDEPI)). Together with the National Customs Service, BRIDEPI carries out operations to defend and protect intellectual property rights. The two entities work closely together, sharing information, providing training on trademarks and holding working sessions, among other things.

3.299. In Exempt Resolution No. 1.573 of 1 July 2021, the National Customs Director annulled Exempt Resolution No. 5.026 of 2003 setting out instructions for the application of border measures for the enforcement and protection of intellectual property rights. The new Resolution contains definitions of: (a) goods that infringe copyright, which include any copies made without the consent of the rights holder or any duly authorized person in the country of production when that copy would have constituted an infringement of a copyright or related right in the country of import; and (b) counterfeit trademark goods, which are any goods, including packaging, that bear, without authorization, an industrial or commercial mark that is identical to the trademark validly registered in respect of such goods, or that cannot be distinguished in its essential aspects from such a trademark. The Resolution expands the scope of clearance suspension measures to include any type of handling, processing or other activity carried out at Customs in connection with customs destination declarations, regardless of whether they occur before, during or after said declarations.

3.300. Exempt Resolution No. 1.573 states that clearance suspensions may be applied at the request of a party or *ex officio*, when an infringement has been found to have been committed or where there are good grounds to believe that an infringement is being committed. If the application is filed by a party, it is heard by a civil judge in the location of the Customs at which the customs destination declaration for the infringing or allegedly infringing goods was submitted. Clearance is suspended for 10 working days from the date the individual notifies the customs authority. After this

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<sup>249</sup> Short-term imprisonment of minimum length is 61 to 540 days, while short-term imprisonment of medium length is 541 days to three years and one day.

period, if no notification has been received from the competent court to confirm that the clearance suspension has been upheld, the goods can be released at the written request of the interested party.

3.301. The customs authority also has the power to suspend the customs clearance of goods *ex officio*, when it is obvious from a simple physical examination of the goods that they are counterfeit trademark goods or that they infringe copyright. In this case, the regional directors, or, where applicable, the customs administrators, are required to issue a Clearance Suspension Resolution (RSD), which is sent to the rights holder and the importer electronically. In the notification, the rights holder is requested to provide information about whether the goods under the RSD are counterfeit trademark goods or infringe their copyright and whether they intend to file a complaint or criminal claim concerning the goods under the RSD. The National Customs Service carried out 1,603 IPR infringement proceedings in 2021 and 1,433 in 2022.



## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture, forestry and fisheries

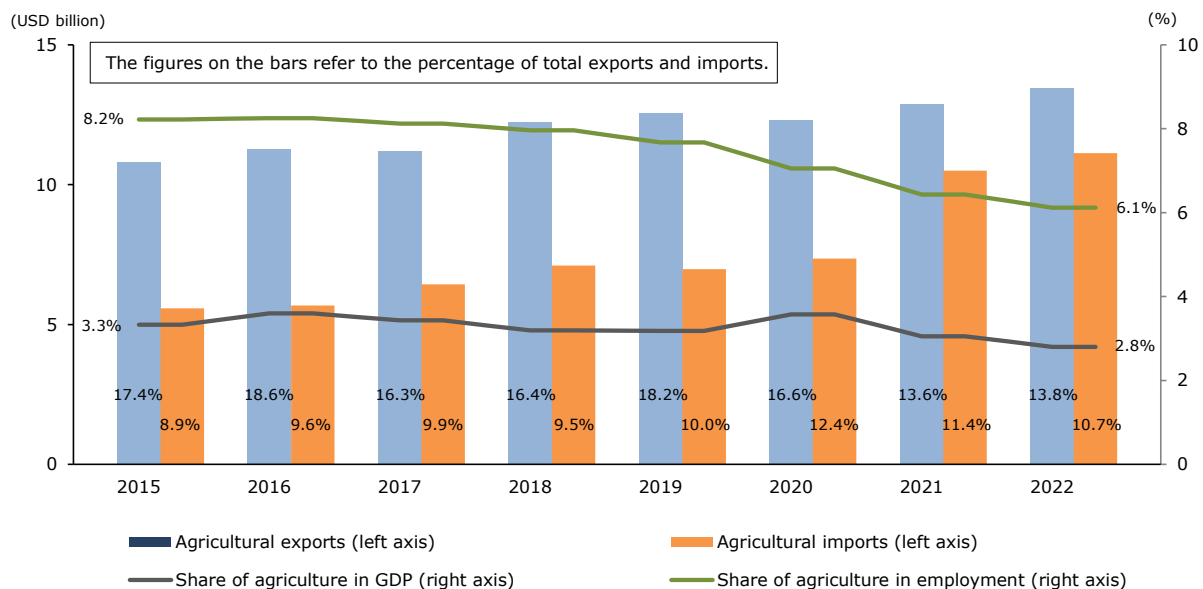
#### 4.1.1 Agriculture and forestry

##### 4.1.1.1 Main features

4.1. Agriculture remains a key sector for Chile in terms of its contribution to employment and exports, as it is the second largest earner of foreign exchange after mining. The two main crops (in hectares) are cereals (mainly wheat, oats, maize and rice) and fruit.<sup>1</sup> The sector's export activity depends mainly on fruit production, and it has a comparative advantage thanks to off-season production in relation to northern hemisphere markets, a modern and secure sanitary safety system and preferential access to a wide network of markets under a variety of trade agreements (Section 2.3.2). Chile is one of the world's leading exporters of grapes, cherries, plums, apples and blueberries.<sup>2</sup>

4.2. In 2022, agricultural GDP (including forestry) amounted to 2.8% of total GDP at current prices (3.3% in 2015) and accounted for 6.1% (8.2% in 2015) of total employment (Chart 4.1). Both indicators showed a downward trend during the period under review, which became more pronounced from 2020 onwards, largely due to the effects of the pandemic. In addition, during the review period, the performance of the agricultural sector sustained prolonged adverse effects as a result of recurrent droughts, particularly in 2019. According to a World Bank study, agriculture is the sector that uses the most water in Chile, making water supply and proper water management one of the most important environmental challenges for the country. The study recommends promoting programmes that encourage efficient water use and wholesale modernization of the distribution infrastructure.<sup>3</sup>

**Chart 4.1 Trade, GDP and employment in the agricultural sector, 2015–22**



Note: The agricultural sector's share of employment also includes fisheries.

Source: WTO Secretariat calculations based on UN Comtrade data and data from the Central Bank of Chile.

<sup>1</sup> Office for Agricultural Research and Policy (ODEPA) (2022), *Informativo Ficha Nacional 2022*.

<sup>2</sup> ODEPA (2018), *Agricultura Chilena, Reflexiones y Desafíos al 2030*, 22 January; and World Bank Group (2021), *Un sector agrícola más resiliente al cambio climático*.

<sup>3</sup> World Bank (2021), *El agua en Chile: elemento de desarrollo y resiliencia*. Viewed at: <https://documents1.worldbank.org/curated/en/857121632811878667/pdf/El-Agua-en-Chile-Elemento-de-Desarrollo-y-Resiliencia.pdf>.

4.3. Chile is a net exporter of agricultural products (WTO definition). During the period under review, the agricultural trade surplus remained relatively steady until 2020, averaging USD 5,206 million. In 2021 and 2022, the surplus more than halved to around USD 2,300 million in both years, due to significant growth in agricultural imports. In 2022, imports of agricultural products totalled USD 11,129 million, almost double their value in 2015 (USD 5,577 million), and accounted for 10.7% of total imports, while exports of agricultural products amounted to USD 13,441 million (USD 10,817 million in 2015) and accounted for around 13.8% of total exports.

4.4. The main agricultural products (WTO definition) exported are fresh and dried fruit, which accounted for roughly half (USD 6,920 million) of agricultural exports in 2022, followed by wines and spirits (14.4%), meat (11.3%) and processed fruit and vegetables (6.1%) (Table A4.1). Their main markets are China and the United States. Between 2015 and 2022, agricultural exports to China more than doubled from USD 1,240 million to USD 3,252 million.<sup>4</sup> During the same period, agricultural exports to the United States market grew by 5%, reaching USD 2,711 million in 2022. Forestry is also an important component of Chilean exports; in 2022, wood pulp exports amounted to USD 2,592 million, or 2.7% of total exports.<sup>5</sup> Chile's main agricultural imports are beef, cereals (mainly maize and wheat) and animal feed and food waste (mainly soybean cake meal).

4.5. Chile's agricultural policy has not changed in any substantial way since the last review<sup>6</sup>, although greater emphasis has been placed on the development of small- and medium-scale agricultural activity and the sustainability of the sector. According to the Government Programme on Agriculture 2022–26, agricultural policy is organized around eight key areas: (i) rural development, (ii) strengthening family farming, (iii) water and climate emergency, (iv) sustainability, (v) food security and sovereignty, (vi) forestry development, (vii) competitiveness based on innovation, development and technology transfer, and (viii) international cooperation and foreign trade.<sup>7</sup>

4.6. In December 2020, Chile published its Agrifood Sustainability Strategy 2020–30, which sets objectives in three areas - environmental, social-ethical and economic - and defines three cross-cutting pillars for its implementation: capacity building and innovation; networking and collaboration between different actors; and economic capital (access to finance).<sup>8</sup> With this strategy, Chile seeks to contribute to the achievement of the United Nations Sustainable Development Goals (SDGs). In 2020, Chile also adopted by decree its first National Rural Development Policy, which adopts a comprehensive approach that covers all the activities included in the rural economy, not only agriculture. The main tool for its implementation is investment, not subsidies, as was previously the case.<sup>9</sup> In addition, in 2021, Chile presented its Long-Term Climate Strategy, which outlines a roadmap for achieving carbon neutrality by 2050.<sup>10</sup> The Strategy takes a cross-cutting approach, with adaptation and/or mitigation objectives for 12 priority sectors, including agriculture and livestock, forestry, fisheries, energy and mining. According to the OECD, in 2018, agriculture and livestock accounted for 10.5% of total greenhouse gases emitted by Chile.<sup>11</sup>

4.7. The agricultural sector is governed by several laws covering irrigation, food quality and safety, soil reclamation, agricultural insurance and forest protection, among others. During the period under review there were some changes. The agricultural insurance regulations were amended to update the amounts and ceilings of government subsidies (Section 4.1.1.2). In the area of irrigation, Law No. 18.450 approving rules for the promotion of private investment in irrigation and drainage works,

<sup>4</sup> WTO calculations based on UN Comtrade data (according to the WTO definition of agricultural products).

<sup>5</sup> WTO calculations based on UN Comtrade data (HS heading 47.03 (chemical wood pulp, soda or sulphate, other than dissolving grades)).

<sup>6</sup> Two sectoral strategies have been published since 2014, the most recent being the current Government's 2022 strategy.

<sup>7</sup> Ministry of Agriculture, *Programa de Gobierno en la Agricultura 2022–2026*. Viewed at: <https://www.minagri.gob.cl/acerca-de-minagri-programa-de-gobierno/>. During the period 2018–22, the key areas of agricultural policy were: (i) food security, (ii) securing water supply, (iii) partnership, and (iv) market opening.

<sup>8</sup> ODEPA (2020), *Estrategia de Sustentabilidad Agroalimentaria 2020-2030*.

<sup>9</sup> Decree No. 19 of 5 May 2020, Ministry of the Interior and Public Security.

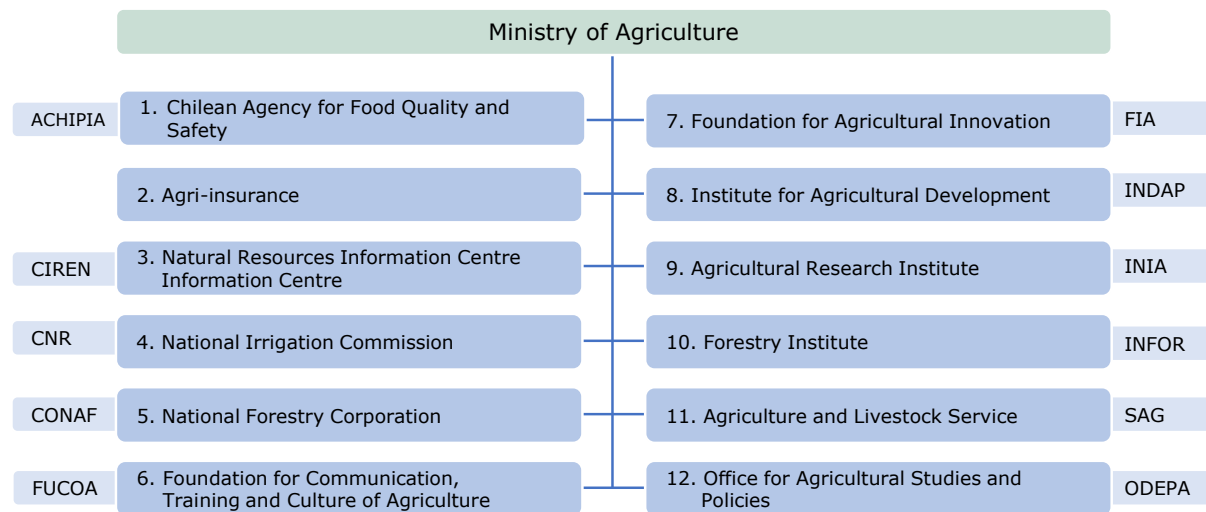
<sup>10</sup> Government of Chile (2021), *Estrategia Climática de Largo Plazo de Chile: Camino a la carbono neutralidad y resiliencia a más tardar al 2050*.

<sup>11</sup> OECD (2022), "Chile", in *Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation*, OECD Publishing, Paris. Viewed at: [https://www.oecd-ilibrary.org/agriculture-and-food/agricultural-policy-monitoring-and-evaluation-2022\\_7f4542bf-en](https://www.oecd-ilibrary.org/agriculture-and-food/agricultural-policy-monitoring-and-evaluation-2022_7f4542bf-en).

which was due to expire in 2021, was extended until the end of 2023 while an updated version is being prepared.<sup>12</sup> This draft law seeks, among other things, to extend the support programme for another 12 years and to incorporate new criteria for the disbursement of incentives to small-scale farmers.

4.8. The Ministry of Agriculture is the main public entity responsible for designing, implementing and coordinating agricultural policy in Chile, a role it performs with the support of 12 other government entities (Chart 4.2). The responsibilities of these entities have not changed since the last review and together they cover the entire agricultural sector (including forestry).<sup>13</sup> Their activities include market intelligence, research, innovation, safety and certification, and sectoral support and promotion. The vast majority of agricultural support programmes are administered by the Agricultural Development Institute (INDAP), whose objective is to promote the economic, social and technological development of small-scale farmers and campesinos.

**Chart 4.2 Institutional framework of the agricultural sector**



Source: WTO Secretariat on the basis of information provided by the authorities.

#### 4.1.1.2 Measures affecting imports and exports

##### 4.1.1.2.1 Measures affecting imports

4.9. The MFN *ad valorem* tariff levels applied to agricultural products have remained virtually unchanged since the last review. Imports of all agricultural products (WTO definition) are subject to a 6% tariff, except for wheat, wheat flour (34 lines at the HS 22 eight-digit level) and sugar (seven lines)<sup>14</sup>, for which a price band system applies. In 2023, the average applied tariff on agricultural products was 5.8%, including *ad valorem* equivalents for products subject to price bands, which were 0% for most of these products (Section 3.1.3.2). For non-agricultural products, the average applied tariff was 6%.

4.10. The price band system aims to mitigate fluctuations in the import prices of these products by modifying tariffs and thus keeping the import price within the range of established price limits (floor and ceiling values). When the reference price for these products is below the floor value, a tariff surcharge is applied on the MFN *ad valorem* tariff, and when the reference price is above the ceiling value, a tariff reduction is applied on the MFN *ad valorem* tariff. More information on the price band mechanism can be found in Section 3.1.3.2. During the period under review, the value of wheat and wheat flour imports increased significantly, in particular in 2021 and 2022, reaching more than double (USD 494.2 million) their value in 2015 (Table A4.2). The authorities indicated that this

<sup>12</sup> Law No. 21.526 of 28 December 2022, Article 45.

<sup>13</sup> For more details on the various responsibilities of these 12 entities, see WTO document WT/TPR/S/315/Rev.1 of 7 October 2015.

<sup>14</sup> The tariff lines for sugar cover four types of products: raw cane sugar, raw beet sugar, sugars containing added flavouring or colouring matter, and refined cane and beet sugar.

increase was mainly due to difficulties in the distribution/logistics chain and rising transport costs as a result of the COVID-19 pandemic; towards the end of 2022, the war in Ukraine also had an impact on the value of these imports.

4.11. Refined sugar (subheading 1701.99) is subject to a tariff quota of 60,000 tonnes per year under the WTO. This duty-free quota is divided between Argentina, Guatemala, Brazil and the rest of the Members.<sup>15</sup> Chile also has in place tariff quotas for different types of sugar under its trade agreements with the Plurinational State of Bolivia, Colombia, Honduras and Ecuador (Section 3.1.3.4). However, during the period 2015–22, no MFN or preferential quotas were used for sugar. In both cases the annual allocation processes were declared void as the application of the price band system resulted in an MFN tariff of zero for these products (Section 3.1.3.2).<sup>16</sup>

4.12. Chile also has preferential tariff quotas for the following products: meat, dairy products, hake, salmon, and tuna preparations (Section 3.1.3.4). During the review period, Chile undertook to implement tariff quotas under its new agreements with Ecuador and the United Kingdom, covering cheese, tuna and other types of fish.<sup>17</sup>

4.13. In general, imports of agricultural products are subject to sanitary and phytosanitary requirements with a view to protecting human, animal and plant health (Section 3.3.3). Chile does not apply any quantitative restrictions or any import licensing regime (Section 3.1.5).

#### 4.1.1.2.2 Measures affecting exports

4.14. Chile notified the WTO that it had not granted any export subsidies for agricultural products during the period 2015–22.<sup>18</sup> It also submitted notifications on its exports of wine and certain fruits<sup>19</sup>, as it is a major exporter of those products. The notifications were up to date, the most recent being from July 2023 in reference to 2022.

4.15. There were no substantial changes in export promotion policy for agricultural and forestry products in the period under review. This policy is implemented by the Ministry of Agriculture and the Ministry of Foreign Affairs through the Directorate-General for Export Promotion (ProChile). The policy is organized around two key areas: promoting the internationalization of companies (producers or traders) and supporting product and market diversification.<sup>20</sup>

4.16. ProChile provides financing to private-sector projects for the promotion of Chilean exports through several funds known as competitive funds (awarded through a competition), one of which – the Fund for the Promotion of Forestry and Agricultural Exports (FPESA) – is specific to the forestry and agricultural sector. This Fund has not changed since the last review and continues to co-finance up to 65% of business projects with a ceiling of CLP 10 million for individual projects and CLP 20 million for cooperative projects.<sup>21</sup> The competition for the award of funds is open to all companies (and other types of entities) in the sector, regardless of their size.<sup>22</sup> In 2022, the FPESA amounted to CLP 7,338 million, of which CLP 30 million was for the subprogramme "Internationalizing Small-Scale Family Farming".

4.17. ProChile also supports exporters through funding for training, advisory services and participation in different promotional events, including international fairs, business events and trade

<sup>15</sup> WTO document G/MA/TAR/RS/82 of 30 October 2001.

<sup>16</sup> National Customs Directorate, *Contingentes*. Viewed at: <https://www.aduana.cl/aduana/site/edic/base/port/normativas.html?filtro=20190118000549>.

<sup>17</sup> WTO document WT/REG423/1 of 12 April 2022.

<sup>18</sup> WTO documents G/AG/N/CHL/53 of 3 June 2019, G/AG/N/CHL/54 of 3 June 2019, G/AG/N/CHL/57 of 15 April 2020, G/AG/N/CHL/58 of 15 April 2020 and G/AG/N/CHL/66 of 8 March 2022. Notifications for 2021 and 2022 are contained in WTO documents G/AG/N/CHL/69, G/AG/N/CHL/70, G/AG/N/CHL/71 and G/AG/N/CHL/72, all dated 18 July 2023.

<sup>19</sup> Grapes, apples, pears, quinces, plums, cherries, apricots, nectarines, peaches and kiwis.

<sup>20</sup> Ministry of Agriculture, *ProChile*. Viewed at: <https://www.minagri.gob.cl/institucion/prochile/>.

<sup>21</sup> Cooperative projects are those with more than one beneficiary.

<sup>22</sup> ProChile, *Fondo de Promoción de Exportaciones Silvoagropecuarias*. Viewed at: <https://www.prochile.gob.cl/herramientas/concursos/fondos-concursables/silvoagropecuario/a-quien-esta-dirigido>.

missions, as well as through funding for the development of sectoral brands as a trademark to better position Chilean products in international markets (Section 3.2.4.2).

#### 4.1.1.3 Domestic support measures

4.18. Chile's agricultural sector support policy is mainly aimed at small and medium-sized producers and comprises several types of programmes. According to the OECD, government intervention in the Chilean agricultural sector is among the lowest in OECD countries, with negligible market distortions. Over the period 2019–21, total aid spending accounted for 0.3% of the country's GDP, below the OECD average (0.6%) over the same period.<sup>23</sup>

4.19. Chile notified the WTO of several domestic support programmes implemented during the period 2015–22.<sup>24</sup> The list of notified programmes has not changed substantially since the previous review (Table A4.3). These programmes have mainly been reported under the Green Box (exempt from reduction) and in 2022 amounted to CLP 234,145 million (CLP 179,740 million in 2015), accounting for the largest share of total expenditure on support measures.

4.20. The support provided through these programmes consists mainly of co-payments to farmers and co-financing for infrastructure investments, and focuses on the areas of research, safety and quality (inspection services), training, and irrigation infrastructure, as well as on mitigating the effects of extreme weather events and ensuring access to agricultural insurance. Compared to 2015, spending in 2022 increased sharply for projects aimed at improving safety and quality systems and irrigation systems. In 2022, these two categories, together with education and training programmes, recorded the highest expenditure. Other measures notified included programmes under special and differential treatment (development programmes) (CLP 3,656 million), as well as under the Amber Box (CLP 62,106 million). Most of these programmes were implemented by the Agricultural Development Institute, the Agriculture and Livestock Service and the National Irrigation Commission.

4.21. Chile maintains its agricultural insurance programme (*Agroseguros*, notified to the WTO), which subsidizes the co-payment of premiums for forestry and livestock insurance in order to promote insurance in the sector. The programme is administered by the Agricultural Insurance Committee. Its operation saw no substantial changes during the review period, although the subsidy amounts and ceilings were updated. The amount of co-financing depends on several criteria; however, in general, since 2016 it has consisted of a base payment of 40% of the premium (instead of 50%, as it was previously). To this payment is added a fixed subsidy equivalent to 1 UF, with a ceiling of 80 UF per policy, as well as other subsidies that can be accumulated as the case may be.<sup>25</sup> In total, the subsidy cannot exceed 98% of the premium value (instead of 70% as it was until 2020) for small and medium-sized farmers. This programme offers four types of insurance: (i) agricultural insurance for crops against climate risks (such as drought, excessive rain or frost), (ii) livestock insurance covering the risk of animal death, (iii) beekeeping insurance, and (iv) forestry insurance against fire and other risks. The programme also includes price insurance for wheat and maize, with options for futures and exchange rate contracts with the aim of fixing an approximate minimum price for the product in Chilean pesos. In 2022, the programme amount increased to CLP 6,539 million (CLP 4,353 million in 2015).<sup>26</sup>

4.22. In addition to the notified programmes, Chile has other support programmes implemented mainly through the Ministry of Agriculture and INDAP. These programmes are varied and include training programmes, access to credit on preferential terms<sup>27</sup>, and project financing through

<sup>23</sup> OECD (2022), "Chile", in *Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation*, OECD Publishing, Paris. This survey covers 54 economies, including all OECD and EU economies, plus 11 emerging economies.

<sup>24</sup> WTO documents G/AG/N/CHL/48 of 7 December 2016, G/AG/N/CHL/55 of 4 June 2019, G/AG/N/CHL/56 of 4 June 2019, G/AG/N/CHL/61 of 26 May 2020, G/AG/N/CHL/62 of 26 May 2020, G/AG/N/CHL/65 of 29 November 2021, and G/AG/N/CHL/75 and G/AG/N/CHL/76, both dated 19 July 2023.

<sup>25</sup> *Agroseguros, Subsidio del Estado*. Viewed at: <https://www.agroseguros.gob.cl/subsidio-del-estado/>.

<sup>26</sup> WTO documents G/AG/N/CHL/48 of 7 December 2016 and G/AG/N/CHL/76 of 19 July 2023.

<sup>27</sup> INDAP, *Plataforma de Servicios*. Viewed at: [https://www.indap.gob.cl/plataforma-de-servicios?keys=&sort\\_bef\\_combine=title\\_ASC&sort\\_by=title&sort\\_order=ASC&page=3](https://www.indap.gob.cl/plataforma-de-servicios?keys=&sort_bef_combine=title_ASC&sort_by=title&sort_order=ASC&page=3).

competitive funds.<sup>28</sup> Most of these programmes already existed at the time of the previous review.<sup>29</sup> The State Bank (BancoEstado) also offers finance programmes for the agricultural sector that complement those of INDAP.

4.23. In April 2022, Chile redirected resources from existing programmes to create a new programme, called *Siembra por Chile*, which consists of a package of measures to reactivate the rural economy, create jobs, ensure food security and mitigate the recent rise in input prices (fertilizers and seed) and climate impacts. The programme is mainly implemented through the Ministry of Agriculture and INDAP.<sup>30</sup> In 2022, the programme had a budget of around CLP 60 billion and comprised 13 measures under four key areas: productivity promotion, economic reactivation, credit and other sources of financing, and access to information. Among the measures implemented under this programme is the *Siembra por Chile* credit, which provides state-backed lines of credit at preferential interest rates. This credit line is administered by BancoEstado and mainly targets cereal producers affected by the water crisis and the recent rise in fertilizer prices. The programme was extended to 2023.

4.24. In December 2022, INDAP also launched the Programme for the Promotion and Strengthening of the Sustainable Production of Traditional Crops to boost cereal and pulse crops. The programme includes incentives to improve crop yields through the introduction of sustainable agricultural practices and the purchase of improved or certified seeds, as well as offering credit. For 2023, the programme has a budget of CLP 9,407 million.<sup>31</sup>

4.25. As part of its response to the COVID-19 pandemic, through INDAP Chile implemented an emergency credit programme and a credit renegotiation programme. These programmes were only in effect in 2021.<sup>32</sup>

4.26. Chile has one active state-owned company in the agricultural sector: Comercializadora de Trigo S.A. (COTRISA), whose operations have not changed since the last review.<sup>33</sup> COTRISA is the country's only state trading company and Chile has regularly notified its activities to the WTO.<sup>34</sup> COTRISA provides conditioning, storage and marketing services for cereals (mainly wheat, maize and rice), as well as quality analysis and price monitoring services in order to reduce information asymmetries (Section 3.3.5). It is also responsible for implementing the Wheat Purchases Plan, which is targeted at small-scale producers. Under this scheme, COTRISA intervenes as a wheat buyer in exceptional situations where the domestic price of wheat is lower than the import parity price<sup>35</sup>, in order to ensure that producers receive at least the latter price.<sup>36</sup> COTRISA intervened in 2015–17 and 2020 with annual wheat purchases that accounted for no more than 0.05% of national output.<sup>37</sup>

4.27. Chile does not have minimum prices for any agricultural product.

#### 4.1.2 Fisheries

4.28. Chile has vast and diverse fishery resources thanks to its geography, which gives it one of the longest coastlines in the world (6,435 km). The fisheries sector (including aquaculture) contributed 0.7% of GDP in 2022 and accounted for 0.9% of total employment in 2021 (Table 4.1).

<sup>28</sup> Ministerial General Secretariat of the Government (2022), *Guía de Fondos Concursables 2022-2023*. Viewed at: [https://dos.gob.cl/wp-content/uploads/2023/01/GuiaDeFondos\\_20222023.pdf](https://dos.gob.cl/wp-content/uploads/2023/01/GuiaDeFondos_20222023.pdf).

<sup>29</sup> WTO document WT/TPR/S/315/Rev.1 of 7 October 2015.

<sup>30</sup> INDAP, *Siembra por Chile*. Viewed at: <https://www.indap.gob.cl/siembra-por-chile>.

<sup>31</sup> INDAP, *Noticias*. Viewed at: <https://www.indap.gob.cl/noticias/indap-pone-en-marcha-nuevo-programa-de-fomento-para-la-produccion-sustentable-de-cultivos>.

<sup>32</sup> OECD (2022), "Chile", in *Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation*, OECD Publishing, Paris.

<sup>33</sup> The other state-owned enterprise in the sector - Sociedad Agrícola SACOR Spa - has not engaged in any commercial activity since 2019, according to the authorities.

<sup>34</sup> WTO document G/STR/N/19/CHL of 11 April 2023.

<sup>35</sup> The import parity price is the price that would apply if the wheat were imported.

<sup>36</sup> Information provided by the authorities.

<sup>37</sup> WTO document G/STR/N/19/CHL of 11 April 2023.



According to FAO, in 2020 Chile was the world's tenth largest capture fisheries producer, accounting for 2% of global output.<sup>38</sup>

4.29. Chile is a net exporter of marine products, its third largest export item after mining products and fruit. During the period under review, exports of fishery products (WTO definition) generally increased (except in 2019 and 2020) and amounted to 8.7% of total exports in 2022 (7.8% in 2015) (Table 4.1). The main export destinations were the United States, Japan, Brazil and China, which together accounted for almost 70% of total fishery exports in 2022.<sup>39</sup> That year, most of the exports in value terms came from aquaculture and the rest from capture fisheries. Of the 104 types of marine products exported, salmon remained the leading product.<sup>40</sup>

**Table 4.1 Main indicators in the fisheries sector, 2015–22**

	2015	2016	2017	2018	2019	2020	2021	2022
Share of GDP (% at current prices)	0.4	0.6	0.8	0.7	0.8	0.5	0.6	0.7
Employment (% of total employment)	1.20	1.28	1.23	1.24	0.89	0.87	0.89	n.a.
Exports <sup>a</sup> (% of total exports)	7.8	8.5	8.7	9.1	9.5	8.1	7.2	8.7
Exports <sup>a</sup> (USD million)	4,834	5,152	5,996	6,794	6,534	5,967	6,807	8,467
Imports <sup>a</sup> (USD million)	428	330	395	441	390	430	463	530

n.a. Not available.

a According to the WTO definition for fishery products.

Source: WTO Secretariat calculations based on UN Comtrade data, and data from the Central Bank of Chile and the Under-Secretariat of Fisheries and Aquaculture.

4.30. The fisheries sector is mainly governed by the General Law on Fisheries and Aquaculture of 1989, as amended<sup>41</sup>, added to which are several specific regulations. During the period under review, the Law was amended 14 times, among other things, to strengthen compliance, promote environmental sustainability and gender equity, and improve working conditions in the sector.<sup>42</sup> At the time of writing, a new fisheries law was being drafted and was expected to be submitted to the National Congress in the second half of 2023.

4.31. With regard to the WTO Agreement on Fisheries Subsidies, the authorities indicated that internal procedures for its ratification were underway.

4.32. The Ministry of Economic Affairs, Development and Tourism, through its Under-Secretariat of Fisheries and Aquaculture (SUBPESCA), remains the agency in charge of regulating and administering fishing and aquaculture activity in the country. In addition, three institutions under the Ministry provide different services to the sector: (i) the National Fisheries and Aquaculture Service (SERNAPESCA), which oversees compliance with the law, monitors illegal fishing and certifies the sanitary quality of exports, among other functions; (ii) the Institute for the Promotion of Fishing (IFOP), which engages in research and provides scientific advice to SUBPESCA; and (iii) the National Institute for the Sustainable Development of Artisanal Fisheries and Small-Scale Aquaculture (INDESPA), created in 2018 and responsible for promoting artisanal fishing and small-scale aquaculture through programmes aimed at boosting productive capacities. These programmes are implemented through competitive funds and include infrastructure development, training and the restocking of exploited hydrobiological resources.

4.33. The institutional framework of the sector is completed by the National Fisheries Council, the National Aquaculture Commission, technical scientific committees, fisheries resource management

<sup>38</sup> FAO (2022), *The State of World Fisheries and Aquaculture 2022. Towards Blue Transformation*. Rome, FAO. Viewed at: <https://www.fao.org/3/cc0461en/cc0461en.pdf>.

<sup>39</sup> WTO Secretariat estimates based on UN Comtrade data.

<sup>40</sup> SUBPESCA (2023), *Informe Sectorial de Pesca y Acuicultura Consolidado (2021-2022)*, Sectoral Analysis Department.

<sup>41</sup> Law No. 18.892 of 23 December 1989, consolidated by Decree No. 430 of 21 January 1992, Ministry of Economic Affairs, Development and Reconstruction.

<sup>42</sup> The amendments were introduced, *inter alia*, by Law No. 21.132 of 31 January 2019, Law No. 21.287 of 12 December 2020, Law No. 21.370 of 25 August 2021, Law No. 21.410 of 27 January 2022 and Law No. 21.532 of 31 January 2023.

committees and zonal fishing councils. These bodies, some of which are public-private, perform an advisory role to SUBPESCA.

4.34. Access to fishery and aquaculture activities (artisanal and industrial) is regulated through a system of permits for fisheries and concessions for aquaculture. Chilean nationals, foreign nationals with permanent residence in Chile, and legal entities legally constituted in the country, may participate in these activities.<sup>43</sup> Foreign equity participation in a Chilean company does not require prior authorization.<sup>44</sup>

4.35. The permit system for fisheries activities covers three types of regimes: (i) the regime for fisheries in a state of full exploitation; (ii) fisheries under the recovery or incipient development regime; and (iii) the general regime for fisheries with closed access. The latter applies to those fisheries that have not been declared under either of the two other regimes.<sup>45</sup> This system has not undergone any fundamental changes since the last review.

4.36. Each regime is administered through a different permit (Table 4.2). The full exploitation fisheries regime is administered with tradable licences (LT) in the case of industrial fisheries, or without licences but subject to registration in the case of artisanal fisheries. LTs can be of two types (A or B) and differ by their award mechanism, among other things. The allocation of a type A LT is made on the basis of historical allowances and volumes, while type B LTs are allocated by public auction. The regime for recovering or incipient fisheries is governed by special permits issued through public auctions, while the closed-access fisheries regime is administered through authorizations granted upon application. Regarding the latter, the authorities report that the receipt of applications is currently suspended.<sup>46</sup> SUBPESCA grants the different permits and establishes for each fishery subject to these regimes an overall catch quota, including a commercial quota. For full exploitation fisheries (with and without LTs), the commercial quota is divided into two parts: one for artisanal fishing and one for industrial fisheries.

**Table 4.2 Types of fisheries regimes, 2022**

Fisheries regime	Type of permit	Type of award	Coverage	Duration
Full exploitation	Industrial fishing: Type A and B tradable licences (LT)	Type A LT: annual allocation based on historical allowances and volumes	Type A LT: up to 85% of the industrial quota	Type A LT: 20 years, renewable
	Artisanal fishing: no licence, but subject to registration	Type B LT: Public auction	Type B LT <sup>a</sup> : up to 15% of the industrial quota depending on the level of performance of the overall quota	Type B LT: 20 years, non-renewable. After this term, the licence is auctioned again.
Recovery <sup>b</sup> or incipient development <sup>c</sup>	Special permits	Public auction	10% of the commercial quota. The commercial quota is the sum of the artisanal and industrial quotas.	10 years, non-renewable. After this term, the permit is auctioned again.

<sup>43</sup> Articles 17, 28B and 71 of the General Law on Fisheries and Aquaculture.

<sup>44</sup> According to the authorities, the regulation requiring prior authorization for foreign equity participation has been tacitly repealed.

<sup>45</sup> These fisheries may subsequently be declared as under full exploitation, recovering or incipient, depending on their biological status, and the authorization may be replaced by the appropriate licence/permit. Areas reserved for artisanal fishing and the exclusive economic zone (EEZ) are excluded.

<sup>46</sup> In 2022, there were 24 fisheries with biological reference points (including 8 whose biological status had not been updated): 14 were under the full exploitation regime with LT, 1 was under the full exploitation regime without LT, 3 were recovering or incipient, and 6 were under the closed-access regime. Of the total, 43% were considered healthy. SUBPESCA (2023), *Estado de la situación de las principales pesquerías chilenas 2022*.

Fisheries regime	Type of permit	Type of award	Coverage	Duration
Closed-access	Authorizations	Subject to application (currently no applications are being received).	There is no award percentage. Access is free subject to having the respective permits.	Indefinite

- a For full exploitation fisheries, the industrial quota is administered through type A and B LTs. For type B licences, the allocation per participant may not exceed 40% of the quota to be auctioned, and there is also a percentage reserved for SMEs.
- b Fisheries subject to the recovery regime are those which were declared overfished when the regime was introduced or when the General Law on Fisheries and Aquaculture was drafted.
- c Fisheries subject to the incipient development regime are those subject to the closed-access regime, with an overall annual catch quota, where there is no fishing or what fishing there is accounts for less than 10% of the quota.

Source: WTO Secretariat based on information provided by the authorities and the General Law on Fisheries and Aquaculture, as amended.

4.37. Holders of fishing authorizations, licences and permits are subject to the payment of a licence fee for each vessel engaged in extractive fishing activities (industrial and artisanal). Holders of type A LTs under the full exploitation fishery regime must also pay a specific tax, while those holding type B LTs must pay an annual fee based on the award price for the duration of the licence.

4.38. In October 2015, Chile adopted the regulations for type B LT auctions; the first such auction was held in December that year.<sup>47</sup> A draft law to modify the licensing system of the full exploitation fisheries regime is currently making its way through the legislative process. This draft law seeks, among other things, to promote the entry of new actors into the sector, and to expand the participation of existing smaller actors.<sup>48</sup>

4.39. Persons interested in industrial fishery activities may only use vessels registered in Chile.<sup>49</sup> According to the Shipping Law, in order for a vessel to be registered, it must be Chilean-owned, i.e. the owner must be a Chilean national.<sup>50</sup> In the case of a company, the company must be incorporated under Chilean law, have its principal place of business in Chile, have majority Chilean capital, and have management staff of Chilean nationality. Foreign fishing vessels can be registered in Chile under the principle of reciprocity, although, according to the authorities, this has not happened. In addition, the captain and crew of fishing vessels, as well as personnel in related activities, must be Chilean. Crew members may be foreign nationals domiciled in Chile only if their participation is considered indispensable for the work.<sup>51</sup> Foreign vessels are prohibited from engaging in fishing activities (other than for research) in inland waters, territorial waters and the exclusive economic zone (EEZ).

4.40. The system of aquaculture concessions underwent no substantial changes during the period under review. To engage in aquaculture activities, interested persons must apply for a concession from SERNAPESCA. If the application is approved, on the basis of SUBPESCA's recommendations a renewable 25-year concession over a maritime, river, beach and/or beach and rocky area is obtained from the Under-Secretariat for the Armed Forces.<sup>52</sup>

4.41. During the period under review, Chile continued to promote the development of the productive capacities of artisanal fisheries<sup>53</sup> and small-scale aquaculture through different programmes and subsidy funds. In August 2019, INDESPA (created in 2018 - see above), took over the administration of the resources of the Artisanal Fishing Promotion Fund (FFPA) and the Fisheries Administration Fund (FAP), which were previously managed by SERNAPESCA and SUBPESCA, respectively. Subsequently, these two funds ceased to exist. In 2021, INDESPA financed sector support

<sup>47</sup> Decree No. 103 of 21 October 2015, Ministry of Economic Affairs, Development and Tourism.

<sup>48</sup> IFOP (2022), *Monitoreo Económico de la Industria Pesquera y Acuícola Nacional, año 2021-2022*.

Viewed at: <https://www.ifop.cl/wp-content/contenidos/uploads/RepositorioIfop/InformeFinal/2022/P-581188.pdf>.

<sup>49</sup> Articles 15 and 29 of the General Law on Fisheries and Aquaculture.

<sup>50</sup> Article 11 of Decree Law No. 2.222 of 31 May 1978, Ministry of National Defence.

<sup>51</sup> Article 14 of Decree Law No. 2.222, Ministry of National Defence.

<sup>52</sup> For more information on the concessions system, see WTO document WT/TPR/S/315/Rev.1 of 7 October 2015.

<sup>53</sup> The first five nautical miles of the territorial coastal waters, together with the country's beaches and its inland waters, are generally reserved for artisanal fishing.

programmes in the amount of CLP 10,921 million (approximately USD 13.4 million), an increase of 13% over the expenditure financed by the FPPA and FAP in 2014.<sup>54</sup> Chile also has a Fund for the Promotion and Development of Remote Areas, which co-finances investments by artisanal fishers. This Fund is administered by the Chilean Economic Development Agency (CORFO). INDESPA and the other funds mentioned above use direct or competitive transfers as their main instrument of support. These programmes have been notified to the WTO; the most recent notification was received in 2023 for the period 2021–22.<sup>55</sup>

4.42. There are also a number of support programmes for artisanal fisheries operated by other institutions at the national level. Some were adopted during the review period. For example, in 2019 SUBPESCA adopted a social agenda aimed at the artisanal sector, which includes measures such as a "solidarity contribution", a special fund for aquaculture development, funding for technical studies, and a programme to boost initiatives to promote seafood consumption.<sup>56</sup> In 2020, Chile adopted the subsidy programme, *Reactíivate Pesca Artesanal*, to support micro- and small enterprises whose artisanal fishing and/or aquaculture activities were disrupted by the pandemic.<sup>57</sup> The programme was run by the Technical Cooperation Service (SERCOTEC), part of the Ministry of Economic Affairs, Development and Tourism. In 2022, SUBPESCA and CORFO implemented the *PAR Chile Apoya Acuicultura de Pequeña Escala* programme, which provides funding to individual projects by aquaculture MSMEs for training, consultancy services, technical assistance and/or investment projects.

4.43. In 2016, Chile also established an annual bonus system for artisanal fishers, organizations and micro- and small enterprises that carry out seaweed restocking and cultivation projects.<sup>58</sup> This programme started operations in 2017 and finances up to 70% of the total cost of the projects. Initially administered by SUBPESCA, the programme has been run by INDESPA since 2020, and in 2022 had an expenditure of CLP 1,343 million.

## 4.2 Mining and energy

### 4.2.1 Mining

#### 4.2.1.1 Main features

4.44. Mining remains a pillar of the Chilean economy, with copper driving the sector.<sup>59</sup> Chile is still the world's top copper producer, the second-largest producer of molybdenum (one of its by-products) and the fourth-largest producer of silver. It is also a major producer of iron as well as non-metallic minerals, including iodine and lithium, of which it is the largest and second-largest producer in the world, respectively.<sup>60</sup> In 2022, mining accounted for 14.2% of nominal GDP, compared to 7.9% in 2015 (Table 1.1), and generated 9% in state tax revenue, compared to 6% in 2015.<sup>61</sup> This increase in mining's contribution to the Chilean economy is due mainly to the higher price of copper, which, despite fluctuating, trended upward and nearly doubled (in nominal values) between 2016 and 2021 (Chart 4.3). Copper production in Chile totalled 5.3 million fine metric tonnes (FMT) in 2022, compared to 5.8 million FMT in 2015.<sup>62</sup>

4.45. Led by copper, mining is the country's main export sector (Chart 4.3). In 2022, Chile exported USD 56,489 million in (metallic and non-metallic) mining products, which represented a little over

<sup>54</sup> WTO documents G/SCM/N/284/CHL of 4 April 2016 and G/SCM/N/401/CHL of 30 June 2023.

<sup>55</sup> WTO document G/SCM/N/401/CHL of 30 June 2023.

<sup>56</sup> SUBPESCA, *Agenda social para pescadores artesanales de todo Chile*. Viewed at: [https://www.subpesca.cl/portal/617/w3-propertyvalue-64077.html#noticias\\_relacionadas](https://www.subpesca.cl/portal/617/w3-propertyvalue-64077.html#noticias_relacionadas).

<sup>57</sup> SERCOTEC, *Reactíivate Pesca Artesanal*. Viewed at: <https://www.sercotec.cl/reactivate-pesca-de-magallanes/>.

<sup>58</sup> Law No. 20.925 of 17 June 2016.

<sup>59</sup> Copper generated nearly all mining GDP in Chile. Mining Council (2023), *Cifras actualizadas de la minería* (June).

<sup>60</sup> SERNAGEOMIN (2022), *Anuario de la Minería de Chile 2021*.

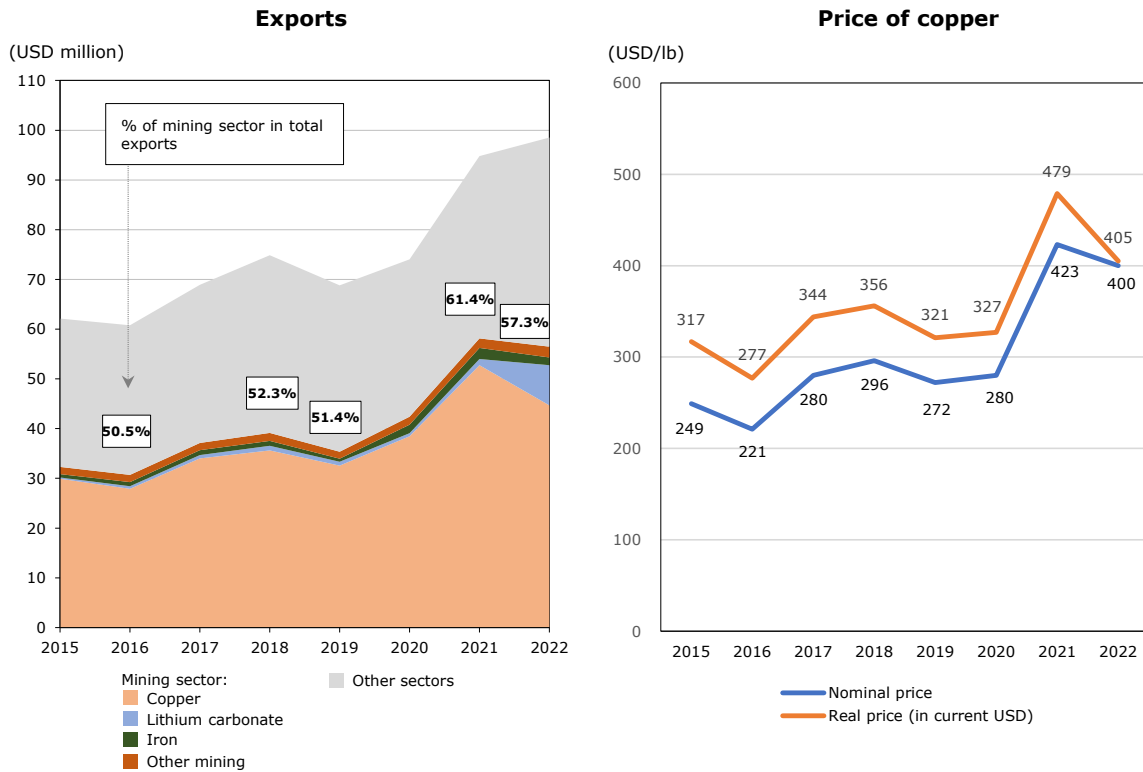
<sup>61</sup> Mining Council (2023), *Cifras actualizadas de la minería* (June).

<sup>62</sup> Mining Council (2023), *Cifras actualizadas de la minería* (June).

half of total exports. The main destinations for these products are China, which received 58% of mining exports in 2022, Japan (8.3%), the Republic of Korea (8.2%) and the United States (7.4%).<sup>63</sup>

4.46. With its vast mining resources, Chile is a strategic trade partner in energy transition and electromobility processes, in which copper and lithium play a key role. Chile is estimated to hold 45% of the world's lithium reserves.<sup>64</sup> Lithium mining is still in its infancy and is expected to expand in the coming years. During the review period, Chile adopted the National Lithium Strategy (see below).

**Chart 4.3 Mineral product exports and copper prices, 2015-22**



Source: WTO Secretariat based on data and the classification system of the Central Bank of Chile (data on exports) and of the Mining Council (data on copper prices).

4.47. The State has a large presence in the mining sector and participates in mining activities through two state-owned enterprises, namely the National Copper Corporation (CODELCO) for large-scale mining, and the National Mining Company (ENAMI) for small and medium-scale mining. CODELCO's main activities are the exploration, exploitation, processing and marketing of copper and its by-products. It is one of the world's leading companies in copper and molybdenum production<sup>65</sup> and, in 2022, accounted for 29% of Chile's total copper production<sup>66</sup>, with private companies generating the rest.<sup>67</sup> ENAMI focuses its activities on the development of small and medium-scale mining and provides various types of services to miners and SMEs. These services include the processing, smelting and marketing of minerals. ENAMI also has financing (in the form of loans) and technical assistance programmes.

<sup>63</sup> Central Bank of Chile, *Balanza Comercial por Países, anual*. Viewed at: <https://www.bcentral.cl/web/banco-central/comercio-externo-de-bienes-excel>.

<sup>64</sup> InvestChile (2022), *Reporte Minería: Proyección y Oportunidades*.

<sup>65</sup> SERNAGEOMIN (2022), *Anuario de la Minería de Chile 2021*.

<sup>66</sup> This figure includes CODELCO's share in El Abra mine and in Anglo American Sur.

<sup>67</sup> In 2022, three companies, including CODELCO, were responsible for around 60% of the country's copper production. Chilean Copper Commission, *Boletín Mensual Electrónico* (Table 17). Viewed at: <https://www.cochilco.cl/Paginas/Estadisticas/Publicaciones/BoletinMensualElectronico.aspx>.

4.48. CORFO also carries out economic activities in the sector, as it owns 41 mining concessions and has leasing agreements for their exploitation (see below).<sup>68</sup> In particular, it owns the Atacama salt flats (*Salar de Atacama*), home to what is thought to be the world's largest lithium reserve. It also has reserves of iron (Atacama region), coal (Biobío and Magallanes regions), and lead and zinc (Aysén region).

4.49. Mining tax revenue, particularly from copper, contributes to the Economic and Social Stabilization Fund (FEES) (Section 1). This Fund receives the effective fiscal surplus<sup>69</sup> every year and is intended to fund fiscal deficits in economically difficult years.<sup>70</sup>

#### 4.2.1.2 Legal and institutional framework

4.50. The mining sector is regulated primarily by the Constitution, the Organic Law on Mining Concessions, and the Mining Code and its implementing regulations (Table 4.3). In addition to these legal instruments, there are others of a specific nature covering, *inter alia*, safety standards for mining activities and the operation of state-owned enterprises. During the review period, the Mining Code was amended to increase the value of mining licence fees and strengthen some operational aspects of mining concessions. These changes are expected to take effect in January 2024. Amendments were also made to the Mining Safety Regulations to step up safety measures that companies and workers must comply with in small-scale mining operations.<sup>71</sup> In May 2023, the National Congress approved the draft law establishing a new mining royalty. The procedures for enacting this law have been under way as of July 2023.

**Table 4.3 Main legal instruments regulating the mining sector**

Legal instrument	Description	Publication date	Latest amendment
Decree No. 100	Establishes the Revised, Coordinated and Consolidated Text of the Political Constitution of the State (Article 19, paragraph 24), Ministry General Secretariat of the Office of the President	22/09/2005	04/05/2023
Law No. 18.097	Constitutional Organic Law on Mining Concessions	21/01/1982	24/09/1983
Law No. 18.248	Mining Code	14/10/1883	04/02/2022
Decree No. 1	Mining Code Regulations, Ministry of Mining	27/02/1987	22/11/2010

Source: WTO Secretariat.

4.51. In March 2022, Chile adopted the National Mining Policy 2050 by means of a decree, providing a road map for the implementation of a new sustainable development model over the next 30 years. This model has four components, namely, economic, social, environmental and institutional, under which Chile has identified 14 objectives and 78 targets/actions to achieve them. These objectives include becoming a world leader in sustainable mineral production, modernizing the mining legal framework, strengthening the corporate governance of state-owned enterprises, achieving carbon neutrality in the sector by 2040 and improving working conditions in mining, as well as including and collaborating with indigenous peoples and communities.<sup>72</sup>

4.52. In response to the increasing importance of lithium in the global energy transition, Chile published the National Lithium Strategy in April 2023 to ensure the sustainable exploitation of this mineral, and to increase and strengthen the State's participation in this process. This strategy consists of a package of lithium-related measures that include modernizing its institutional framework; creating a state-owned enterprise that can participate in the entire lithium production cycle; establishing the Public Institute for Technology and Research on Lithium and Salt Flats; and involving the State in Salar de Atacama's mining activities through CODELCO.<sup>73</sup> This strategy is

<sup>68</sup> The authorities stated that CORFO is not authorized to conduct economic business activities, which is why it engages in leasing to fund its activities.

<sup>69</sup> Once contributions have been made to the Pensions Reserve Fund.

<sup>70</sup> Law No. 20.128 of 30 September 2006 on Fiscal Responsibility.

<sup>71</sup> Decree No. 30 of 23 February 2022, Ministry of Mining.

<sup>72</sup> Decree No. 2 of 28 January 2023, Ministry of Mining. For more information on the National Mining Policy 2050, see: <https://www.politicanacionalminera.cl/>.

<sup>73</sup> Government of Chile, *Estrategia Nacional del Litio*. Viewed at: <https://www.gob.cl/litioporchile/>.



broader than the National Lithium Policy issued in 2016, the conclusions of which will feed into the Strategy.

4.53. Based on this new strategy and to ensure the State's direct involvement in lithium mining, the authorities indicated that the following measures had been taken. In May 2023, CODELCO created two subsidiaries for lithium: Salares de Chile SpA., focused on promoting lithium activities in the country, and Minera Tarar SpA., focused on exploitation activities exclusively in Salar de Atacama, with the potential to partner with private companies active in the sector.<sup>74</sup> In 2018, CODELCO also created the subsidiary Salar de Maricunga SpA. for operations on the Maricunga salt flat, where CODELCO has a Special Lithium Operation Contract (see below). Moreover, in December 2022, ENAMI created the subsidiary ENAMI Lito SpA.

4.54. The main public institutions governing the mining sector are still the Ministry of Mining, the National Geology and Mining Service (SERNAGEOMIN) and the Chilean Copper Commission (COCHILCO). The Ministry of Mining is responsible for formulating, implementing and evaluating policies in this area, and relies on SERNAGEOMIN and COCHILCO to carry out its functions. COCHILCO is responsible for advising the Ministry on mining policies and overseeing state-owned enterprises, while SERNAGEOMIN provides the Ministry with technical advice on geology and monitors compliance with legislation on mining safety and concessions.

4.55. In addition to these three entities, the Chilean Nuclear Energy Commission (CCHEN), an entity under the Ministry of Energy, also has lithium-related responsibilities. The CCHEN is responsible for overseeing the marketing of lithium, and approving any projects for its exploration and/or exploitation.<sup>75</sup>

#### 4.2.1.3 Mining regime

4.56. Pursuant to the Chilean Constitution (Article 19), the State is the sole owner of all minerals in the territory, although it allows domestic or foreign companies to carry out activities in the sector through a system of mining concessions, with some exceptions. There are two types of mining concessions, one for exploration and another for exploitation, which can be granted for all types of (metallic and non-metallic) minerals and deposits in Chilean maritime waters accessible from land by tunnels.<sup>76</sup> Under this system, concessions may not be granted for liquid or gaseous hydrocarbons and lithium, or for deposits located in Chile's maritime zones (inaccessible from land) or in areas considered of importance for the country's national security.

4.57. Generally speaking, the process for granting a mining concession is the same as during the previous review, albeit with some changes introduced to certain aspects of the concessions pursuant to Law No. 21.420 of 2022 and amendments thereto<sup>77</sup> (see below). The changes were to take effect in February 2023, but have been postponed until January 2024.<sup>78</sup>

4.58. Any natural or legal person, whether Chilean or foreign, can request a mining concession. This request is made to a competent court and, if it meets the technical requirements, the judge grants the concession by means of court decision.<sup>79</sup> The exploration concession is valid for two years, renewable for another two (as long as at least half of the total area of the concession is relinquished).<sup>80</sup> Starting in January 2024, pursuant to Law No. 21.420 (and amendments thereto), the validity of the exploration concession will be four years, with no possibility of renewal. The exploitation concession has an indefinite duration, provided it fulfils the corresponding obligations (payment of a licence fee).<sup>81</sup> Once the concession is granted, the concession-holder, depending on the project in question, must request different permits (there are 230 types) and meet numerous requirements that cover environmental, energy and project safety aspects, among others. These

<sup>74</sup> The authorities stated that CODELCO and SQM are in talks to set up a joint venture to mine the Salar de Atacama as of 2030, in which CODELCO would have a majority stake.

<sup>75</sup> Article 3 of Law No. 16.319 of 23 October 1965 and amendments thereto.

<sup>76</sup> Articles 5 and 7 of the Mining Code.

<sup>77</sup> Law No. 21.420 of 4 February 2022 and Law No. 21.462, amending Law No. 21.420 of 26 July 2022.

<sup>78</sup> Law No. 21.536 of 26 January 2023.

<sup>79</sup> Articles 34 to 90 of the Mining Code.

<sup>80</sup> Article 112 of the Mining Code.

<sup>81</sup> Title X of the Mining Code.

permits are issued by SERNAGEOMIN and other public entities with jurisdiction in the area.<sup>82</sup> Law No. 21.420 (and amendments thereto) provides that the concession-holder must provide SERNAGEOMIN with all the geological information obtained from the works carried out at the end of the exploration concession, and every two years in the case of mining exploitation concessions. In 2022, there were around 10,000 holders of mining exploitation concessions.

4.59. Mining activities are subject to the annual payment of the specific tax on mining activity (IEAM) and a licence fee, in addition to basic taxes. The licence fee is a duty that varies according to the type of concession and the number of hectares under concession, while the IEAM is an *ad valorem* tax on the operational taxable income of each company, the rate of which varies according to the size of its annual sales. The IEAM is applied only to companies with annual sales above 12,000 FMT. Under Law No. 21.420 (and amendments thereto), the exploration licence fee will increase as of 2024, and a progressive scale will be introduced for the payment of licence fees for exploitation without any mining activity, which will vary based on the length of the concession.

4.60. In May 2023, the National Congress approved a draft law establishing a new mining royalty for producers with annual copper sales above 50,000 FMT, composed of two elements: an *ad valorem* tax of 1% on mineral sales and an *ad valorem* tax on mine operating income (or "mining margin"), which ranges from 8% to 26%. This second component will be applied according to these rates, provided that more than 50% of annual sales come from copper.<sup>83</sup> The law stipulates that the total tax burden of the income tax, additional tax and mining royalty may not exceed 46.5% for companies with a copper production greater than 80,000 FMT and 45.5% for those with a production of between 50,000 FMT and 80,000 FMT. At the time of writing, the law had yet to be passed. Once enacted, the law will take effect on 1 January 2024, and the mining royalty will replace the IEAM.<sup>84</sup>

4.61. Chile has a copper reserve for the domestic manufacturing industry to ensure its supply (refined, electrolytic or blister).<sup>85</sup> This mechanism did not change during the review period, and continues to allow manufacturers that comply with the regulations to acquire copper from the reserve for their activities. The copper in the reserve comes mainly from CODELCO (around 95% in 2022), with ENAMI providing the rest. Its selling price is set by COCHILCO based on the international price of copper. In 2022, nine companies obtained supplies from this reserve, acquiring 62,000 FMT of copper from CODELCO, the equivalent of 1.2% of Chile's total production.<sup>86</sup>

4.62. In 2018, Chile implemented the Copper Price Stabilization Fund for Small-scale Mining to mitigate the fluctuations in prices for small producers. This Fund, administered by ENAMI, was established with an initial contribution of USD 50 million.<sup>87</sup> Under this mechanism, ENAMI buys copper products at rates calculated based on a "stabilization price", communicated by the Ministry of Finance.<sup>88</sup> Through the Fund, ENAMI finances part of the difference between the international price and the stabilization price, if the latter is higher. If the international price is higher than the stabilization price, ENAMI will transfer part of the difference to the Fund.

4.63. For minerals not under concession, exploration or exploitation activities can be carried out by state-owned or private enterprises (domestic or foreign) through administrative concessions<sup>89</sup> or through special operation contracts signed with the State, defined on a case-by-case basis.<sup>90</sup> These types of concessions or contracts are executed by means of a decree. In the case of lithium, exploration or exploitation requires the prior approval of the Chilean Nuclear Energy Commission. Until April 2023, this type of contract had been negotiated for hydrocarbons (Section 4.2.2). Current

<sup>82</sup> Ministry of Mining, *Repertorio de Permisos y Obligaciones Normativas para un Proyecto Minero*. Viewed at: <http://sisnor.minmineria.cl/Site/index>.

<sup>83</sup> For mining producers that have sales (i) of which 50% are not from copper, or (ii) do not exceed 50,000 FMT, other rates are applied for the mining operating income component.

<sup>84</sup> Chamber of Deputies, *Proyectos de Ley*. Viewed at: <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=12617&prmBOLETIN=12093-08>.

<sup>85</sup> Law No. 16.624 of 15 May 1967 and Decree No. 32 of 8 October 1988, Ministry of Mining.

<sup>86</sup> Data provided by the authorities.

<sup>87</sup> Law No. 21.055 of 3 January 2018 and Decree No. 33 of 16 February 2019, Ministry of Mining.

<sup>88</sup> Article 3 of Law No. 21.055 defines this price as "the long-term reference price of copper used to estimate the structural budget balance of the public sector."

<sup>89</sup> Through administrative concessions, the exploitation of a resource is entrusted to a private entity for a given period. They differ from mining concessions, which are judicial in nature.

<sup>90</sup> Article 8 of the Mining Code.

lithium exploration and exploitation contracts are not based on this legal construct, as they were signed before the regime came into force.

4.64. At present, two private companies mine lithium in Salar de Atacama as part of projects negotiated and tendered in the 1970s with CORFO, the owner of this salt flat. These contracts were renegotiated in 2016 and 2018, with expiry dates at the end of 2030 and 2043, respectively. They include a clause under which producers must offer up to 25% of their lithium production at a preferential price to locally established enterprises, in order to promote the manufacture of value-added lithium products in the country.<sup>91</sup> As of June 2023, the preferential price clause in only one of these contracts has been used.<sup>92</sup>

4.65. During the period under review, occasional calls to tender were issued for contracts to develop value-added lithium products, using preferential price lithium. In that respect, the authorities stated that, as of June 2023, one company had taken advantage of the preferential price. The invitation to tender has been open on an ongoing basis since 2022.

4.66. With regard to support policies and incentives, the mining sector is exempt from VAT on imports of capital goods intended for the development, exploration and exploitation of mining projects, and receives a tax credit to promote research and development. Chile also has two free-trade zones dedicated to mining activities.<sup>93</sup> The law has not permitted tax invariability since 2015 (Section 2.4). Chile also supports small- and medium-scale mining, primarily through financing and technical assistance for projects. In addition to ENAMI's support programmes, the Ministry of Mining has a technology training and transfer programme for small-scale artisanal mining, which consists of a competitive fund to provide financing and technical assistance for mining projects.<sup>94</sup>

## 4.2.2 Energy

### 4.2.2.1 Overview

4.67. During the period 2015-22, energy consumption in Chile trended upward and continued to be composed mainly of petroleum products, which in 2021 accounted for 57% of total energy consumption, followed by electricity (23%), biomass and biogas (11%), and natural gas (7%).<sup>95</sup> Chile is a net importer of energy and is highly dependent on other countries in this regard. To meet domestic demand, Chile imports primarily petroleum and its derivatives and, to a lesser extent, coal and (natural and liquefied) gas. In 2022, petroleum imports (WTO definition) accounted for 16.6% of total imports, while (natural and liquefied) gas and coal accounted for 3.3% and 2.2%, respectively.<sup>96</sup>

4.68. During the period under review, Chile significantly increased its capacity to generate electricity from renewable sources (mainly solar and wind)<sup>97</sup> and continued to promote the incorporation of this type of energy into its energy matrix, in order to move the energy transition forward and gradually abandon fossil fuels. To that end, Chile has produced a series of complementary strategic documents that define objectives for the short, medium and long term. In December 2015, Chile published its national energy policy, called Energy 2050, which was updated in February 2022.<sup>98</sup> This policy establishes a road map and various targets to be reached by 2050 for a sustainable and inclusive energy supply in the country. The targets include, among other things, ensuring that at least 80% of the electricity produced in the country comes from renewable sources by 2030 and

<sup>91</sup> Library of the National Congress of Chile (Parliamentary Technical Advice) (2021), *Contratos de explotación del Litio en Chile*.

<sup>92</sup> Between CORFO and SQM Salar S.A., through a protocol signed in September 2019.

<sup>93</sup> InvestChile (2022), *Reporte Minería: Proyección y Oportunidades*.

<sup>94</sup> Ministry of Mining, *Programa Capacitación y Transferencia Tecnológica Pequeña Minería Artesanal*.

Viewed at: <https://pammmapostulaciones.minmineria.cl/>.

<sup>95</sup> Open Energy, National Energy Commission, *Estadísticas, Balance Energético 2021* (Table 2). Viewed at: <http://energiaabierta.cl/categorias-estadistica/balance-energetico/>.

<sup>96</sup> WTO Secretariat estimates based on the UN Comtrade Database.

<sup>97</sup> National Electricity Coordinator (2023), *Reporte de Sostenibilidad 2022*.

<sup>98</sup> Ministry of Energy (2022), *Transición Energética de Chile. Política Energética Nacional (Actualización 2022)*, and Decree No. 10 of 18 May 2022, Ministry of Energy.

100% by 2050, as well as ensuring that at least 70% of non-electric final energy consumption comes from zero-emission fuels, such as green hydrogen and its derivatives, by 2050.

4.69. To make progress in meeting these objectives, Chile adopted the Electricity Matrix Decarbonization Plan in 2019, which provides for the closure of eight coal-fired power plants by 2024.<sup>99</sup> In December 2021, this plan was supplemented by the Just Energy Transition Strategy, which covers the process of decommissioning all coal-fired power plants (28) by 2040. As of December 2022, eight had been closed. In 2022, the National Green Hydrogen Strategy was approved, through which Chile is seeking to become a leader in the exportation and production of green hydrogen by 2030.<sup>100</sup> The National Electromobility Strategy was also published that same year, with which Chile undertakes to ensure that all new light and medium-sized vehicles sold in the country by 2035 are fully electric.<sup>101</sup> In line with these commitments, Chile adopted the Framework Law on Climate Change in June 2022, which sets the objective of achieving carbon neutrality by 2050<sup>102</sup>, and approved the National Energy Efficiency Plan 2022-26 in April 2023.<sup>103</sup>

4.70. Other strategic documents published in recent years are the National Heat and Cold Strategy (June 2021), the Long-Term Energy Planning Programme 2023-27 (September 2021), the Energy Agenda 2022-26 (August 2022) and the Initial Agenda for a Second-Stage Energy Transition (April 2023).

4.71. At the institutional level, the leading public entities in the energy sector are still (i) the Ministry of Energy, (ii) the Supervisory Authority for Electricity and Fuel (SEC), (iii) the National Energy Commission (CNE), and (iv) the Chilean Nuclear Energy Commission (CCHEN). The Ministry of Energy is responsible for developing and coordinating plans, policies and standards for the energy sector, and advising the Government in this area. The SEC is responsible for overseeing and monitoring compliance with legislation, technical and safety standards for fuel- and electricity-related articles, and the quality of services in the sector. The CNE and CCHEN are technical bodies. The functions of the CNE include analysing current prices, tariffs and technical standards in the sector, while the CCHEN is in charge of regulating and overseeing activities (such as production, acquisition and use) related to nuclear energy and radioactive and nuclear substances, or materials of nuclear interest, such as lithium.

4.72. In the area of electrical power, in addition to these institutions, there is also the Independent Coordinator for the National Electricity System (hereafter the National Electricity Coordinator), an independent technical body created in 2016 that has been in operation since 2017. The National Electricity Coordinator is responsible for coordinating the operations of the National Electricity System (see below) and monitoring the proper functioning of the electricity sector.<sup>104</sup>

#### 4.2.2.2 Electricity

4.73. During the period 2015-22, electricity was generated mainly from coal, which accounted for an average of 36% of the total, followed by hydropower (28%), natural gas (17%), solar energy (8%) and wind energy (6%).<sup>105</sup> Although coal was still the main source of electricity, its share decreased significantly, dropping from 39% in 2015 to 23% in 2022. At the same time, electricity generation from solar and wind energy grew tenfold and fourfold, respectively, between 2015 and 2022. This offset the fall in electricity production from coal, while contributing to a 16% increase in total electricity production during this period, reaching 83,054 GWh in 2022. The biggest electricity consuming sectors are mining (36% of the total produced in 2020), industry (25%), the residential sector (19%), and the commercial and public sector (15%).<sup>106</sup>

<sup>99</sup> Ministry of Energy, *Plan de Descarbonización de la Matriz Eléctrica*. Viewed at: <https://energia.gob.cl/mini-sitio/plan-de-descarbonizacion-de-la-matriz-electrica>.

<sup>100</sup> Exempt Ministerial Resolution No. 11 of 1 March 2022, Ministry of Energy.

<sup>101</sup> Exempt Resolution No. 8 of 24 February 2022, Ministry of Energy.

<sup>102</sup> Law No. 21.455 of 13 June 2022.

<sup>103</sup> Decree No. 4 of 25 April 2023, Ministry of Energy.

<sup>104</sup> Law No. 20.936 of 20 July 2016.

<sup>105</sup> National Electricity Coordinator, *Reportes, Estadísticas y Plataformas de Uso Frecuente – Histórico de Generación de Energía por Tecnología*. Viewed at: <https://www.coordinador.cl/reportes-y-estadisticas/#Estadisticas>.

<sup>106</sup> Ministry of Energy (2022), *Informe Balance Nacional de Energía 2020*.

4.74. During the period under review, virtually all electricity used in the country was of domestic origin; in 2016 and 2017, very modest volumes were exported to Argentina.<sup>107</sup> In that respect, the authorities stated that Chile is trying to promote greater regional integration in the energy sector and ensure that its legislation makes it possible to establish public service or private interest electrical interconnections with other countries. In the case of private interest interconnections, since 2016, exports and imports of electricity and other electrical services require an exchange permit from the Ministry of Energy, issued by decree.<sup>108</sup> This permit can be requested by a natural or legal person, whether Chilean or foreign.<sup>109</sup> As of June 2023, one company held this permit (granted in 2022) for the international exchange of energy and other electrical services with Argentina.

4.75. In terms of energy inputs, Chile imports natural gas and coal. During the review period, the value of natural gas imports (HS codes 2711.11 and 2711.21) nearly tripled from USD 803 million in 2015 (1.3% of total imports) to USD 2,335 million in 2022 (2.2%). In 2022, imports came mainly from Argentina, Equatorial Guinea, Trinidad and Tobago, and the United States. Imports of coal and its derivatives (HS headings 27.01 and 27.04) also increased, rising from USD 720 million (1.2% of total imports) in 2015 to USD 2,261 million (2.2%) in 2022. In that year, the main suppliers were Colombia, Australia and the United States.<sup>110</sup> The tariff applied to coal and natural gas is 6%.

4.76. The electricity sector is regulated mainly by the General Law on Electrical Services and its implementing regulations<sup>111</sup> and a large number of legal instruments. The Law covers the three segments of the electricity market: generation, transmission and distribution. During the period under review, Chile introduced various changes to its legal framework to strengthen the separation of the sector's segments and improve their functioning as well as their efficiency and inclusiveness. These changes affect, among other aspects, the functioning of the distribution market (Law No. 21.194 of 2019<sup>112</sup>), the electricity tariff system and the establishment of a national interconnection system (Law No. 20.936 of 2016<sup>113</sup>) (see below). To support the energy transition, Law No. 21.305<sup>114</sup>, which aims to promote energy efficiency and provides for the development of an Energy Efficiency Plan every five years, was adopted in 2021, and Law No. 21.505<sup>115</sup>, which seeks to promote the development of electrical energy storage systems and electromobility, was adopted in 2022.

4.77. Chile has also made progress in implementing Law No. 20.257 of 2008 (amended by Law No. 20.698 of 2013), which requires that 20% of energy marketed by electrical distribution companies to end customers come from non-conventional renewable energy (NCRE) sources by 2025.<sup>116</sup> In 2022, around one third of the energy marketed to end customers came from NCRE sources. Companies that fail to comply with this obligation must pay a surcharge. At the time of writing, various initiatives were being studied to improve the electricity distribution system, including a draft law encouraging the inclusion of renewable energy in the domestic energy matrix with an annual participation target of 60% by 2030.<sup>117</sup>

4.78. The electricity generation market operates according to the free market principle, while transmission and distribution are considered public services and are regulated by tariffs.<sup>118</sup> Transmission and distribution activities, as well as generation through hydropower plants, are carried

<sup>107</sup> The authorities indicated that exports to Argentina in 2016 and 2017 accounted for less than 1% of total electricity generation. Some imports were also recorded in 2017 (1.6 GWh).

<sup>108</sup> Decree with Force of Law No. 4/20018 of 5 February 2007, Ministry of the Economy, Development and Reconstruction, and Decree No. 142 of 15 March 2017, Ministry of Energy.

<sup>109</sup> Article 8 of Decree No. 142 of 15 March 2017.

<sup>110</sup> WTO Secretariat estimates based on the UN Comtrade Database.

<sup>111</sup> Decree with Force of Law No. 4/20018 of 5 February 2007 and Decree No. 327 of 10 September 1998, Ministry of Mining.

<sup>112</sup> Law No. 21.194 of 21 December 2019.

<sup>113</sup> Law No. 20.936 of 20 July 2016.

<sup>114</sup> Law No. 21.305 of 13 February 2021.

<sup>115</sup> Law No. 21.505 of 21 November 2022.

<sup>116</sup> Chile defines NCRE sources as wind energy, hydroelectric power (from plants with capacity of up to 20 MW), biomass, biogas, geothermal energy, solar energy and ocean energy.

<sup>117</sup> Chamber of Deputies, Bulletin No. 14.755-08, *Proyecto de Ley que impulsa la participación de las energías renovables en la matriz energética nacional*. Viewed at: <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=15246&prmBOLETIN=14755-08>.

<sup>118</sup> Article 7 of the General Law on Electrical Services.



out through a system of concessions that can be granted for an indefinite period.<sup>119</sup> Foreign companies can hold a concession, provided that they are legally established in Chile.<sup>120</sup> There are no restrictions on foreign ownership. In 2022, the three segments of the National Electricity System were operated by (domestic and foreign) private companies: 540 in the generation segment, 54 in transmission and 23 in distribution.<sup>121</sup>

4.79. The General Law on Electrical Services restricts vertical integration to guarantee competition in the market. Transmission companies cannot undertake generation or distribution activities, and generation and distribution companies cannot have an stake in the assets of a transmission company greater than 8% of the value of the national transmission system. This limit increases to 40% if the combined stake of generation and distribution companies is considered.<sup>122</sup> In 2019, the separation of electricity sector activities was reinforced by requiring distribution companies to carry out distribution activities exclusively. The Law also stipulates that cooperatives authorized to provide distribution services, in addition to conducting other activities, must keep separate accounts for each activity.<sup>123</sup> In addition, it guarantees any interested company access to the interconnection of transmission installations.<sup>124</sup>

4.80. Energy in Chile is supplied for the most part through the National Electricity System (SEN), which covers 99% of the country's installed capacity and began operations in 2017, after the country's two main systems were consolidated: the Central Grid System (SIC) and the Northern Grid (SING).<sup>125</sup> The rest of the energy supply comes from additional electricity systems, referred to as medium grids, which supply areas not covered by the SEN. In 2016, Chile also created a new coordinating body, the National Electricity Coordinator, as a replacement for the Economic Load Dispatch Centres that previously fulfilled this function for the SIC and SING.<sup>126</sup>

4.81. In terms of electricity pricing, Chile has three types of customers based on the connected load. For end customers with a connected load below or equal to 500 kW, prices are regulated, while for customers with a connected load greater than 5,000 kW, prices are set by the market. Customers with a connected load of between 500 kW and 5,000 kW can choose either the regulated or the open pricing system. For "regulated customers", prices are set by the Ministry of Energy by decree, following a technical report by the CNE. In 2022, "regulated customers" accounted for 40% of the SEN's total consumption<sup>127</sup> and included residential and small business users. During the period under review, Chile adopted various laws on prices applicable to "regulated customers" to guarantee affordability and equity. For example, in 2016, Chile capped the variation in residential prices between the different distribution companies<sup>128</sup> and, in 2019, established an electricity price stabilization mechanism for regulated customers.<sup>129</sup> In 2022, this mechanism was replaced by another that seeks to maintain prices at a certain level for regulated customers and that operates through a stabilization fund financed with government contributions and an additional surcharge paid by end customers. This mechanism cannot extend beyond 2032.<sup>130</sup>

4.82. Between March 2020 and December 2021, against the backdrop of the COVID-19 pandemic, Chile introduced a temporary subsidy for unpaid electricity bills that was granted to residential users and microenterprises, among others.<sup>131</sup>

<sup>119</sup> Articles 19 and 31 of the General Law on Electrical Services. The system of concessions for generation by hydropower plants seeks to protect water use rights and reservoir capacity.

<sup>120</sup> Article 13 of the General Law on Electrical Services. In the case of natural persons, concessions can only be granted to Chilean nationals.

<sup>121</sup> National Electricity Coordinator (2023), *Reporte de Sostenibilidad 2022*.

<sup>122</sup> Article 7 of the General Law on Electrical Services.

<sup>123</sup> Article 8 *ter* of the General Law on Electrical Services. This Article was included pursuant to Law No. 21.194 of 21 December 2019.

<sup>124</sup> Article 120 of the General Law on Electrical Services.

<sup>125</sup> Ministry of Energy (2022), *Anuario Estadístico de Energía 2021*.

<sup>126</sup> Law No. 20.936 of 20 July 2016.

<sup>127</sup> National Electricity Coordinator, *Reportes, Estadísticas y Plataformas de Uso Frecuente – Histórico de Ventas de Energía*. Viewed at: <https://www.coordinador.cl/reportes-y-estadisticas/#Estadisticas>.

<sup>128</sup> Law No. 20.928 of 22 June 2016.

<sup>129</sup> Law No. 21.185 of 2 November 2019.

<sup>130</sup> Law No. 21.472 of 2 August 2022.

<sup>131</sup> Law No. 21.423 of 11 February 2022.



### 4.2.2.3 Hydrocarbons

4.83. Hydrocarbons, in particular crude oil, natural gas and coal, remain the main source of primary energy in Chile, accounting for 65% of the Chilean energy matrix in 2021 (70% in 2015).<sup>132</sup> Domestic hydrocarbon production is modest, which is why Chile is still highly dependent on other countries for its supply. In 2021, Chile imported 99% of the crude oil and coal used to generate energy and 80% of the natural gas.<sup>133</sup>

4.84. With regard to Chile's imports, oil and other fuels (Chapter 27 of the HS) are the most important category. In 2022, they accounted for 22.2% of total imports, totalling USD 23,206 million, or more than double the imported value in 2015 (USD 8,977 million). This sharp increase is primarily the result of a rise in the price of oil and its derivatives. The main imported products in this category are fuels (diesel and gasoline), with 11.9% of total imports in 2022, crude oil (4.7%), coal (2.1%) and natural gas (2.3%). The main suppliers of these products were the United States and Brazil, which met 67% of the Chilean market needs that same year.<sup>134</sup> Coal and natural gas are used, first and foremost, to generate electricity, while petroleum and petroleum products (diesel and gasoline) are used for transportation and industry.<sup>135</sup>

4.85. The hydrocarbon sector is regulated mainly by the Constitution, the Law on Gas Services<sup>136</sup>, the Law on the Fuel Price Stabilization Mechanism<sup>137</sup>, DFL No. 2 on special operation contracts for the exploration and exploitation of hydrocarbons<sup>138</sup>, DFL No. 1 on standards for activities related to fuels and lubricants<sup>139</sup>, and the mining legislation listed in Table 4.3. Other legal instruments (including various regulations) refer to, *inter alia*, safety and quality standards for the provision of services in the sector. In February and August 2017, Chile made significant changes to the Law on Gas Services to modernize it and improve the way this market operates.<sup>140</sup> In 2022 and 2023, adjustments were also made to the fuel price stabilization mechanism in response to fluctuations in international prices since 2020 (see below).

4.86. In accordance with the Constitution, ownership of liquid or gaseous hydrocarbons in the country is reserved to the State. Exploration and exploitation activities can be carried out directly by the State or its companies (in this case, the National Petroleum Company (ENAP)), or by natural or legal persons, whether Chilean or foreign, through administrative concessions (when the exploitation of a resource is entrusted to a private entity for a given period) or through Special Petroleum Operation Contracts (CEOP).<sup>141</sup> CEOP terms are defined on a case-by-case basis by the Executive and are established by supreme decree. Contracts are granted at the request of the interested party based on a specific project, or through a national or international tender process, depending on the interests of the State, without there being specific periods for calls to tender.<sup>142</sup> The authorities stated that, as of December 2022, Chile had 14 valid CEOPs, some of which were carried out jointly with ENAP.

4.87. Chile does not have limitations on foreign involvement in fuel importation, refining, transportation, storage and distribution activities, but the companies concerned must meet the corresponding requirements, such as having quality and safety certifications and/or holding a concession. Public service activities related to the distribution and transportation of (natural or

<sup>132</sup> Ministry of Energy, *Anuarios Estadísticos de Energía de 2016 y 2021*.

<sup>133</sup> Open Energy, National Energy Commission, *Balance Nacional de Energía 2021*. Viewed at: <http://energiaabierta.cl/categorias-estadistica/balance-energetico/>.

<sup>134</sup> WTO Secretariat calculations based on the UN Comtrade Database.

<sup>135</sup> Ministry of Energy (2022), *Informe Balance Nacional de Energía 2020*.

<sup>136</sup> Decree with Force of Law No. 323 of 30 May 1931, Ministry of the Interior.

<sup>137</sup> Law No. 20.765 of 9 July 2014.

<sup>138</sup> Decree with Force of Law No. 2 of 30 March 1987, Ministry of Mining.

<sup>139</sup> Decree with Force of Law No. 1 of 14 February 1979, Ministry of Mining.

<sup>140</sup> Law No. 21.025 of 7 August 2017 and Law No. 20.999 of 9 February 2017, amending the Law on Gas Services.

<sup>141</sup> Article 8 of the Mining Code and Article 1 of the Decree with Force of Law No. 2 of 30 March 1987, Ministry of Mining.

<sup>142</sup> CEOPs are administrative contracts for the provision of petroleum services. Chile Atiende, *Contratos Especiales de Operación Petrolera*. Viewed at: <https://www.chileatiende.gob.cl/fichas/108554-contratos-especiales-de-operacion-petrolera-ceo-ps>.

liquefied) mains gas are subject to a concession that is processed by request and is granted for an indefinite period by the Ministry of Energy by decree.<sup>143</sup>

4.88. The state-owned enterprise ENAP continues to play a key role in the hydrocarbon market. It is the main crude oil and natural gas producer in the country and the sole fuel producer, given that it owns the country's three refineries. In 2020, ENAP produced 70% of the total crude oil produced in Chile and 77% of natural gas. In both cases, the rest came from third parties through CEOPs.<sup>144</sup> ENAP has two main lines of business: (i) exploration and production; and (ii) refining and marketing.<sup>145</sup> It is also the country's sole importer of crude oil, as its refineries are almost entirely supplied (98.5% in 2022) with imported crude oil. Fuels can be imported by both ENAP and private companies. In the natural gas sector, Chile imported around 70% of the total gas used in 2022. Liquefied natural gas is imported by sea and gaseous natural gas is transported via gas pipelines from Argentina. There are two liquefied natural gas regasification terminals in Chile.

4.89. The wholesale and retail prices of liquid fuels are set freely, although the State has a price stabilization mechanism for the sale of certain fuels for vehicles to the public (see below). In the wholesale market, ENAP generally markets fuels at the import parity price, i.e. the price that would be paid if these products were imported, while in the retail market, distributors freely set the consumer price, inclusive of VAT and the specific tax on fuels (IEC), where applicable (see below). Freight transport companies, among other beneficiaries, can receive an IEC refund on gasoline and diesel.<sup>146</sup>

4.90. In the case of gaseous fuels, the public service prices for gas pipeline transportation and mains gas distribution are also set freely by each concession-holding enterprise. However, with respect to distribution, the tariffs of concession-holding enterprises have been subject to a profitability cap since 2017. The CNE verifies these tariffs every year and, should the cap be exceeded, it sets the tariffs.<sup>147</sup> This does not apply to the Magallanes and Chilean Antarctica Region, which has a permanent pricing regime for the distribution of mains gas under concession. In an assessment carried out in 2021, the National Economic Prosecutor's Office identified "low competitive intensity" in the natural and liquefied gas market, as well as possible risks of concerted practices between companies, and made various recommendations to improve the performance of the market.<sup>148</sup> The authorities indicated that a draft law was submitted to Congress in June 2023 to promote competition and improve the liquefied petroleum gas market, and that they are also exploring a regulatory reform for the natural gas market.

4.91. Chile has a price mechanism to limit or mitigate the effect of fluctuations in the international oil price and in exchange rates (CLP/USD) on the domestic prices of certain vehicle fuels. This mechanism consists of two interconnected instruments: (i) the IEC<sup>149</sup>; and (ii) the Fuel Price Stabilization Mechanism (MEPCO). The vehicle fuels covered by these instruments are (i) gasoline, (ii) diesel, (iii) liquefied petroleum gas and (iv) natural gas.

4.92. The IEC is applied upon importation or initial marketing of these fuels in the country and has two components, one fixed and the other variable, both of which are specific to the type of fuel and defined in UTM<sup>150</sup> per cubic metre. The fixed component rates did not change during the period under review; the rate applied to gasoline remains the highest (6 UTM/m<sup>3</sup>). In 2020, the IEC accounted for around 46% of the final selling price of (93 octane) gasoline and 23% of the diesel

<sup>143</sup> Articles 3 to 7 of the Law on Gas Services.

<sup>144</sup> National Energy Commission, *Estadísticas (Producción Anual de Combustibles)*. Viewed at: <https://www.cne.cl/estadisticas/hidrocarburo/>.

<sup>145</sup> As of 2021, the second segment also includes gas and energy activities that were formerly a third line of business (ENAP (2023), *Reporte Integrado 2022*).

<sup>146</sup> Library of the National Congress of Chile (2021), *Análisis al Impuesto específico a los Combustibles y al mecanismo MEPCO*, Parliamentary Technical Advice.

<sup>147</sup> Articles 30 and 31 *bis* of the Law on Gas Services. A company subject to a tariff-setting regime may request that the Competition Tribunal exclude it from this regime under conditions established by the Tribunal.

<sup>148</sup> National Economic Prosecutor's Office (2021), *Estudio de Mercado del Gas (EM06-2020)*, December 2021.

<sup>149</sup> Law No. 18.502 of 3 April 1986.

<sup>150</sup> The Monthly Tax Unit (UTM) is a unit used in Chile which has a value expressed in Chilean pesos and is adjusted for inflation on a monthly basis.

price.<sup>151</sup> The IEC variable component is determined through MEPCO so that prices at the pump remain within a predefined price band (in CLP).<sup>152</sup> The variable component can be negative or positive, which is reflected as a reduction or increase in the tax amount. This mechanism is financed through a fund associated with MEPCO, from which transfers are made or into which IEC receipts are injected, as applicable. In 2022 and 2023, Chile made some changes to MEPCO in order to adapt it to the conditions of the international hydrocarbon market, including changes to the technical parameters used to calculate the IEC.

4.93. Chile also has a Fund for the Stabilization of Petroleum Prices (FEPP)<sup>153</sup>, currently applied only to household kerosene, that aims to mitigate the effect of fluctuations in the international oil price on the domestic selling prices of this fuel through rebates or taxes, as applicable. In 2022, the Government injected an additional USD 40 million into this Fund to ensure its operation in response to higher oil prices and gave it greater operational flexibility to keep domestic prices at a certain level.<sup>154</sup> The authorities stated that, as in the case of MEPCO, the distributor is free to set fuel prices within the framework of the FEPP.

4.94. An OECD study estimated that, in 2021, support to fossil fuels through the various mechanisms described above rose to some USD 1,940 million, a large portion of which corresponded to direct transfers granted under MEPCO.<sup>155</sup>

4.95. During the period under review, Chile continued to promote electromobility and disincentivize the use of vehicle fuels. In 2017, Chile introduced a green tax on new light and medium-sized vehicles for private use, calculated based on the vehicle sale price and the carbon emissions per kilometre.<sup>156</sup> Chile also has support programmes for the purchase of electric vehicles in the transport for hire sector (taxi).<sup>157</sup> In February 2022, Congress approved the 2022 National Electromobility Strategy, which establishes pillars and targets for the development of electromobility in the country (Section 4.2.2.1).<sup>158</sup>

### 4.3 Manufacturing

4.96. During the period 2015-22, the manufacturing sector's contribution (including oil refining) to the Chilean economy was on a downward trend, which was exacerbated in 2020 and 2021 by lower consumption as a result of the COVID-19 pandemic (Table 4.4).<sup>159</sup> In 2021, manufacturing accounted for 8.6% of total GDP, the lowest share during the review period; in 2022, it pick up, reaching 9.7%, but remained below its 2015 figure (10.4%). This trend was also reflected in the sector's contribution to employment, which decreased from 11.2% to 9.9% between 2015 and 2022.<sup>160</sup>

**Table 4.4 Manufacturing sector GDP, 2015-22**

(% of manufacturing GDP)

Sector	2015	2016	2017	2018	2019	2020	2021	2022
<b>Manufacturing industry</b>	<b>10.4</b>	<b>9.7</b>	<b>9.2</b>	<b>9.6</b>	<b>9.0</b>	<b>9.0</b>	<b>8.6</b>	<b>9.7</b>
Food	2.8	2.7	2.7	2.8	2.7	2.8	2.4	3.0
Beverages and tobacco	1.0	0.8	0.7	0.9	0.9	0.9	0.9	0.8
Textiles, clothing, leather and footwear	0.2	0.2	0.2	0.2	0.1	0.1	0.1	0.1
Wood and furniture	0.8	0.7	0.7	0.6	0.6	0.6	0.6	0.6

<sup>151</sup> Library of the National Congress of Chile (2021), *Análisis al Impuesto específico a los Combustibles y al mecanismo MEPCO*, Parliamentary Technical Advice.

<sup>152</sup> Law No. 20.765 of 9 July 2014 and information provided by the authorities.

<sup>153</sup> Law No. 19.030, of 15 January 1991, creating the Fund for the Stabilization of Petroleum Prices.

<sup>154</sup> Information provided by the authorities and Law No. 21.452 of 19 May 2022.

<sup>155</sup> OECD (2023), *OECD Inventory of Support Measures for Fossil Fuels: Country Notes (Chile)*, OECD Publishing, Paris. Viewed at: <https://doi.org/10.1787/5a3efe65-en>.

<sup>156</sup> Article 8 of Law No. 20.780 of 29 September 2014.

<sup>157</sup> Electromobility Platform, *Electromovilidad y el Estado*. Viewed at: <https://energia.gob.cl/electromovilidad/estado-y-electromovilidad>.

<sup>158</sup> Exempt Resolution No. 8 of 24 February 2022, Ministry of Energy.

<sup>159</sup> Central Bank of Chile (2020), *Cuentas Nacionales de Chile: Evolución de la actividad económica en el año 2020*.

<sup>160</sup> Central Bank of Chile, *Base de Datos Estadísticos (Mercado laboral y demografía)*. Viewed at: [https://si3.bcentral.cl/Siete/ES/Siete/Cuadro/CAP\\_EMP\\_REM\\_DEM/MN\\_EMP\\_REM\\_DEM13/ED\\_OREM3/a8b](https://si3.bcentral.cl/Siete/ES/Siete/Cuadro/CAP_EMP_REM_DEM/MN_EMP_REM_DEM13/ED_OREM3/a8b).

Sector	2015	2016	2017	2018	2019	2020	2021	2022
Cellulose, paper and printed matter	0.9	0.8	0.8	1.0	0.7	0.6	0.7	0.7
Chemicals, petroleum, rubber and plastic	2.4	2.0	1.8	1.8	1.7	1.8	1.8	2.4
Non-metallic minerals and base metals	0.6	0.5	0.5	0.5	0.5	0.5	0.6	0.5
Metal products, machinery and equipment, other	1.8	1.8	1.8	1.7	1.7	1.7	1.5	1.6

Source: Central Bank of Chile.

4.97. The composition of the manufacturing sector has not changed since 2015 and remains closely linked to the performance of the mining and agricultural sectors. The sector's main activities are the manufacture of (i) food, (ii) fuels and chemicals, plastics and rubber, and (iii) machinery, equipment and metal products. These were the only activities that recovered in 2022, after a widespread reduction in manufacturing activities during the review period.

4.98. Chile is a net importer of manufactured products.<sup>161</sup> The manufacturing trade balance deficit widened in 2021 and 2022 due to an uptick in imports. In 2022, imports of manufactured products totalled USD 60,160 million (57.6% of total imports), while exports amounted to USD 21,716 million (22.3% of total exports).

4.99. Exports nevertheless outperformed imports during the period 2015-22, growing 120%. Imports grew 51% during the same period. In 2022, the main manufactured exports were (inorganic) chemicals and wood, pulp, paper and furniture, whereas the main imported products were chemicals, transport equipment and machinery.<sup>162</sup> The MFN tariff applied to manufactured products is 6%, except for 38 duty-free tariff lines that mostly refer to transport equipment.

4.100. During the period under review, China became the top destination for exports of manufactured products, outpacing the United States. Manufacturing exports to China grew sixfold, reaching USD 8,413 million in 2022. These two export markets were followed by the European Union and the Republic of Korea. As for imports, the main supplier was China, followed by the European Union, the United States and Brazil.

4.101. Chile does not have an industrial policy *per se*, but does have a comprehensive economic policy that seeks to promote the country's productive development and that is drawn up by the Ministry of Economy, Development and Tourism. To this end, Chile continues to offer various types of general coverage support programmes and, in some cases, ones specific to the manufacturing sector. Support measures include tax concessions, financing, training and technical assistance, and are mostly administered by CORFO and ProChile. Chile also has various types of free-trade zones, with tax and customs benefits granted to enterprises that set up in these zones (Sections 3.2.4 and 3.3.1).

## 4.4 Services

### 4.4.1 Financial services

#### 4.4.1.1 General characteristics and regulatory and prudential framework

4.102. Chile has a diversified financial sector with a high degree of financial intermediation. During the review period, Chile continued to amend its rules on banking supervision and regulation to meet the Basel III criteria. International agencies are of the view that the supervisory and regulatory framework is appropriate, with limited financial risks, and the banks and insurance companies are adequately capitalized and profitable.<sup>163</sup> In a recent assessment of the financial system in Chile, the

<sup>161</sup> WTO definition for "non-agricultural products", excluding petroleum, fish and fish products, and minerals and metals.

<sup>162</sup> WTO Secretariat based on the UN Comtrade Database.

<sup>163</sup> IMF (2023), *2022 Article IV Consultation - Staff Report; Press Release; and Statement By The Executive Director for Chile*, IMF Country Report No. 36/23, January 2023. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2023/01/20/Chile-2022-Article-IV-Consultation-Press-Release-Staff-Report-Staff-Supplement-and-528410>.

IMF noted that the banking sector is sound, but pockets of vulnerability should be monitored closely. It noted that banks' capital adequacy ratio was comfortably above the regulatory requirement (it stood at 15.1% in September 2022), liquid assets accounted for about 20% of total assets, and profitability had returned to pre-pandemic levels. Although non-performing loan ratios remain low (1.5% in September 2022), pockets of vulnerability have emerged among low-income indebted households, smaller firms, and in sectors more affected by the pandemic and higher costs. A persistent deterioration in repayment capacity could pose credit risks to the banking sector. In view of the fact that the authorities intend to continue to ensure that banks hold adequate liquidity and provisions to absorb shocks, the IMF recommended a tighter monitoring of loans to real estate developers and the construction sector, and that banks should carefully assess the quality of credit exposures and maintain prudential lending standards.<sup>164</sup>

4.103. The financial services market consists of the banking sector, insurance, the securities market and pension funds. During the review period, the supervision of the banking sector, insurance and the securities market fell to one entity, while pension funds were supervised by another, separate entity. Chile has a highly developed and sophisticated financial sector. In 2022, the financial and business services sector contributed 9.2% to GDP; the contribution of the financial services sector alone was 3%. The sector provided direct employment to 2% of the economically active population in 2022. The degree of financial intermediation is high; bank credit amounted to CLP 245,495 billion (about USD 281 billion) and accounted for around 93% of GDP in December 2022.<sup>165</sup> The IMF estimates that the total assets of the Chilean banking system were equivalent to 146.4% of GDP in 2021.<sup>166</sup> According to the Financial Market Commission (CMF), banking sector assets (banks and finance companies) accounted for approximately 151% of GDP in December 2022 (CLP 396,716 billion, excluding BCCh assets)<sup>167</sup>, while pension funds accounted for 58% of GDP (CLP 151,546 billion) and insurance companies' assets 25% (CLP 66,818 billion). According to the CMF estimates, the assets of the financial system totalled CLP 694,727 billion in 2022 (USD 797 billion) and were equivalent to 2.6 times the country's GDP.

4.104. In order to operate in the Chilean market, foreign banking and insurance companies must be set up as *sociedades anónimas especiales* ("special corporations") or establish branches with separate capital and hold the relevant authorization from the CMF. For reasons of national interest, authorization is required for a person to acquire more than 10% of a bank's capital. In Chile, foreign insurance companies may directly market international maritime transport insurance, international commercial aviation insurance and insurance for goods in transit, but only if they are established in countries with which Chile has an international treaty that allows such insurance to be effected. In the area of insurance, shareholders holding 10% or more of the share capital must meet certain requirements for voting rights.

4.105. At December 2022 the Chilean financial sector participants supervised by the CMF included: (i) 17 banks, of which 16 are privately owned (four are branches of foreign banks) and one state-owned; 127 banking-related entities; nine savings and credit cooperatives, banking support services companies (SAG) and a related subsidiary; 22 payment card issuers and operators; 544 mutual funds; 762 investment funds; 57 general fund management companies; 290 issuers of publicly offered securities; two stock exchanges; one commodity exchange; 30 stockbrokers; seven securities dealers; 12 commodity exchange brokers; four risk rating agencies; 84 external audit companies; one securities depository; two clearing and settlement system management companies; 32 public enterprises<sup>168</sup>; 67 insurance and reinsurance companies established in Chile;

<sup>164</sup> IMF (2023), *2022 Article IV Consultation - Staff Report; Press Release; and Statement By The Executive Director for Chile*, IMF Country Report N° 36/23, January 2023. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2023/01/20/Chile-2022-Article-IV-Consultation-Press-Release-Staff-Report-Staff-Supplement-and-528410>.

<sup>165</sup> Financial Market Commission, *Informe Anual de la Comisión para el Mercado Financiero. Cierre estadístico a diciembre de 2022*. Viewed at: [https://www.cmfchile.cl/portal/estadisticas/617/articles-70389\\_doc\\_pdf.pdf](https://www.cmfchile.cl/portal/estadisticas/617/articles-70389_doc_pdf.pdf).

<sup>166</sup> IMF (2023), *2022 Article IV Consultation - Staff Report; Press Release; and Statement By The Executive Director for Chile*, IMF Country Report N° 36/23, January 2023. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2023/01/20/Chile-2022-Article-IV-Consultation-Press-Release-Staff-Report-Staff-Supplement-and-528410>.

<sup>167</sup> Financial Market Commission, *Informe Anual de la Comisión para el Mercado Financiero. Cierre estadístico a diciembre de 2022*. Viewed at: [https://www.cmfchile.cl/portal/estadisticas/617/articles-70389\\_doc\\_pdf.pdf](https://www.cmfchile.cl/portal/estadisticas/617/articles-70389_doc_pdf.pdf).

<sup>168</sup> Law No. 20.285 of 20 August 2008 and amendments thereto.



2,838 insurance brokers; 186 loss adjusters; 45 reinsurance brokers; 814 annuities sales agents; and 14 endorsable mortgage loans brokers.<sup>169</sup> The CMF also supervises 26 representative offices of foreign banks from nine countries and three branches of Chilean banks abroad.<sup>170</sup>

4.106. During the review period, significant changes were made to the institutional framework of the Chilean financial system by abolishing the Securities and Insurance Supervisory Authority and the Supervisory Authority for Insurance Companies, Joint Stock Companies and Trading Exchanges, and consolidating the supervision of the financial system under the CMF and the Pensions Supervisory Authority. Over 70% of the financial assets regulated in Chile are under the supervision of the CMF. Its mission is to contribute to the well-being of society while ensuring the stability and transparency of the financial system, protecting users and facilitating the development of suitable services.<sup>171</sup>

4.107. The CMF became operational on 14 December 2017 under Law No. 21.000<sup>172</sup>, which replaced Decree-Law No. 3.538<sup>173</sup>, and became the legal successor to the Securities and Insurance Supervisory Authority and the Supervisory Authority for Insurance Companies, Joint Stock Companies and Trading Exchanges. In addition, Law No. 21.130<sup>174</sup> provided that as of 1 June 2019, the Banks and Financial Institutions Supervisory Authority would be integrated into the CMF. In accordance with Decree-Law No. 3.538, it is for the CMF to monitor: (a) persons who issue or intermediate publicly offered securities; (b) commodity exchanges, stock exchanges and stock exchange transactions; (c) securities dealer partnerships and the securities transactions they conduct; (d) the funds that the law subjects to CMF control and the companies that manage them; (e) joint stock and limited liability companies subject to CMF supervision; (f) insurance and reinsurance companies, whatever their nature, and the dealings of insurance and reinsurance companies, and those of insurance intermediaries; (g) the Financial Regulatory Committee (see below); (h) banking companies, regardless of their nature, as well as companies engaged in the issue and operation of credit cards, prepaid cards or any other similar system; (i) savings and credit cooperatives; and (j) any other entity or natural or legal person that the law places under the supervision of the CMF.

4.108. Pension fund management companies are subject to the supervision of the Pensions Supervisory Authority and, if incorporated as open joint stock companies, they are also subject to CMF supervision.

4.109. Financial conglomerates have a strong presence in Chile. Since the last Review and the creation of the CMF, there has been a move towards better assessment of the conglomerates' activities, as the CMF supervises several of their constituent entities and therefore is able to request more information about the conglomerates. However, there is still no law governing financial conglomerates *per se*.

4.110. Law No. 21.000 introduced a statutory requirement for certain financial entities to be self-regulating. In this regard, it provides that securities intermediaries, stock exchanges, commodity exchanges, general fund managers, and individual portfolio managers supervised by the CMF must self-regulate to implement good practice in corporate governance, business ethics, transparency and fair competition among the various market players. To that end, they must set up a Financial Regulatory Committee the purpose of which is to issue rules to achieve these objectives and ensure proper compliance therewith; establish and accredit compliance with technical and ethical standards in respect of participants in the securities market; resolve disputes or complaints between its members or between its members and their customers; and promote protection for investors.

<sup>169</sup> Financial Market Commission (2022), *Informe Anual de la Comisión para el Mercado Financiero respecto de su gestión durante el año 2022. Cierre estadístico a diciembre de 2022*. Viewed at: <https://www.cmfchile.cl/portal/estadisticas/617/w3-article-70389.html>.

<sup>170</sup> The branches of Chilean banks abroad are: BCI - Miami branch, Banco del Estado de Chile - New York branch and Corpbanca - New York branch.

<sup>171</sup> Information from the CMF. Viewed at: <https://www.cmfchile.cl/portal/principal/613/w3-article-23900.html>.

<sup>172</sup> Law No. 21.000 of 23 February 2017.

<sup>173</sup> Decree-Law No. 3.538 of 23 December 1980, Ministry of Finance.

<sup>174</sup> Law No. 21.130 of 12 January 2019.



4.111. By virtue of the powers vested in the Central Bank of Chile (BCCh) under the Constitutional Organic Law<sup>175</sup>, the BCCh has the authority to regulate the financial system and the capital market (Article 35), exclusive authority to issue notes and coins (Articles 28 to 33), powers to regulate international exchange operations (Title III, paragraph 8), and specific tools as set out in Article 36 to take steps to safeguard the stability of the financial system by acting as the lender of last resort. The BCCh aims to ensure currency stability and the normal functioning of internal and external payments. In order to meet this objective, it must safeguard the stability of the financial system by means of the legal powers conferred on it, which are implemented from a macro-financial perspective. The BCCh directs its financial policy through joint, coordinated actions with the CMF that seek to contribute to financial system stability. The *Informe de Estabilidad Financiera* (Financial Stability Report - IEF), which is published twice yearly in May and November, is one of the Bank's leading financial and communication policy instruments.<sup>176</sup>

4.112. In addition to the CMF there are other bodies involved in drawing up and implementing regulations. The Ministry of Finance is involved in drafting and implementing laws on the regulation and supervision of the financial system and actively consults the bodies that regulate and supervise the local financial system. While the CMF has powers in relation to secondary regulations, the Ministry of Finance is the body that tables draft laws before Congress; here, the role of the CMF is merely to give an opinion. The Financial Stability Council (CEF) attached to the Ministry of Finance and established in 2011 to ensure the integrity and soundness of the financial system, implements the coordination mechanisms and exchanges of information that are needed for the preventive management of strategic risk and the resolution of critical situations. The Council was granted legal status in November 2014 under Law No. 20.789; its primary objectives are to allow consolidated analysis of the information available concerning activities that are subject to supervision and regulation with a view to appropriate management of systemic risk, to achieve proper coordination between the supervisory and regulatory authorities in the joint supervision of financial conglomerates and the delivery of public policies in that regard, and to make relevant recommendations on legislative and regulatory design.<sup>177</sup> The aim of the Capital Market Advisory Council, also attached to the Ministry of Finance, is to propose reforms, identify legal or regulatory aspects that require improvement and evaluate regulatory changes in the financial sector.<sup>178</sup>

4.113. The Financial Inclusion Advisory Commission was created under Decree No. 954, published on 20 November 2014. Its main objectives are to advise the President of the Republic on all matters related to the design and formulation of a National Financial Inclusion Strategy, and on the design and execution of plans, measures and other activities intended to increase access and improve conditions for inclusion, financial education and the protection of consumer rights.<sup>179</sup>

4.114. Chile continues to apply a maximum interest rate to loans in national currency, known as the agreed maximum interest rate (TMC). The TMC does not apply to foreign currency loans that are payable in foreign currency. The TMC is the maximum legal interest that the lender may charge on loan capital. Its aim is to prevent not only excessive interest rate charges, but also the adoption by banks of dominant position practices.<sup>180</sup> The calculation of the TMC for each type of transaction is based on the current interest rate, as determined by the CMF, and corresponds to the weighted average, by amount, paid by banks established in Chile. Two systems are used to calculate the TMC: a general system and a specific system. Under the general system the TMC is either the current interest rate prevailing at the time of the contract for the relevant transaction multiplied by 1.5, or the prevailing current interest rate plus 2 percentage points, whichever is greater. Under the special

<sup>175</sup> Law No. 18.840 of 10 October 1989.

<sup>176</sup> Central Bank of Chile (2023), *Informe de Estabilidad Financiera. Segundo Semestre 2022*. Viewed at: [https://www.bcentral.cl/documents/33528/3854790/IEF\\_2022\\_semestre2.pdf/26a1ca8f-635b-c36c-0854-b11c40454057](https://www.bcentral.cl/documents/33528/3854790/IEF_2022_semestre2.pdf/26a1ca8f-635b-c36c-0854-b11c40454057).

<sup>177</sup> Information from the Ministry of Finance. Viewed at: <https://www.hacienda.cl/areas-de-trabajo/mercado-de-capitales/consejo-de-estabilidad-financiera>.

<sup>178</sup> Information from the Ministry of Finance. Viewed at: <https://www.hacienda.cl/areas-de-trabajo/mercado-de-capitales/consejo-consultivo#:~:text=El%20Consejo%20Consultivo%20del%20Mercado.de%20desarrollo%20del%20mercado%20financiero>.

<sup>179</sup> Ministry of Finance Decree No. 954 of 20 November 2014 and amendments thereto.

<sup>180</sup> Holz, Mauricio (2022), *Tasa Máxima Convencional, tasa de interés corriente y su relación con la Tasa de Política Monetaria*. Library of the National Congress of Chile, Parliamentary Technical Advisory Service, No. SUP: 133.227, May 2022. Viewed at: [https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/33238/1/BCN\\_Tasa\\_Maxima\\_Mayo\\_2022\\_Final.pdf](https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/33238/1/BCN_Tasa_Maxima_Mayo_2022_Final.pdf).

system that applies to small loans of between 0 UF and 200 UF, the TMC is the same as the interest rate on loans (non-indexed transactions denominated in national currency, for terms equal to or greater than 90 days) of between 200 UF and 5,000 UF plus (a) 21 percentage points for amounts equal to or less than 50 UF, and (b) 14 percentage points for amounts greater than 50 UF and less than 200 UF.<sup>181</sup> The TMCs are published by the CMF. All financial institutions that provide consumer credit, including credit card companies, must comply with these maximum rates. The TMCs also apply to individuals.

4.115. Another significant milestone during the review period was the introduction of fintech legislation. The aim of the Law promoting Financial Competition and Inclusion through Innovation and Technology in the Provision of Financial Services (the Fintech Law)<sup>182</sup> is to establish a general framework to incentivize the provision of financial services by technological means "based on the principles of financial inclusion and innovation, the promotion of competition, financial customer protection, appropriate safeguards for processed data, the maintenance of financial stability and integrity and the prevention of money-laundering, the prevention of the financing of drugs trafficking and the prevention of the financing of terrorism, with which all parties covered by the Law must comply" (Article 1). The Law establishes that the provision of those services is subject to CMF supervision. Technology-based financial services the provision of which is governed by the Law include: (a) crowdfunding platforms, (b) the operation of alternative trading systems, (c) credit and investment advice, (d) custody of financial instruments and (e) order routing and financial instrument intermediation.

4.116. Under Article 5 of the Fintech Law, entry in the CMF Register of Financial Service Providers is required in order to be able to provide regulated services. Legal persons entered in the Register whose activities have been authorized by the CMF may provide one or more of the services referred to above and must keep information available to the public and on their website concerning the type of activity or service they are authorized to perform. International businesses providing those services must be domiciled in Chile. Only those legal persons whose sole line of business is the provision of one or more of the services referred to in the previous paragraph may be registered and therefore may provide the regulated services, without prejudice to the entities exempt from the requirement to be entered in the Register.<sup>183</sup>

4.117. Before they can begin providing services, providers must obtain authorization from the CMF, for which the CMF itself has laid down a procedure in an instrument of a general nature. To receive authorization, prospective providers must satisfy certain general requirements, such as having the necessary systems and procedures in place to comply with the information and publicity requirements established in the Law, and fulfil the obligations concerning corporate governance and risk management set out in Article 12 of the Law.<sup>184</sup> There are also more specific requirements depending on the type of service concerned. For example, in order to be eligible for authorization to provide alternative trading system services, applicants must have the operational capacity to process the transactions performed through their systems or infrastructure, and have internal regulations to ensure that there is a fair, competitive, orderly and transparent secondary financial instruments market to promote appropriate price formation and enable best execution of their users' orders. Entities that provide services in intermediation or custody of financial instruments must at all times have a minimum net worth equal to or greater than the larger of (a) 5,000 UF, or (b) 3% of the

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<sup>181</sup> Law No. 18.010 of 27 June 1981 and amendments thereto.

<sup>182</sup> Law No. 21.521 of 4 January 2023.

<sup>183</sup> Certain entities already under CMF supervision are exempt from the requirement to register in order to provide the services mentioned. For example, securities intermediaries and commodities exchanges and brokers may provide services through crowdfunding platforms and alternative trading systems, as well as order routing and financial instrument intermediation without the need for registration. General fund management companies may provide the order routing service, and banks the services of routing orders and intermediation of financial instruments, as well as the services of intermediation and custody of financial instruments. The financial instrument custody service may also be provided by securities intermediaries, commodities brokers and commodities exchanges. Credit rating agencies may provide credit advisory services without need of further registration, while investment advice may be provided by securities intermediaries, general fund managers and portfolio managers, banks, insurance and reinsurance companies and commodities brokers.

<sup>184</sup> Article 12 (Corporate governance and risk management) states that those entered in the Register must design, approve and implement policies, procedures and controls that adjust their financial and economic viability in line with their capacity for appropriate strategic responses to the risks inherent in their lines of business. It is for the CMF to lay down standards on corporate governance and risk management, including cybersecurity and data security aspects.

financial and operational risk-weighted assets of the entity – that percentage may be increased to 6% by the CMF on the basis of its risk-management assessment of the entity.

4.118. The Fintech Law also provides for an Open Finance System that aims to promote competition, innovation and inclusion in the financial system. With customers' express consent, financial information can be exchanged among participating service providers. Banks and issuers of credit cards, prepaid cards or any other similar system must participate in the Open Finance System as institutions supplying information. The participation of institutions supplying information in the Open Finance System entails an obligation to provide access to and deliver any information covered by the Fintech Law that is requested by information-based service providers under the terms and conditions laid down in that law.

4.119. The Open Finance System will apply to the financial institutions, products and services, types of data and services referred to in the Law subject to the terms and conditions laid down in the regulations issued to that effect by the Commission. In the performance of their duties and obligations, the institutions participating in the Open Finance System must abide by the principles of proportionality, quality, transparency and customer information, data security and privacy, non-discrimination and interoperability across participating institutions. The Law empowers the CMF to regulate and give the guidance necessary for appropriate implementation and operation of the Open Finance System, and to oversee compliance with the obligations incumbent on the participating institutions.

4.120. In accordance with Decree-Law No. 3.475 of 1980 amending the Law on Stamps and Stamp Duty contained in Decree-Law No. 619 of 1974, certain credit transactions are taxable. Unpaid cheques referred to drawer are subject to a tax of 1% of the amount of the cheque subject to a minimum of CLP 4,968 and a maximum of one UTM.<sup>185</sup> Bills of exchange and promissory notes, payment orders, simple or documentary credits or any other document pertaining to credit operations are subject to a tax of 0.066% on the amount thereof for each month or part thereof that has elapsed since the document was issued and the due date; the rate ultimately applied may not exceed 0.8%. Also subject to payment of the tax are the delivery of invoices or bills for collection to banking and financial institutions, the delivery of money loaned at interest – except where the depositor is a bank, secured loans, loans or other operations where money is credited by means of bills or promissory notes by banks and financial institutions and bank-discounted bills, bank loans made on special account and the issuance of bonds and debentures of any nature. Instruments and documents pertaining to credit operations using demand deposits or without a maturity date are taxable at a rate of 0.332% of the amount concerned.

4.121. Some of Chile's international agreements contain special chapters on financial services, including the agreements with Japan; Australia; the European Union; the United States; the United Kingdom; Canada; Hong Kong, China; the Pacific Alliance; Thailand; and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

#### **4.4.1.2 Banking sector**

##### **4.4.1.2.1 General characteristics**

4.122. At December 2022, the assets of the Chilean banking system were valued at USD 461,561 million, equivalent to 151% of GDP, while total deposits amounted to USD 218,244 million (CLP 190,381 billion), or 73% of GDP. On the same date, the Chilean banking system comprised eight locally owned banks, nine foreign-owned banks and one state-owned bank (BancoEstado). The banks under foreign ownership held about 42% of total assets, while the locally owned banks held 44% and the state-owned bank 14%.<sup>186</sup> At the end of 2022, there were 26 representative offices of foreign banks operating in Chile.

<sup>185</sup> Exempt Decree No. 224, published on 1 July 2023.

<sup>186</sup> Financial Market Commission, *Reporte Mensual de Información Financiera del Sistema Bancario*, December 2022 and March 2023. Viewed at: <https://www.cmfchile.cl/portal/estadisticas/617/w3-propertyvalue-28911.html>.

4.123. At March 2023, the five largest banks accounted for 76.8% of total assets.<sup>187</sup> The solvency and profitability indicators for the Chilean banking system are sound: at March 2023, the system had a return on equity (ROE) of 14.83% after tax (18.79% pre-tax).<sup>188</sup> At the same date, the average return on assets (ROA) after tax was 1.06% (1.33% pre-tax). The loan provisions index was 2.55% in March 2023, while the non-performing loans index (90 days or more past due) stood at 1.84%. The operating costs to operating income efficiency indicator was 43.30%, while the operating costs to assets ratio was 1.70%. The loan provisions index was 2.52%.

#### 4.4.1.2.2 Legal and institutional framework

4.124. The main bodies responsible for regulating the banking system are the Financial Market Commission (CMF) and the Central Bank of Chile (BCCh). The CMF is charged with supervising banks and other financial institutions.<sup>189</sup> The BCCh establishes the technical reserve requirement for banks and the collateral and guarantee levels for foreign exchange transactions.

4.125. The primary legislation on the banking sector is the General Law on Banks (LGB).<sup>190</sup> Since the last review, some significant changes have been made to banking law, such as those contained in Law No. 21.000 creating the CMF and the Fintech Law.

4.126. The LGB provides that in order to be able to operate in Chile, banks must be established as closed corporations or, in the case of branches, as agencies of foreign corporations. For a bank to become established in Chile it must have authorization from the CMF. Once the CMF has established that the bank complies with a number of requirements it will issue a banking licence. To be able to obtain a banking licence the bank seeking authorization must provide the CMF with a prospectus, a business plan for the first three years and a guarantee of 10% of the capital of the proposed banking institution. Under the legislation, verification of the solvency and integrity of the founding shareholders is an essential requirement for the approval of a licence application. In relation to solvency, the LGB provides that the founding shareholders of a bank must have a consolidated net worth equivalent to the proposed investment, that is, a minimum of 800,000 UF (approximately USD 72 million). At the time when a bank is granted its charter or a branch of a foreign bank is authorized to operate, 50% of the minimum capital must be paid up. Until the bank has achieved the minimum capital of 800,000 UF, it must maintain an effective equity of not less than 12% of its risk-weighted assets. That proportion drops to 10% once it has an effective equity of 600,000 UF. To meet the integrity requirement, the founding shareholders must be able to show that they have not engaged in any serious or repeated fraudulent or negligent behaviour that might jeopardize the stability of the prospective institution or the security of its depositors, among other requirements. The CMF verifies compliance with the above-mentioned criteria and examines the applications it receives individually, while in addition the BCCh may comment on the potential effects that the authorization of new banks may have on the stability of the financial system.

4.127. Where an application is rejected, the CMF must issue a reasoned decision within 180 days stating that the shareholders do not meet the prescribed requirements. Failure of the CMF to issue a decision to refuse a licence within that time limit will be interpreted as tacit approval and the licence will be deemed to have been granted. In exceptional circumstances the CMF may, once only, suspend its decision on the prospectus for a further period of 180 days.

4.128. The Chilean banking sector is open to foreign investment. There are no restrictions in law on the number of banking entities that a foreign investor can control. However, the prior authorization of the CMF is required for a person to be able to acquire, whether directly or through third parties, more than 10% of a bank's capital.<sup>191</sup> In that event, the share acquisition is subject to the integrity and solvency requirements that apply for establishing a new banking entity.

<sup>187</sup> Namely the Banco de Crédito e Inversiones (18.9%), Banco Santander-Chile (15.9%), Banco de Chile (15.2%), BancoEstado (13.4%) and Scotiabank Chile (13.3%). Financial Market Commission, *Reporte Mensual de Información Financiera del Sistema Bancario*, March 2023. Viewed at: <https://www.cmfchile.cl/portal/estadisticas/617/w3-propertyvalue-28911.html>.

<sup>188</sup> Financial Market Commission, *Reporte Mensual de Información Financiera del Sistema Bancario*, March 2023. Viewed at: <https://www.cmfchile.cl/portal/estadisticas/617/w3-propertyvalue-28911.html>.

<sup>189</sup> The Statute of the CMF is set out in Title I of the General Law on Banks, as amended by Law No. 21.000 establishing the CMF.

<sup>190</sup> Decree with Force of Law No. 3 of 19 December 1997 and amendments thereto, Ministry of Finance.

<sup>191</sup> Article 36 of the LGB.

4.129. Foreign banks may become established in Chile by opening a subsidiary (set up as a Chilean closed corporation), by holding shares in an existing Chilean bank or by setting up a branch with separate capital. The capital and reserves that foreign banks allocate to their branches must be effectively invested in the country and converted into the national currency. Once established in Chile, branches of foreign banks are subject to the same rules and requirements as domestic banks and may engage in the same activities, including tapping funds in the local market. There are no restrictions on the number of branches of foreign banks that can operate in the country.

4.130. In accordance with the LGB, financial institutions incorporated abroad that seek to participate meaningfully in the creation or acquisition of shares in a Chilean bank or to establish a branch, may only be authorized by the CMF to the extent that they are authorized to operate in their country of origin, where that country is able to adequately supervise the risks of their operations and allows the reciprocal exchange of relevant information concerning such entities, or where the entities meet the Basel Committee's standards. Where companies do not report to a supervisory body or are not required to deliver such information to that body, the information must be signed off by internationally reputable external auditors.

4.131. Foreign banks may also maintain a representative office in Chile, subject to CMF authorization. Representative offices may not engage in banking activities in Chile, but may advertise the products or loan services of their parent company. The LGB allows Chilean banks to carry on activities abroad, provided that they comply with minimum capital adequacy requirements and the country in which they operate provides for adequate supervision. Chilean nationals and residents of Chile may make deposits in and obtain loans from banks located abroad. The cross-border supply of banking services is not permitted.

4.132. The formation of financial conglomerates is permitted although there are no specific regulations in that regard. Banks established in Chile, whether Chilean or foreign-owned, may set up companies that provide banking support services and hold shares in them, as well as in subsidiaries that offer various financial services; they may also have specified minority shareholdings.<sup>192</sup> By law, banks may not participate in conglomerates that include activities other than the financial services specifically identified in the LGB. Banks may not hold shares in insurance companies, industrial enterprises, commercial enterprises or public utility enterprises, among others.

4.133. Under the LGB (Title XV, paragraph 3), bank deposits are guaranteed by the State. The state guarantee relates to deposit liabilities and term acceptances by way of savings accounts, or registered instruments or bearer instruments, issued by banks to natural persons only. The guarantee covers 100% of the sum of all liabilities that an institution has with a natural person up to a limit set under the LGB in the event of compulsory liquidation of a bank. The limits of the guarantee extend to all deposits that a creditor holds in a bank. The maximum amount guaranteed in any one bank is 200 UF (shy of USD 7,000) per calendar year. The total amount of the benefit for a single beneficiary may not exceed 400 UF in each calendar year. For legal persons (profit- and non-profit-making institutions) the state guarantee does not cover term deposits, savings account balances or registered or bearer instruments. Sight deposits and liabilities have 100% coverage in the event of compulsory liquidation of a bank, regardless of whether the holder is a natural or legal person.

4.134. The reformed LGB sets out general guidelines for establishing a system for capital adequacy in line with the international Basel III standards, while Decree-Law No. 3.538 empowers the CMF to draft prudential standards. In conformity with Decree-Law No. 3.358, the issuance of these standards must be approved by the CMF Council following a public consultation process and the publication of a regulatory impact report, and by regulatory coordination agencies in conformity with the transparency standards referred to in the Organic Law on the Financial Market Commission. During the review period, the CMF initiated the regulatory process to implement the Basel III standards in Chile. During the previous review in 2015, the authorities indicated that effective implementation of the Basel II and Basel III principles on capital adequacy would require

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<sup>192</sup> The services identified by the LGB include: mutual fund, investment fund or foreign capital fund management; securities agents; financial advisory services; loan recovery and advisory services relating to the pensions system; stock exchange brokers; insurance brokers; securities custody; factoring; leasing operations; and asset securitization.

amendment of the General Law on Banks; the amendment was made during the review period through the reforms made to that Law.

4.135. In implementing the Basel III standards, in January 2022 the CMF published a standard on evaluating the adequacy of bank liquidity positions. The standard lays down the general framework for assessing the adequacy of bank liquidity and establishes the possibility of determining additional requirements for high-quality liquid assets. The standard is based on the principles concerning liquidity risk management and the process for assessing internal capital adequacy under the most recent Basel Committee Accord. According to the authorities, the standard also draws on the internal capital adequacy assessment process (ILAAP) proposed by the European Banking Authority and the guides published in that regard by the European Central Bank. In their view, the result is that the best international practice has been incorporated into the Chilean banking system. The standard broadens the CMF's powers to place additional liquidity charges on specific entities where their specific circumstances so warrant as a result of the economic situation. Before the standard was published, the CMF was not authorized to place higher liquid asset requirements on banking firms where the supervisory assessment had found low liquidity levels or inadequate management.<sup>193</sup> The regulations entered into force in April 2023 when the banks had to send an initial Self-Assessment Liquidity Report (IAL); full implementation of the areas included in the regulations is required from April 2025.<sup>194</sup>

4.136. In line with the Basel III standards implementation process, the CMF reports periodically on the annual ratings of systemically important banks and imposes additional requirements in accordance with the provisions of the LGB and its implementing regulations on identifying systemic banks as set out in Chapter 21-11 of the Updated Compendium of Regulations. The regulations published by the CMF to implement the Basel III standards in Chile include the construction of an index of systemic importance by entity. The index considers the four factors that reflect the impact that a bank's financial deterioration or potential insolvency would have on the operation of the financial system. The factors in question are: bank size, interconnectedness *vis-à-vis* other financial institutions, the bank's degree of substitutability as a provider of financial services, and its business, structural and operational complexity. The score produced by the indicator-based measurement is used to establish thresholds for additional requirements, in accordance with the LGB.

4.137. For example, in March 2023, using the information reported by the banking entities up to December 2022, and, having obtained prior agreement from the BCCh, the CMF deemed six banks systemically important in 2022 (unchanged from 2021), namely Banco de Chile, Banco de Crédito e Inversiones, Banco del Estado de Chile, Banco Santander-Chile, Itaú Corpbanca and Scotiabank Chile. Identification as a systemically important bank entails additional tier 1 capital maintenance requirements. The additional requirements are determined by the CMF in consultation with the BCCh and in 2022 were: 1% for Itaú Corpbanca, 1.25% for Banco de Chile, Banco del Estado de Chile and Scotiabank Chile, 1.5% for Banco Santander Chile, and 1.75% for Banco de Crédito e Inversiones.<sup>195</sup> The higher requirements are being implemented gradually, and, as a result, 50% of tier 1 capital charge must be in place by December 2023. The additional tier 1 capital requirements for banks identified as systemically important were determined in March 2022.<sup>196</sup>

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<sup>193</sup> The amendment to the regulations introduced a new Chapter 21-14 to the CMF Updated Compendium of Regulations (RAN), which identifies two processes: (a) the internal capital adequacy assessment process, in which each bank determines the liquidity adequacy level necessary to cover its liquidity risk with a horizon of at least one year, and (b) the annual CMF assessment on banks' liquidity adequacy, the objective of which is to support their liquidity risk profiles.

<sup>194</sup> CMF, *Estándares de Basilea III, CMF publica norma sobre la evaluación de la suficiencia de la posición de liquidez de los bancos*, 16 January 2023. Viewed at: [https://www.cmfchile.cl/portal/prensa/615/articles-60238\\_doc\\_pdf.pdf](https://www.cmfchile.cl/portal/prensa/615/articles-60238_doc_pdf.pdf).

<sup>195</sup> CMF, *Estándares de Basilea III, CMF informa sobre la calificación anual de bancos de importancia sistémica y fija exigencias*. Press release, 31 March 2023. Viewed at: [https://www.cmfchile.cl/portal/prensa/615/articles-68422\\_doc\\_pdf.pdf](https://www.cmfchile.cl/portal/prensa/615/articles-68422_doc_pdf.pdf).

<sup>196</sup> CMF, *La Comisión para el Mercado Financiero (CMF) informa que su Consejo aprobó la resolución N° 2319 la sobre la calificación anual correspondiente a los bancos de importancia sistémica en Chile y las exigencias adicionales para ellos*. Press and presentations, 31 March 2023. Viewed at: <https://www.cmfchile.cl/portal/prensa/615/w3-article-68422.html>.



4.138. In its Schedule of Specific Commitments included in the Fifth Protocol annexed to the GATS, Chile does not impose any market access or national treatment limitations as regards commercial presence for providing core and complementary banking services.<sup>197</sup>

#### 4.4.1.3 Insurance

##### 4.4.1.3.1 General characteristics

4.139. At May 2023, there were 65 insurance companies in total, of which 25 were general insurance companies, 32 were life insurance companies and eight were credit insurance and guarantee companies.<sup>198</sup> Life insurers have the largest market share, with around two thirds of premiums at September 2022. Foreign-owned companies hold substantial stakes in both groups of insurance companies: around 85% in the general insurance market and 39% for the companies offering life insurance.

4.140. At December 2022, the insurance market was also composed of 67 insurance and reinsurance companies established in Chile, 45 reinsurance brokers, 186 loss adjusters, 2,838 insurance brokers, and 14 endorsable mortgage loan managers.<sup>199</sup> In general, the life insurance companies are constituent entities of financial conglomerates.

4.141. Sales by life insurance companies in the third quarter of 2022 (premiums) amounted to CLP 5,246 billion (USD 6,624 million), representing a real increase of 18.7% compared to the same period in 2021 and equivalent to 2.2% of GDP. Among all sales in the third quarter of that year, 59.7% were for social security-related insurance, followed by banking and retail insurance (14.8%) and individual insurance (14.5%).<sup>200</sup> General insurance company premiums totalled CLP 3,318,900 million at September 2022 (around USD 4,190 Million), of which 40.6% was for insurance premiums for property damage insurance, 25.5% for premiums for other damage to property, 9% for civil liability, 4.2% for transport, 4.0% for engineering, 4.7% for guarantee and credit insurance, 4.1% for health and personal accident, and 7.7% for other insurance.

4.142. Insurance companies' assets rose during the review period: at December 2022 they amounted to USD 77,739 million (compared to USD 46.328 million in 2015) and represented 25% of GDP in that year (20.9% in 2015).<sup>201</sup> The net worth of the insurance companies rose from USD 5,243 million in 2015 to USD 7,578 million in 2022 (USD 1,536 million in general insurance companies and USD 6,042 million in life insurance companies).<sup>202</sup> In 2022, Chilean-owned companies held 96% of the net worth, while foreign companies owned 4%. Moreover, Chilean-owned companies held 67% of the net worth in life insurance companies and 17% of the net worth in general insurance companies, while foreign companies held 17% and 83% respectively.

##### 4.4.1.3.2 Legal and institutional framework

4.143. The Financial Market Commission (CMF) is responsible for supervising the activities and entities involved in the Chilean securities and insurance market.

4.144. The Insurance Law<sup>203</sup> is the principal legislative text governing the insurance industry. The Commercial Code (rules on insurance contracts), Decree-Law No 1.092 of 1975 on mutual insurance societies, Law No. 18.490 of 1986 on compulsory personal accident insurance (SOAP) and other bodies of law governing compulsory insurance also apply.

<sup>197</sup> WTO documents GATS/SC/18 of 15 April 1994 and GATS/SC/18/Suppl.3 of 26 February 1998.

<sup>198</sup> Information from the CMF. Viewed at: [https://www.cmfchile.cl/portal/principal/613/articles-61235\\_recurso\\_1.pdf](https://www.cmfchile.cl/portal/principal/613/articles-61235_recurso_1.pdf).

<sup>199</sup> CMF, *Informe Anual 2022*. Viewed at: [https://www.cmfchile.cl/portal/estadisticas/617/articles-70389\\_doc\\_pdf.pdf](https://www.cmfchile.cl/portal/estadisticas/617/articles-70389_doc_pdf.pdf).

<sup>200</sup> CMF, *Informe Financiero del Mercado Asegurador*, September 2022. Viewed at: [https://www.cmfchile.cl/portal/principal/613/articles-61235\\_recurso\\_1.pdf](https://www.cmfchile.cl/portal/principal/613/articles-61235_recurso_1.pdf).

<sup>201</sup> Information from the CMF. Viewed at: [https://www.cmfchile.cl/portal/principal/613/articles-15337\\_recurso\\_1.xls](https://www.cmfchile.cl/portal/principal/613/articles-15337_recurso_1.xls).

<sup>202</sup> Information from the CMF. Viewed at: [https://www.cmfchile.cl/portal/principal/613/articles-15338\\_recurso\\_1.xls](https://www.cmfchile.cl/portal/principal/613/articles-15338_recurso_1.xls).

<sup>203</sup> Decree with Force of Law No. 251 of 22 May 1931 and amendments thereto, Ministry of Finance.

4.145. The CMF supervises the insurance and reinsurance sector. CMF authorization is required to establish an insurance or reinsurance company in Chile. The company concerned must be legally incorporated in Chile in conformity with the Law on Public Limited Companies or established as a branch with separate capital; it must also be entered in the Register of Commerce and must publish its CMF authorization in the Official Journal. A company must be established in Chile in order to be able to provide insurance services in the country. Foreign insurance companies may also maintain a representative office in Chile. Branches of foreign companies have the same rights and obligations as domestic insurance companies and their activities are not restricted to any area of insurance in particular. There are no restrictions on the number of branches that foreign insurance companies may establish in Chile.

4.146. Generally the law reserves the pursuit of insurance and reinsurance activities in Chile to companies incorporated in Chile for that sole purpose, save for some exceptions expressly provided for in law. Foreign insurers may provide or take out insurance policies in Chile as long as they are established in the country. Violation of that prohibition constitutes an offence. Despite that fact, any natural or legal person may freely enter into insurance contracts abroad. Without prejudice to the foregoing, insurance mandated by law and insurance relating to disability, dependants' benefits and life annuities may not be taken out abroad.

4.147. Insurance and reinsurance companies must be set up as Chilean corporations with minimum capital of 90,000 UF (USD 3,065,760) for life insurance or 120,000 UF (USD 4,807,800) for general insurance. A company may not jointly transact insurance business in the first group (insurance against risk of loss or damage to goods or property) and second group (personal insurance or insurance that guarantees a capital sum or an income during or at the end of a certain term). Personal accident and health may be insured by first- or second-group companies. Credit risks must be insured with a first-group insurance company whose sole purpose is to cover that type of risk; first-group companies are also permitted to cover guaranty and fidelity risks. Moreover, insurance companies may only reinsure risks in the same group as that in which they are authorized to operate.

4.148. Despite having to be incorporated as separate entities, a life insurance company and a general insurance company may belong to the same group (through a holding). The time limits for obtaining a reply to an application for establishment vary according to the type of insurance company the applicant is seeking to establish. The limit for general insurance companies is 60 days, after which the applicant may request a ruling from the CMF, which then has five days in which to decide. Under the Insurance Law, if there is no reply, the application is deemed to have been rejected. Where life insurance is concerned, the CMF has 90 days within which to process an application; in this case, if the CMF fails to notify its decision, the licence is deemed to have been granted.

4.149. Insurers are required at all times to maintain sufficient risk capital to cover their leverage ratio, solvency margin and the minimum net worth referred to above. The solvency margin is determined by taking into account the volume of direct premiums and average losses. For companies in the first group the total debt ceiling may not be more than five times greater than their net worth, and for companies in the second group not more than 15 times greater. If an insurer or reinsurer breaks the law, the regulatory standards or its own statutes, the CMF may apply sanctions such as a censure or reprimand, a fine, suspension of the board for up to six months, suspension of all or certain operations for up to six months or revocation of authorization to exist.

4.150. Contracts concluded in Chile may be reinsured with insurance and reinsurance companies incorporated and authorized to operate in Chile. Reinsurance entities incorporated in Chile may only reinsure risks in either the first group or the second group, unless they have independent, separate capital and accounts for each group, in which case they may operate in both. Foreign reinsurance entities are authorized to conduct reinsurance operations in Chile if they satisfy the following requirements: (a) hold a rating of BBB or equivalent from rating agencies of international repute, (b) appoint a representative in Chile or, failing that, conduct reinsurance through a reinsurance broker registered with the CMF.

4.151. The legislation allows reinsurance intermediaries or brokers, whether Chilean or foreign, to provide reinsurance provided that they satisfy certain requirements, including (a) being entered in the Register held by the CMF, and (b) taking out an insurance policy with no deductibles for an amount of no less than 20,000 UF (USD 681,300) or one third of the intermediated premium of the prior year, whichever is higher. Foreign reinsurers must be legal persons legally incorporated in their

country of origin, with capacity to intermediate risks ceded from abroad and pay claims in freely convertible currency. Natural persons must have Chilean nationality or be established in Chile.

4.152. Insurers and reinsurers established in Chile must make technical reserves as follows: (a) reserve for unexpired risks to cover liabilities arising from premiums for short-term insurance contracts, (b) mathematical reserve to cover the liabilities of a second-group company *vis-à-vis* the parties insured arising under or in connection with long-term insurance contracts, (c) reserve for claims, (d) reserve additional to the reserve for unexpired risks to cover risks of claims for unknown, highly fluctuating, cyclical or catastrophic loss, (e) equalization reserve to cover risks arising from mismatches in maturity, interest rate, currency and investment instruments, between the company's assets and liabilities, and (f) fund value reserve to cover the liabilities generated by accounts investing in the relevant second-group insurance.

4.153. Insurers' and reinsurers' technical reserves and risk capital must be covered by fixed-return investments (such as securities issued or guaranteed by the State or issued by the BCCh, term deposits, mortgage notes, bonds and other credit or debt instruments, endorsable mortgage loans); variable-return investments (shares in open joint stock companies and companies granted concessions for public infrastructure works, shares in mutual funds and investment funds); investments abroad (credit or debt instruments issued or guaranteed by foreign States or Central Banks, deposits, bonds, promissory notes and other credit or debt instruments issued by foreign or international financial institutions or businesses, shares in companies or corporations established outside Chile, among others); other assets (unexpired credit extended to insured parties by way of unearned premiums), outstanding recoverable claims up to an amount not exceeding 10% of the risk capital, unexpired credit by way of premiums from disability and dependants' insurance, credit from their life insurance policy holders up to an amount not exceeding the surrender value of the policies, among others; and financial derivatives up to an amount not exceeding 3% of the technical reserves and risk capital of the companies concerned. Investment in the various types of instruments or assets representing technical reserves and risk capital is subject to maximum limits. Moreover, the law authorizes insurance companies to invest a maximum of 20% of their technical reserves and risk capital in instruments and assets abroad.

4.154. Models of the policies and clauses entered into by the insurers must have been incorporated in advance into the Policy Deposit held by the CMF, with the exception of marine and aircraft hull insurance, and insurance contracts where both the insured and the beneficiary are legal persons and the amount of the agreed annual premium is not less than 200 UF. Exceptionally, some policies must have the prior approval of the regulator (for example, policies related to social security matters). Insurance premiums are set freely by insurers. The law provides that the amount of the insurance premiums and claims must be expressed in UF unless the contract is in foreign currency. Intermediation commissions are also agreed freely between the insurer and the insurance broker. Insurers and reinsurers are required by law to tell the CMF and the general public any essential information about themselves and their businesses.

4.155. The law requires insurance companies to engage at least two rating agencies that are independent of each other and registered in a special register held by the CMF. Insurance may be taken out directly with insurance entities, through their sales agents or through independent insurance brokers. Sales agents must be registered in a special register and may be subject to the same requirements as insurance brokers. Violations, errors or omissions that sales agents may commit in the performance of their activities are the responsibility of the insuring entity. In order to operate, insurance brokers must be entered in the CMF Register and meet the requirements laid down in the prevailing legislation. The law allows mutual entities incorporated before October 1987 to provide first- or second-group insurance in Chile to members of the armed forces and the national police force, but prohibits the incorporation of new mutual entities.

4.156. The activities of insurance companies are subject to VAT, which applies to all insurance policy premiums at a rate of 18% with the following exceptions: (a) indexed life insurance policy premiums, (b) import and export risk premiums, (c) vessel hull insurance premiums (d) premiums for risks outside Chile, (e) premiums for insurance against the risk of earthquake, (f) reinsurance contract premiums, and (g) premiums for compulsory insurance against personal accident caused by motor vehicles. Insurance taken out abroad is subject to a tax of 22% on the premium; for reinsurance with companies that are not established in Chile, the tax is 2% and is calculated on the premium ceded without any deduction. Premiums from shipping activity, air navigation and export credit

insurance and reinsurance are exempt from the tax. Insurance and reinsurance entities are also subject to First Category Income Tax equivalent to 15%.

4.157. Chile adheres to the principle of insuring risks in the country in which they arise and not abroad, except for international maritime transport insurance, international commercial aviation insurance and insurance for goods in transit, which may be provided by foreign insurance companies established in a trading partner with which Chile has an international treaty in force that permits such insurance to be effected. This is the case with the treaties concluded with the United States; the European Union; Japan; Australia; the Pacific Alliance; Hong Kong, China; and the CPTPP.

4.158. Chile's commitments under the GATS are more restrictive than its practice. For example, they stipulate that insurance services may only be provided by companies incorporated in Chile that offer life or general insurance, although the establishment of branches has been permitted since 2007.<sup>204</sup> Chile has not submitted a revised financial services offer to the WTO. The respective financial services chapters of some of the RTAs signed by Chile include provisions on insurance; other agreements envisage future negotiations with a view to their inclusion.

#### **4.4.1.4 Pension funds**

##### **4.4.1.4.1 General characteristics**

4.159. The pensions system in Chile, which represents a significant share of the country's financial system, is a compulsory individual capital account system designed to receive the social security savings of the affiliated workers, who must each month pay 10% of their wages into a personal account with the pension fund management company of their choice. At end-April 2023, there were 11,670,107 people affiliated to the Individual Capital Account Pension System.<sup>205</sup> This is equivalent to around 60% of the population (19.5 million). Dependent workers account for 94.6% of all contributors.

4.160. Pension fund management companies (AFPs) are private institutions responsible for managing individual accounts through pension funds, and are the largest institutional investor in the Chilean financial market. The total value of the assets of AFPs was USD 188,502 million on 30 April 2023, representing 57.5% of GDP.<sup>206</sup> At 30 April 2023 there were seven AFPs; in four of them some of the principal shareholders are controlled by foreign entities.

##### **4.4.1.4.2 Legal and institutional framework**

4.161. The pensions system is governed by Decree-Law No. 3.500 of 1980, as amended on several occasions, which created the individual capital account system managed by the AFPs, and its implementing regulations contained in Decree No. 57 of 20 July 1990. The most significant amendments made to the legislation during the review period include Exempt Resolution No. 722 of 28 March 2022 approving the new sanctions procedure associated with the "Sanctions and Compliance" process of the Pensions Supervisory Authority, and Exempt Resolution No. 496 of 28 March 2017 establishing and approving the Code of Ethics for the Pensions Supervisory Authority.

4.162. The role of the Pensions Supervisory Authority (SP), which was created under Law No. 20.255 of 2008 as the legal successor to the Pension Funds Management Companies Supervisory Authority, is to protect individuals' social security entitlements while contributing to the smooth running of the pensions and unemployment benefits system by providing high quality regulation and supervision and timely delivery of clear, reliable information.<sup>207</sup> The SP is an autonomous entity linked to Government through the Ministry of Labour and Social Welfare via the Under-Secretariat of Social Welfare. The SP is responsible for authorizing the establishment of AFPs,

<sup>204</sup> WTO document GATS/SC/18/Suppl.3 of 26 February 1998.

<sup>205</sup> Pensions Supervisory Authority (2023), *Ficha Estadística Previsional N° 125-abril 2023*. Viewed at: [https://www.spensiones.cl/portal/institucional/594/articles-15570\\_recurso\\_1.pdf](https://www.spensiones.cl/portal/institucional/594/articles-15570_recurso_1.pdf).

<sup>206</sup> Pensions Supervisory Authority (2023), *Ficha Estadística Previsional N° 125-abril 2023*. Viewed at: [https://www.spensiones.cl/portal/institucional/594/articles-15570\\_recurso\\_1.pdf](https://www.spensiones.cl/portal/institucional/594/articles-15570_recurso_1.pdf).

<sup>207</sup> Information from the Pensions Supervisory Authority. Viewed at: <https://www.spensiones.cl/portal/institucional/594/w3-propertyname-581.html>.

overseeing the legal, administrative and financial aspects of their operation, and regulating their activities.

4.163. There are no restrictions on foreign investors, whether natural or legal persons, having shareholdings in an AFP. AFPs must be established as sole purpose corporations, subject to SP approval. The minimum capital requirement for establishing an AFP is 5,000 UF (around USD 175,000); that requirement grows in line with the number of participants to up to 20,000 UF for more than 10,000 affiliates. AFPs are free to set their commissions, which must be standardized across all of an AFP's participants.

4.164. In addition to supervising regulatory compliance, the SP applies a risk-based supervision (RBS) model – a comprehensive, preventive mechanism to identify, monitor, control and attempt to mitigate the most critical risks facing the supervised entities by evaluating their process management. RBS is applied to the supervised entities, with appropriate adjustments according to the complexity, nature and scale of the operations of each of the entities concerned.<sup>208</sup> The resources in pension funds may only be invested in the securities expressly established by law and are managed under a multi-fund scheme. At present, five types of Funds (A, B, C, D and E) are being managed, the distinguishing factor being the level of risk to which they are exposed, defined as the proportion invested in variable-yield securities.<sup>209</sup> The main purpose of creating a multiple fund or multi-fund scheme within the social welfare system is to increase the expected value of the pensions that the scheme's participants will obtain.

4.165. Chile has not made any specific commitments with regard to pension funds under the GATS.

#### 4.4.2 Telecommunications

##### 4.4.2.1 General characteristics

4.166. In 2022, the communications sector in Chile accounted for 2.6% of GDP. Within communications, the telecommunications sector is entirely privately operated; there is no state participation in the telecommunications sector, except in free-to-air television services (through Televisión Nacional de Chile (TVN)).

4.167. The telecommunications sector continued to expand rapidly during the review period. Mobile Internet access, in particular, underwent significant expansion. The number of mobile telephone lines also continued to increase. As of December 2022, there were more than 26.4 million mobile lines (Table 4.5). The penetration rate at that date was 132.8 lines per 100 inhabitants. The number of fixed lines continued to decline during the review period, down from 3.17 million in 2014 to 2.22 million in 2022.

**Table 4.5 Telecommunications indicators, 2014 and 2022**

	2014	2022
Share of telecommunications in GDP (at current prices) (%)	1.92	2.60
Investment (USD millions)	8,237 <sup>a</sup>	7,166 <sup>b</sup>
Total number of lines (millions)	26.56	28.64
Number of fixed lines	3.17	2.22
Number of mobile lines	23.39	26.42
Number of Internet accounts (millions)	12.31	26.86
Fixed	2.24	4.46
Mobile	10.07	22.40

a 2015

b 2021

Source: SUBTEL.

<sup>208</sup> Information from the Pensions Supervisory Authority. Viewed at: <https://www.spensiones.cl/portal/institucional/594/w3-propertyname-579.html>.

<sup>209</sup> At 30 April 2023, the distribution of assets across the funds was: A: 13.7%, B: 16.6%, C: 34.8%, D: 18.4%, and E: 16.5%. Pensions Supervisory Authority (2023), *Ficha Estadística Previsional N° 125-abril 2023*. Viewed at: [https://www.spensiones.cl/portal/institucional/594/articles-15570\\_recurso\\_1.pdf](https://www.spensiones.cl/portal/institucional/594/articles-15570_recurso_1.pdf).

4.168. The number of optical fibre connections grew rapidly during the review period. In December 2022, optical fibre connections accounted for 66.0% of total fixed Internet connections, followed by hybrid fibre coaxial (HFC) (29.3%) and ADSL (1.7%). At that date, the percentage of households with fixed internet stood at 62.6% and the number of 5G mobile connections at 2,040,071.<sup>210</sup>

4.169. At the end of 2022, the fixed telephony market was shared by 17 service providers but was concentrated among the top five: Telefónica, with 35.4% of the market; VTR (22.2%); Entel (18.2%); GTD Group (12.0%); and Claro (9.0%). The mobile market had nine players and was concentrated among four providers: Entel, with 32.2% of the market; Movistar (24.9%); Claro (21.3%); and WOM (20.0%).

#### 4.4.2.2 Legal and institutional framework

4.170. The Ministry of Transport and Telecommunications (MTT) has authority over the telecommunications industry in Chile and exercises its authority through the Under-Secretariat of Telecommunications (SUBTEL). SUBTEL oversees the telecommunications sector, for which purpose it must ensure that the laws and technical regulations are applied and respected. SUBTEL also rules on the award of telecommunications and radio broadcasting concessions, handles applications for licences and permits, and imposes sanctions for non-compliance. Under Article 6 of Decree-Law No. 1.762 establishing the Under-Secretariat, SUBTEL's powers also include: proposing telecommunications policies; participating in national and regional telecommunications development planning; ensuring compliance with international telecommunications treaties, conventions and agreements in force in Chile and with national telecommunications policies approved by the Government; developing and updating telecommunications plans; managing and overseeing the radio spectrum; issuing and monitoring compliance with technical regulations on telecommunications; representing Chile before the International Telecommunication Union and entering into telecommunications agreements with other States; and obtaining from the entities operating in the field of telecommunications, as well as from other government bodies, the background and other information it needs in order to perform its tasks.

4.171. The goals of the telecommunications policy include: promoting equitable and inclusive access to telecommunications, so as to narrow the digital divide; fostering growth of the industry; safeguarding the necessary user protections; and ensuring the provision of quality services thanks to wider coverage of the digital highway, supported by an active regulator that strengthens the regulatory and institutional framework, with the aim of improving the quality of life and living conditions for all Chileans, especially those living in remote, rural and low-income areas. To meet these general goals, the Ministry has set itself specific goals, which include: driving the development of mobility and connectivity; expanding telecommunications service coverage and improving service quality, particularly in the country's more remote locations; increasing competition in the telecommunications sector; and encouraging investment in high-capacity, high-speed convergent infrastructure that will help to bring about development through the use of new technologies.<sup>211</sup>

4.172. The main regulatory framework for the telecommunications sector is contained in the General Law on Telecommunications (LGT)<sup>212</sup> and amendments thereto. The LGT provides for free and equal access to the use of the radio spectrum, which is granted by SUBTEL through concessions, permits or licences for use (issued, in the case of concessions, by supreme decree of the MTT and, in the case of permits and licences, by resolution of the Under-Secretariat). Amendments to the LGT have introduced matters such as number portability and have enshrined the principle of neutrality within the telecommunications network (Law No. 20.453, enacted on 18 August 2010, supplemented by implementing regulations). A complete list of the laws, decrees and other

<sup>210</sup> Under-Secretariat of Telecommunications (2023). *Sector Telecomunicaciones, Cierre 2022*. Viewed at: [https://www.subtel.gob.cl/wp-content/uploads/2023/03/PPT\\_Series\\_DICIEMBRE\\_2022\\_V0.pdf](https://www.subtel.gob.cl/wp-content/uploads/2023/03/PPT_Series_DICIEMBRE_2022_V0.pdf)

<sup>211</sup> Ministry of Transport and Telecommunications, Under-Secretariat of Telecommunications (2022), *Balance de Gestión Integral, año 2021*. Viewed at: [https://www.subtel.gob.cl/wp-content/uploads/2022/09/BGI\\_2021\\_V\\_OFICIAL.pdf](https://www.subtel.gob.cl/wp-content/uploads/2022/09/BGI_2021_V_OFICIAL.pdf).

<sup>212</sup> Law No. 18.168 of 2 October 1982 and amendments thereto.



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provisions governing the telecommunications sector is available online, on the Chilean Government's Transparency Portal.<sup>213</sup>

4.173. The main legislative changes since the last review in 2015, include the following amendments to the LGT: Law No. 20.808 of 2015 protecting free choice in cable, Internet and telephone services; Law No. 21.035 of 2017 amending the General Law on Telecommunications with respect to notifications during the concession application process; Law No. 21.046 of 2017 establishing the obligation of a guaranteed minimum Internet access speed; Law No. 21.119 of 2018 amending the General Law on Telecommunications to establish penalties for illegal decoding of restricted television services; Law No. 21.172 of 2019 amending Law No. 18.168, General Law on Telecommunications, to regulate the installation and removal of overhead and underground lines; Law No. 21.245 of 2020 establishing national automatic roaming; Law No. 21.285 of 2020 amending the General Law on Telecommunications with regard to the functionality of the broadcasting service; and Law No. 21.459 of 2022 establishing rules on computer crimes, repealing Law No. 19.223 and amending other legal frameworks to bring them into conformity with the Budapest Convention.

4.174. In addition, several other regulations were issued, including MTT Decree No. 138 of 2020 approving the Regulations on automatic roaming and virtual mobile operation; Decree No. 50 of 2021 amending MTT Supreme Decree No. 95 of 2019 to adapt the implementation milestones for digital terrestrial television; and Decree No. 192 of 2020 amending Supreme Decree No. 99, which approves the regulations setting out the requirements to obtain, establish, operate and exploit intermediate telecommunications service concessions that provide physical telecommunications infrastructure only.

4.175. Concessions that entail the assignment of exclusive radio frequencies are awarded by competitive tender. Invitations to tender for free-to-air or broadcasting telecommunications services concessions are published in the Official Journal. Where a concession is to be renewed, the incumbent concession-holder has the right of first refusal, provided it can equal the best technical bid made by the other bidders. Concessions for public telecommunications services and intermediate services are granted for a period of 30 years. Broadcasting concessions are granted for periods of 25 years. To obtain a concession to provide public telecommunications services or intermediate services, the beneficiary must be a company established in Chile, irrespective of the origin of its capital. Law No. 19.733 of 2001 stipulates that tenders for radio broadcasting concessions from legal persons in which foreign capital has more than a 10% stake will be approved only if the legislation of the country of origin of that capital grants similar conditions on a basis of reciprocity.<sup>214</sup> Moreover, the presidents, managers, directors and legal representatives of free-to-air broadcasting concession-holders must be Chilean.

4.176. As regards tariffs, a distinction must be made between the prices charged to the public and the prices charged to other operators for interconnections to allow network interoperability. For services to the public, the LGT establishes pricing freedom as the general rule, except where the competition authority (which in Chile is the Competition Tribunal (TDLC)) rules that the conditions to ensure pricing freedom in that market are not met. Tariffs for services provided to other operators are regulated and must be set by operation of law alone, on the understanding that each operator has a "monopoly" on access to its network, e.g. for call termination.<sup>215</sup> The tariff-setting procedure, the technical and economic bases for which (cost criteria, currency references, demand projection horizons, etc.) are fixed by SUBTEL at the outset, requires concession-holders subject to the procedure to submit a report, together with a calculation model and the associated tariff proposal, which may be challenged and rectified by the MTT and the Ministry of the Economy, although a concession-holder may stand by its proposal. The result of the tariff-setting process is a schedule of maximum tariffs per service, which must be updated every five years. The procedure, the competent authorities and the time limits for tariff-setting are decided by the LGT.

4.177. In conclusion, except for services for which the prices must always be fixed (e.g. interconnection prices), the LGT also authorizes the TDLC to regulate prices in specified cases, following the procedure provided for in Decree-Law No. 211. The TDLC thus has the power to

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<sup>213</sup> Viewed at: <https://www.portaltransparencia.cl/PortalPdT/directorio-de-organismos-regulados/?org=AN002>.

<sup>214</sup> Law No. 19.733 of 4 June 2001 and amendments thereto.

<sup>215</sup> Article 25 of Law No. 18.168 (General Law on Telecommunications) of 2 October 1982.

regulate tariffs even for services to the public when a particular kind of telecommunications service (relevant market) is being provided in conditions where there is a lack of competition.<sup>216</sup>

#### 4.4.3 Transport

##### 4.4.3.1 Air transport

4.178. Air transport in Chile is regulated mainly by the Law on Commercial Aviation of 1979, the Aeronautics Code of 1990 and Decree No. 102 of 1981 of the Ministry of Transport and Telecommunications on public tenders for air frequencies (Table 4.6). The main regulatory changes during the review period were the reforms of the Aeronautics Code (in 2015 and 2021) to improve the protection of passenger rights<sup>217</sup>, and the issuance and updating of technical standards to be met by foreign airlines wishing to provide international air transport services (passengers, freight and mail) in Chile.<sup>218</sup> Chile maintains an open skies policy, which it has continued to strengthen by signing additional air services agreements (see below) to improve the country's connectivity and the conditions of competition in the sector.

**Table 4.6 Main legal instruments regulating the air transport sector**

Legal instrument	Description	Publication date	Latest amendment
Decree Law No. 2.564	Law on Commercial Aviation, which regulates commercial aviation, amends Decrees with Force of Law No. 221 of 1931 and No. 241 of 1960 and repeals specified laws, Ministry of Transport and Telecommunications.	22/06/1979	19/06/2001
Law No. 18.916	Aeronautics Code	08/02/1990	24/12/2021
Decree No. 102	Regulations establishing the public tender procedures for the allocation of scheduled international services to domestic airline companies, Ministry of Transport and Telecommunications.	17/06/1981	06/09/2007

Source: WTO Secretariat, based on data provided by the authorities.

4.179. At the institutional level, there were no changes during the period under review. The main institutions with responsibilities in the air transport sector remain: (i) the Directorate-General of Civil Aeronautics (DGAC) of the Ministry of National Defence; (ii) the Directorate of Airports (DAP) of the Ministry of Public Works; and (iii) the Civil Aeronautics Board (JAC) under the Ministry of Transport and Telecommunications, made up of senior officials from various government entities, including the DGAC.<sup>219</sup> The DGAC is responsible for setting technical safety standards for the sector and for monitoring and managing compliance. The JAC is responsible for formulating and implementing air transport policies, allocating routes and negotiating international air transport agreements. The DAP is responsible for the development of the country's airport infrastructure.

4.180. The open skies policy governing commercial air transport is set forth in the Law on Commercial Aviation and is based on the principles of free market entry, free pricing and minimal state intervention.<sup>220</sup> Under this policy, any domestic or foreign company is allowed to provide air transport and commercial aviation services in Chile, subject to the principle of reciprocity and compliance with the relevant technical and safety requirements. With respect to cabotage the legislation goes further, allowing foreign companies to engage in cabotage without requiring reciprocity.<sup>221</sup> As regards routes, where there are more interested airlines than there are available services, the JAC allocates scheduled international services through a public tender process. Routes

<sup>216</sup> Article 29 of Law No. 18.168 and Article 18 of Decree-Law No. 211 (establishing competition standards) of 22 December 1973, Ministry of the Economy, Development and Reconstruction.

<sup>217</sup> These changes were introduced by (i) Law No. 21.398 of 24 December 2021 establishing measures to foster the protection of consumer rights; (ii) Law No. 21.392 of 30 November 2021, which amends the Aeronautics Code to allow the transfer of flight tickets and establishes the right to refund; and (iii) Law No. 20.831 of 30 April 2015, which amends the Aeronautics Code in matters of passenger transport and passenger rights.

<sup>218</sup> Exempt Resolution No. 796 of 19 October 2019 (Aviation Technical Standard DAN 129).

<sup>219</sup> The JAC is composed of a General Secretary and representatives of the Office of the President of the Republic, the DGAC and the following ministries: Ministry of Transport and Telecommunications, Ministry of Foreign Affairs, Ministry of Public Works and Ministry of Social Development and Family.

<sup>220</sup> Preamble and Article 1 of the Law on Commercial Aviation.

<sup>221</sup> Resolution No. 63 of 21 January 2012, Ministry of Transport and Telecommunications.

are allocated for a period of five years.<sup>222</sup> Companies are free to set the rates for domestic and international flights but must register them with the JAC. The JAC may fix rates on international routes only when the other State concerned does not exercise pricing freedom.<sup>223</sup> Domestic routes are not subject to any allocation or tendering process.

4.181. To operate in Chilean airspace an aircraft must be registered in Chile or in another country and must hold an Air Operator Certificate, confirming compliance with the relevant technical and safety standards. Only a Chilean natural or legal person may register an aircraft in Chile. Chilean legal persons are entities incorporated in Chile, with their principal domicile and real and effective headquarters in Chile, which is majority-owned by Chilean investors and has Chilean management personnel. However, the law permits the registration of foreign-owned aircraft, provided the owners (natural or legal persons) are engaged in a permanent professional or business activity in Chile. Foreign-owned aircraft may also be registered in Chile if they are operated commercially by a Chilean company. The professional qualifications of foreign airline personnel are recognized by Chile on the basis of mutual recognition agreements or the principle of reciprocity.<sup>224</sup>

4.182. Airports are state-owned but may be built and managed by private (domestic or foreign) companies under public works concessions awarded by public tender. Airports that are not under a concession are managed by the DGAC. Airport or air transport-related services (such as aircraft repair and maintenance) may be provided by foreign companies through administrative concessions.<sup>225</sup> The State owns the Empresa Nacional de Aeronáutica de Chile (ENAER), which provides maintenance and other specialized services to military and civil aircraft.<sup>226</sup> This is the only state-owned enterprise operating in the air transport sector.

4.183. Chile has seven international airports and over 300 airfields for domestic use. The international airports are managed by private concession-holders, except for Mataverí International Airport on Easter Island (Rapa Nui), which is managed by the DGAC. The DGAC also manages almost 100 airfields.<sup>227</sup> As manager, the DGAC provides airport and air navigation services, in addition to its supervisory functions. In 2019, Chile adopted an Airport Network Modernization Plan, with projected investment of around USD 1.4 billion through private concessions for 17 airports and airfields.<sup>228</sup>

4.184. Chile has an extensive network of air services agreements, totalling 79 agreements in 2022. Under these agreements, the parties grant each other up to sixth or, in some cases, seventh freedom rights, as well as the right of air cabotage. During the review period, Chile negotiated 23 new agreements to improve its connectivity with economies in Latin America and the Caribbean (Guyana, Belize, the Bahamas, and Saint Vincent and the Grenadines), Europe and the Middle East (Austria, Cyprus, Malta, Greece, Latvia, the Netherlands, Czechia, Türkiye, Oman and the Kingdom of Saudi Arabia), Africa (Rwanda, Botswana, Namibia, Ethiopia, Mozambique, Kenya and Cabo Verde) and Asia (Thailand and Sri Lanka) (Table A4.3). During this period, Chile also expanded 10 of its existing agreements, namely, the agreements with Australia, Brazil, Costa Rica, Ecuador, Jamaica, the Bolivarian Republic of Venezuela, Finland, Spain and Luxembourg.<sup>229</sup>

4.185. The structure of the Chilean market has not changed significantly since the last review. The LATAM Group, headquartered in Santiago de Chile, remains the main airline in the domestic and international air transport market, although its share declined during the review period. In 2022, of the 23 airlines operating in the market for international flights, the LATAM Group held a market share of 44.6% (57.4% in 2015, LAN and TAM together), followed by SKY Airlines (13.6% in 2022, 5.9% in 2015), JetSMART (8.8% in 2022)<sup>230</sup> and Copa (7.4% in 2022, 5% in 2015). In the domestic flights market, of the four airlines operating in 2022, LATAM had a market share of 58% (74%

<sup>222</sup> Article 4 of Decree No. 102 of 17 June 1991, Ministry of Transport and Telecommunications.

<sup>223</sup> Articles 1 and 2 of the Law on Commercial Aviation.

<sup>224</sup> Articles 37, 38, 61 and 62 of the Aeronautics Code.

<sup>225</sup> Article 8 of Law No. 16.752 of 17 February 1968. The authorities have indicated that administrative concessions are similar to a lease agreement.

<sup>226</sup> ENAER, *Empresa*. Viewed at: <https://www.enaer.cl/empresa/>.

<sup>227</sup> DGAC, *Balance de Gestión Integral 2021*.

<sup>228</sup> DAP, *Balance de Gestión Integral 2021*.

<sup>229</sup> Civil Aviation Board, Table of rights agreed by Chile with other countries. Viewed at: <http://www.jac.gob.cl/politica-aerocomercial/grado-de-apertura/>.

<sup>230</sup> JetSMART is a low-cost company that began operations in Chile in 2017 and, since then, has positioned itself as one of the country's main airlines.

in 2015, LAN and TAM together), followed by SKY Airlines with 26% (24.8% in 2015) and JetSMART with 15%.<sup>231</sup> The State does not hold any stake in companies operating in the commercial air transport sector.

4.186. During the review period, LAN and TAM completed the merger started in 2012<sup>232</sup>, and in May 2016 LAN, TAM and all their subsidiaries started to operate officially under the LATAM Airlines flag. In May 2020, after declaring bankruptcy in the United States, LATAM opted for a restructuring plan to reduce its debt and strengthen its financial position. LATAM completed this restructuring in 2022<sup>233</sup> and remains one of Latin America's largest aviation groups.

4.187. As regards state aid, the authorities indicated that Chile did not grant direct or indirect aid of any kind to the air transport sector during the COVID-19 pandemic.

4.188. International air passenger traffic increased steadily over the period 2015-19, but this trend was brought to a halt in 2020 by the border closures and mobility restrictions put in place to contain the COVID-19 pandemic. Since then, international air passenger traffic has gradually recovered but has not yet returned to pre-pandemic levels. In 2019, international air passenger traffic reached 11.1 million (8.2 million in 2015), before dropping to 3 million passengers in 2020. In 2022, international passenger traffic totalled 7 million.

4.189. Because of its ties to air transport, tourism was one of the sectors most affected by the near total shutdown of flights during the pandemic. Around 46% of the tourists who came to Chile in 2019 arrived by air at one of the country's seven international airports, corresponding to 2 million passengers.<sup>234</sup> As of 2022, the number of arrivals had still not recovered, having reached 1.1 million passengers.

4.190. The use of air (and land) transport for the movement of goods is marginal. In 2021, only 0.7% of Chile's exports and imports were carried by air (including courier and postal services).<sup>235</sup> Almost all international cargo trade is carried by sea.

4.191. Chile has negotiated air transport commitments in its regional trade agreements (RTAs). In recent years, Chile has adopted such commitments in its RTAs with Thailand (2015, year of entry into force), the Pacific Alliance member countries (2016), the United Kingdom (2021) and Ecuador (2022), as well as within the framework of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) (2023). As a rule, these commitments go beyond Chile's commitments under the GATS.<sup>236</sup> At the multilateral level, Chile is a signatory to the 2001 Multilateral Agreement on the Liberalization of International Air Transport (MALIAT), the 2010 Open Skies Multilateral Agreement for Member States of the Latin American Civil Aviation Commission (LACAC) and the Agreement on Sub-regional Air Services (Fortaleza Agreement) with South American countries.

4.192. In April 2022, in line with its environmental commitments, Chile submitted its voluntary Action Plan to reduce international aviation emissions to the International Civil Aviation Organization (ICAO).<sup>237</sup>

<sup>231</sup> Civil Aeronautics Board, *Informe mensual de tráfico aéreo* (December 2015 and 2022). Viewed at: <http://www.jac.gob.cl/estadisticas-ano-2022/> and <http://www.jac.gob.cl/estadisticas-ano-2015/>.

<sup>232</sup> See WTO document WT/TPR/315/Rev.1 of 7 October 2015.

<sup>233</sup> LATAM, *Relación con Inversionistas*. Viewed at: <https://www.latamairlinesgroup.net/es/news-releases/news-release-details/grupo-latam-sale-de-su-proceso-de-reestructuracion-con-una>.

<sup>234</sup> National Tourism Service, *Movimiento turístico internacional*. Viewed at: <https://www.sernatur.cl/dataturismo/>.

<sup>235</sup> Chile Customs, *Anuario Estadístico 2021*.

<sup>236</sup> WTO Regional Trade Agreements Database. Viewed at: <https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>. Under the GATS, Chile undertook commitments in respect of the opening of offices, the emission and sale of airline tickets and air waybills, computer reservation system services, the operation of ground support equipment, and aircraft maintenance services (WTO document S/DCS/W/CHL of 24 January 2003).

<sup>237</sup> SUBREI, *Noticias*. Viewed at: <https://www.subrei.gob.cl/sala-de-prensa/noticias/detalle-noticias/2022/04/28/se-entrega-oficialmente-plan-de-acci%C3%B3n-voluntario-de-chile-para-la-reducci%C3%B3n-de-emisiones-en-el-transporte-a%C3%A9reo-internacional>.

#### 4.4.3.2 Maritime transport

4.193. Maritime transport plays a key role in Chile's economic development and participation in international trade. Almost all Chilean exports and imports are carried by sea through the country's 72 ports. In 2022, maritime transport was used for 89.5% of exports and 77.3% of imports (by value).<sup>238</sup> In that same year, the Chilean merchant fleet consisted of 264 vessels and had a capacity of nearly 1 million deadweight tonnes.<sup>239</sup>

4.194. Maritime transport is governed mainly by the Shipping Law and the Law on the Development of the Merchant Marine and its implementing regulations (Table 4.7). Other relevant instruments include Law No. 19.542 on the modernization of the state port sector and Decree with Force of Law No. 340 and its implementing regulations on maritime concessions, which regulate ports and their activities. The regulations on maritime concessions were adopted in 2018 (replacing the previous regulations) in order to, among other things, simplify and strengthen certain administrative procedures. The main regulatory change in trade policy in this sector during the review period was the reform of the Law on the Development of the Merchant Marine in 2019 to allow foreign vessels of a certain size to provide passenger cabotage services (see below). In 2021, Chile also adopted various legal provisions to facilitate international maritime trade and meet its commitments *vis-à-vis* the International Maritime Organization. Among other things, these provisions are aimed at streamlining implementation of the maritime single window (VUMAR), introduced in 2018, and modernizing the work of the Technical Commission on the Facilitation and Simplification of Maritime Transport, which is tasked with advising the Government in this area.<sup>240</sup> By implementing VUMAR, Chile seeks to simplify and standardize the processing of shipping documents at the national level. According to the authorities, VUMAR, which is currently in the pilot phase, should come into operation at the national level in 2024.

**Table 4.7 Main legal instruments on maritime transport and ports**

Legal instrument	Description	Publication date	Latest amendment
Decree-Law No. 2.222	Shipping Law, Ministry of National Defence	31/05/1978	26/05/2022
Decree-Law No. 3.059	Law on the Development of the Merchant Marine, Ministry of Transport and Telecommunications.	22/12/1979	26/02/2019
Decree No. 237	Implementing regulations of the Law on the Development of the Merchant Marine (superseding Decree No. 24 of 1986, approving the implementing regulations of Decree-Law No. 3.059 of 1979, Law on the Development of the Merchant Marine), Ministry of Transport and Telecommunications.	25/07/2001	25/07/2001
Law No. 19.542	Law modernizing the state port sector	19/12/1997	07/07/2023
Decree with Force of Law No. 340	On maritime concessions, Ministry of Finance.	06/04/1960	06/09/1991
Decree No. 9	Replacing the implementing regulations on maritime concessions, established by Supreme Decree (M) No. 2 of 2005, Ministry of National Defence.	17/03/2018	04/03/2020

Source: WTO Secretariat.

4.195. In addition to these reforms, in April 2023, Chile launched a consultation process to develop a comprehensive policy for the sector, called the National Port Logistics Development Policy. This strategy will be designed along four lines: (i) institutional framework and regulation of the sector; (ii) facilitation of economic development; (iii) territorial planning and sustainability; and (iv) modernization of port labour legislation. This initiative had been accompanied by a diagnostic study and proposals.<sup>241</sup>

<sup>238</sup> National Customs Service (2023), *Compendio Estadístico de Comercio Exterior: enero-diciembre 2022*. In 2022, exports and imports transported by sea accounted for 96.5% and 85.7% of total export and import tonnage, respectively.

<sup>239</sup> DIRECTEMAR, *Boletín Estadístico Marítimo, Edición 2023*.

<sup>240</sup> The changes were made by means of: (i) Law No. 21.138 of 26 February 2019 amending Decree-Law No. 3.059 of 1979 to authorize passenger cabotage for foreign-flag cruise ships; and (ii) Decree No. 8 of 25 April 2022 of the Ministry of Transport and Telecommunication, establishing the Technical Commission, laying down rules for the facilitation and simplification of documentation in maritime transport and creating the maritime single window.

<sup>241</sup> Ministry of Transport and Telecommunications and Ministry of Economy, Development and Tourism (2023), *Política Nacional Logística Portuaria – Consolidado de diagnósticos y propuestas*.

4.196. At the institutional level, the main public bodies with responsibilities in the maritime transport sector remain: (i) the Ministry of Transport and Telecommunications (MTT), through its Under-Secretariat of Transport; (ii) the Ministry of Defence, through the Directorate-General of the Maritime Territory and Merchant Marine (DIRECTEMAR) and the Armed Forces Under-Secretariat; and (iii) the National Customs Service. The MTT is responsible for policy formulation and implementation in this area and for coordination with all the other entities. DIRECTEMAR is the country's maritime authority and as such is responsible for setting technical and safety standards, and for monitoring compliance. The Armed Forces Under-Secretariat is responsible, *inter alia*, for authorizing maritime concessions in private ports (see below). The National Customs Service oversees cargo handling at ports. In addition to these three entities, the Merchant Marine Development Commission is responsible for applying the principle of reciprocity in the provision of maritime services from or to Chile, and for administering permits for the use of foreign vessels by Chilean shipping companies in cabotage activities, where required.<sup>242</sup>

4.197. Chile's policy on access to the market for international maritime services and related services did not change during the review period. Both domestic and foreign companies may provide international cargo transport services. In the case of foreign vessels, the principle of reciprocity applies and the percentage of cargo granted to Chilean vessels by the other party is taken into account.<sup>243</sup>

4.198. Maritime cabotage services are generally reserved to ships registered in Chile, except in certain cases where foreign vessels are permitted to perform such services.<sup>244</sup> Foreign vessels may engage in maritime cargo cabotage activities: (i) when the volume of cargo exceeds 900 tonnes<sup>245</sup>; (ii) when the volume of cargo is less than 900 tonnes but no Chilean vessels are available<sup>246</sup>; (iii) for the transport of empty containers when the principle of reciprocity is applied; and (iv) when the vessels are leased by Chilean companies on a temporary basis and certain conditions are met. In addition, since 2019, Chile has allowed foreign-flag passenger vessels to provide cabotage services for tourism purposes if their carrying capacity is 400 passengers or more.<sup>247</sup> This provision does not apply to the Juan Fernández Islands or Easter Island (Rapa Nui).

4.199. As regards vessel registration, only Chilean natural or legal persons may register a vessel in Chile, with a few exceptions.<sup>248</sup> In order to be considered Chilean, a legal person must be established in Chile, must be majority-owned by Chilean investors and must have Chilean management personnel. Foreign-owned vessels, other than fishing vessels, may be registered in Chile provided the owners (natural or legal persons) have a permanent professional/commercial address in the country. For fishing companies incorporated in Chile with majority foreign ownership, registration in Chile is permitted subject to the application of reciprocity by the other State. For ships registered in Chile, the captain and crew must be Chilean. Where deemed indispensable, the recruitment of foreign personnel may be authorized, except for the captain, who must always be Chilean.<sup>249</sup>

4.200. As regards incentives, the State may grant subsidies to Chilean shipping companies when a special cabotage service is required that is not available in the market. The subsidy is granted by tender to Chilean shipping companies that undertake to provide the specified service.<sup>250</sup> The authorities have indicated that, during the period 2018-22, these subsidies amounted to CLP 165,707 million and benefited 104 shipping lines. Furthermore, Chilean and foreign companies providing international cargo or passenger transport services may reclaim VAT.

4.201. Chile levies a 5% tax on the income of foreign shipping companies from the international transport of maritime freight. This tax does not apply where there is no similar tax in the foreign vessels' country of registration or where Chilean vessels are exempted from the tax on a reciprocal

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<sup>242</sup> Article 21 of the implementing regulations of the Law on the Development of the Merchant Marine.

<sup>243</sup> Article 4 of the Law on the Development of the Merchant Marine.

<sup>244</sup> Articles 3 and 6 of the Law on the Development of the Merchant Marine.

<sup>245</sup> In this case, the foreign company may engage in cabotage activities through a public tender. In order to be awarded the contract, an additional 6% is applied to foreign companies' bids, equivalent to the general customs tariff.

<sup>246</sup> This authorization may also be granted when it involves the exclusive transport of passengers.

<sup>247</sup> Article 3 of the Law on the Development of the Merchant Marine.

<sup>248</sup> Article 11 of the Shipping Law.

<sup>249</sup> Article 14 of the Shipping Law.

<sup>250</sup> Article 14 of the Law on the Development of the Merchant Marine.



basis.<sup>251</sup> For cabotage services, the tax is charged at a rate of 20% if the foreign vessels operate through Chilean companies under lease agreements, and at 35% if they operate under transport contracts.<sup>252</sup>

4.202. In the area of port services, Chile has two regulatory frameworks: one for state-owned ports (Law No. 19.542 of 1997) and one for privately-owned ports (Decree with Force of Law No. 340 of 1960 and its implementing regulations). The differences between these two systems include how the concessions are granted and conditions for the ports' operation, as well as the obligations of concession-holders. No changes were made to these systems during the review period, but the possibility of unifying the two systems was discussed in the context of the National Port Logistics Development Policy initiative launched in 2023 (see above). In 2022, the Chilean port system comprised 72 ports (52 in 2015): 13 state-owned and 59 privately-owned. Of the privately-owned ports, 15 were for public use (free access) and 44 for private use. In 2021, 53% by value of Chilean exports transported by sea went through state-owned ports (equivalent to 28% in tonnage).<sup>253</sup> The main state-owned ports are the ports of San Antonio, San Vicente and Valparaíso, which in 2021 handled almost 30% (by value) of total cargo handled by Chilean ports (including the privately-owned ports).<sup>254</sup>

4.203. The State has 10 port authorities charged with the management, operation and development of the existing 13 state-owned ports. By law, these authorities may delegate port operation and related services (such as loading, unloading and cargo transfer) to private entities (domestic or foreign) through a bidding process.<sup>255</sup> There are no restrictions on the share of foreign ownership in these activities. Port operating concessions may be awarded for periods of up to 30 years. At present, private companies hold the concessions for all the state-owned ports, except in three cases where the terminals are operated by state-owned enterprises.<sup>256</sup> Contracts for the construction of state-owned ports must be awarded by public tender.<sup>257</sup> The management of the port authorities is monitored and overseen by the Enterprise System (Section 3.3.5.2).

4.204. A concession to operate a private port may be granted upon submission by the interested party of an application to the Armed Forces Under-Secretariat. Such a concession, known as a maritime concession, may be authorized and granted for a period of up to 50 years. Unlike state-owned ports, private ports may be for public or private use.

4.205. For state-owned ports, the obligations of the concession-holder are established by the Competition Tribunal (TDLC), with the aim of ensuring the service quality and competition. Rates for port services are set by the port authorities in the concession agreement. Privately-owned ports are not subject to the obligations established by the TDLC, nor to price regulation of any kind.<sup>258</sup>

4.206. Chile has made maritime transport commitments in some of its regional trade agreements (RTAs). In recent years, such commitments have been included in the RTAs with the Pacific Alliance, the United Kingdom and Ecuador and in the CPTPP. The first two of these agreements also include a chapter on maritime transport, with provisions to facilitate cooperation between the parties and trade in services in this area.<sup>259</sup> Chile has not made any specific commitments on maritime transport under the GATS.<sup>260</sup>

<sup>251</sup> This tax features in Chile's list of MFN exemptions under the GATS (WTO document GATS/EL/18 of 15 April 1994).

<sup>252</sup> Articles 59 and 60 of Decree-Law No. 824 of 31 December 1974, Ministry of Finance.

<sup>253</sup> Ministry of Transport and Telecommunications, and Ministry of Economy, Development and Tourism (2023), *Política Nacional Logística Portuaria – Consolidado de diagnósticos y propuestas*.

<sup>254</sup> DIRECTEMAR, *Boletín Estadístico Marítimo 2022*.

<sup>255</sup> Articles 4, 5 and 7 of Law No. 19.542 of 19 December 1977.

<sup>256</sup> The Puerto Montt, Chacabuco and Austral Port Authorities.

<sup>257</sup> Article 19 of Law No. 19.542.

<sup>258</sup> Ministry of Transport and Telecommunications, and Ministry of Economy, Development and Tourism (2023), *Política Nacional Logística Portuaria – Consolidado de diagnósticos y propuestas*.

<sup>259</sup> WTO RTA database. Viewed at: <https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>.

<sup>260</sup> WTO document S/DCS/W/CHL of 24 January 2003.

## 5 APPENDIX TABLES

Table A1.1 Merchandise exports by HS section, 2015-22

(USD million and %)

Description	2015	2016	2017	2018	2019	2020	2021	2022
	(USD million)							
<b>Exports</b>	<b>62,118</b>	<b>60,769</b>	<b>68,904</b>	<b>74,838</b>	<b>68,792</b>	<b>74,081</b>	<b>94,677</b>	<b>97,491</b>
	(% of exports)							
1 -Live animals; animal products	8.4	9.1	9.1	9.5	10.3	8.8	7.9	9.5
03. Fish, crustaceans and molluscs	6.5	7.3	7.6	7.9	8.4	6.7	6.2	7.7
02. Meat and edible meat offal	1.5	1.5	1.2	1.3	1.7	1.8	1.5	1.6
04. Dairy produce; birds' eggs; natural honey	0.3	0.2	0.2	0.2	0.2	0.2	0.1	0.2
2 -Vegetable products	9.9	11.2	9.5	10.0	11.3	10.1	8.2	8.2
08. Edible fruit and nuts; melons	8.5	9.8	8.2	8.6	9.9	8.8	7.1	7.1
12. Oil seeds and oleaginous fruits; industrial or medicinal plants; straw and fodder	0.5	0.6	0.6	0.6	0.6	0.5	0.4	0.5
11. Products of the milling industry	0.1	0.1	0.1	0.2	0.2	0.3	0.2	0.2
3 -Animal or vegetable fats and oils	0.4	0.3	0.3	0.4	0.4	0.4	0.4	0.4
4 -Prepared foodstuffs; beverages, spirits and tobacco	6.5	6.4	6.0	5.6	5.7	5.3	4.3	4.2
22. Beverages and spirits	3.0	3.1	3.0	2.7	2.8	2.5	2.1	2.0
20. Preparations of vegetables, fruit, nuts or plants	1.0	1.0	0.9	0.9	0.9	0.8	0.7	0.8
23. Residues from the food industries; animal fodder	0.7	0.6	0.6	0.6	0.5	0.7	0.5	0.5
16. Preparations of meat, of fish or of crustaceans	0.6	0.5	0.5	0.6	0.6	0.6	0.5	0.4
5 -Mineral products	25.3	25.2	28.4	28.9	29.8	34.5	37.0	29.0
26. Ores, slag and ash	24.0	24.0	27.1	27.4	28.6	33.6	36.0	27.0
27. Mineral fuels; bituminous substances	0.9	0.9	1.1	1.2	1.0	0.7	0.8	1.7
6 -Products of the chemical or allied industries	4.1	4.6	4.4	4.7	4.8	4.2	4.2	13.1
28. Inorganic chemicals	2.0	2.5	2.6	3.0	2.9	2.6	2.5	10.9
31. Fertilisers	1.2	1.1	0.8	0.7	0.6	0.6	0.6	1.1
29. Organic chemicals	0.1	0.2	0.3	0.3	0.5	0.3	0.4	0.5
7 -Plastics and articles thereof	1.4	1.2	1.1	1.1	1.2	0.9	0.9	0.9
8 -Raw hides and skins, leather, furskins; saddlery	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
9 -Wood and articles of wood; wood charcoal	3.6	3.8	3.3	3.5	3.4	3.0	2.8	3.2
44. Wood and articles of wood; wood charcoal	3.6	3.8	3.2	3.5	3.4	3.0	2.8	3.2
10 -Pulp of wood or of other fibrous cellulosic material; paper or paperboard	5.0	4.8	4.6	5.6	4.7	3.6	3.5	3.6
47. Pulp of wood; recovered paper or paperboard	4.1	4.0	3.9	4.9	3.9	2.8	2.9	2.9
48. Paper and paperboard; articles of paper or of paperboard	0.8	0.8	0.7	0.7	0.7	0.7	0.5	0.6
11 -Textiles and textile articles	0.3	0.4	0.5	0.7	0.7	0.4	0.4	0.5
12 -Footwear, headgear, umbrellas, sun umbrellas, walking-sticks; feathers and articles made therewith	0.0	0.0	0.1	0.2	0.2	0.1	0.1	0.1
13 -Articles of stone, plaster, cement, asbestos, mica; ceramic products; glass	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
14 -Natural pearls, precious or semi-precious stones, precious metals	1.5	1.6	1.4	1.4	1.4	1.7	1.4	1.3
15 -Base metals and articles of base metal	28.6	26.6	27.2	25.4	23.4	23.8	26.6	23.7
74. Copper and articles thereof	27.4	25.4	26.0	24.0	21.9	22.8	25.3	22.3
72. Iron and steel	0.3	0.3	0.3	0.7	0.6	0.4	0.7	0.7
73. Articles of iron or steel	0.5	0.5	0.4	0.4	0.4	0.3	0.3	0.3
76. Aluminium and articles thereof	0.2	0.2	0.2	0.2	0.2	0.1	0.1	0.2

Description	2015	2016	2017	2018	2019	2020	2021	2022
16 -Machinery and mechanical appliances; electrical equipment; parts thereof	1.6	1.6	1.5	1.2	1.4	1.1	1.0	1.1
17 -Vehicles, aircraft, vessels and associated transport equipment	0.7	1.0	1.0	1.2	0.9	1.8	1.0	0.6
87. Vehicles other than railway or tramway rolling-stock	0.4	0.5	0.7	0.9	0.8	0.5	0.5	0.5
18 -Optical, photographic, cinematographic, measuring and checking instruments and apparatus	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
19 -Arms and ammunition; parts thereof	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
20 -Miscellaneous manufactured articles	0.3	0.2	0.2	0.2	0.2	0.2	0.1	0.1
21 -Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other	2.1	1.8	1.0	0.1	0.0	0.0	0.0	0.0

Source: WTO Secretariat calculations based on UN Comtrade data.

**Table A1.2 Merchandise imports by HS section, 2015-22**

(USD million and %)

Description	2015	2016	2017	2018	2019	2020	2021	2022
<b>Imports</b>	<b>62,319</b>	<b>59,285</b>	<b>65,168</b>	<b>74,612</b>	<b>69,855</b>	<b>59,201</b>	<b>92,191</b>	<b>104,402</b>
	(USD million)							
	(% of imports)							
1 -Live animals; animal products	2.2	2.5	2.9	2.7	2.9	3.4	3.3	2.7
02. Meat and edible meat offal	1.7	2.0	2.2	2.1	2.3	2.6	2.7	2.1
04. Dairy produce; birds' eggs; natural honey	0.3	0.3	0.5	0.4	0.4	0.6	0.5	0.4
2 -Vegetable products	2.2	2.1	2.2	2.3	2.4	3.3	2.7	2.6
10. Cereals	1.0	1.0	1.1	1.1	1.3	1.7	1.4	1.4
08. Edible fruit and nuts; melons	0.3	0.3	0.3	0.3	0.3	0.4	0.4	0.3
11. Products of the milling industry	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
09. Coffee, tea, maté and spices	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
12. Oil seeds and oleaginous fruits; industrial or medicinal plants; straw and fodder	0.2	0.2	0.2	0.2	0.2	0.3	0.2	0.2
3 -Animal or vegetable fats and oils	0.9	0.8	0.9	0.9	0.9	1.2	1.0	1.1
4 -Prepared foodstuffs; beverages, spirits and tobacco	4.2	4.5	4.3	4.1	4.3	5.0	4.6	4.6
23. Residues from the food industries; animal fodder	1.2	1.2	1.3	1.3	1.3	1.4	1.3	1.4
22. Beverages and spirits	0.6	0.7	0.7	0.6	0.7	0.7	0.8	0.7
21. Miscellaneous edible preparations	0.7	0.7	0.7	0.6	0.6	0.8	0.7	0.7
5 -Mineral products	15.4	14.4	16.3	18.0	17.6	14.2	16.5	23.2
27. Mineral fuels; bituminous substances	14.4	13.3	15.4	17.1	16.7	12.9	15.2	22.2
6 -Products of the chemical or allied industries	9.7	9.1	9.0	9.1	9.7	10.9	9.9	10.2
30. Pharmaceutical products	1.9	2.0	2.0	2.1	2.4	2.9	2.7	2.2
28. Inorganic chemicals	1.3	1.1	1.1	1.2	1.4	1.3	1.3	2.1
38. Miscellaneous chemical products	1.4	1.4	1.3	1.2	1.3	1.7	1.4	1.4
29. Organic chemicals	1.4	1.3	1.4	1.4	1.3	1.3	1.2	1.4
7 -Plastics and articles thereof	5.3	5.1	5.1	5.0	5.0	5.4	5.5	4.7
39. Plastics and articles thereof	3.7	3.6	3.5	3.5	3.4	3.7	3.9	3.3
8 -Raw hides and skins, leather, furskins; saddlery	0.4	0.4	0.5	0.5	0.4	0.3	0.3	0.4
9 -Wood and articles of wood; wood charcoal	0.5	0.5	0.4	0.5	0.4	0.4	0.7	0.3
10 -Pulp of wood or of other fibrous cellulosic material; paper or paperboard	1.5	1.5	1.5	1.5	1.5	1.4	1.3	1.6
48. Paper and paperboard; articles of paper or of paperboard	1.2	1.2	1.2	1.3	1.3	1.2	1.1	1.4
11 -Textiles and textile articles	5.4	5.8	6.3	6.2	5.8	5.5	5.1	5.3
61. Articles of apparel and clothing accessories, knitted or crocheted	1.9	2.1	2.2	2.1	2.0	1.6	1.7	2.0
62. Articles of apparel and clothing accessories, not knitted or crocheted	1.9	2.0	2.2	2.1	1.9	1.6	1.2	1.5
12 -Footwear, headgear, umbrellas, sun umbrellas, walking-sticks; feathers and articles made therewith	1.6	1.8	2.0	1.8	1.6	1.3	1.3	1.5
64. Footwear, gaiters and the like; parts of such articles	1.5	1.7	1.9	1.7	1.5	1.2	1.2	1.4
13 -Articles of stone, plaster, cement, asbestos, mica; ceramic products; glass	1.1	1.1	1.0	1.0	1.0	0.9	1.1	1.0
14 -Natural pearls, precious or semi-precious stones, precious metals	0.2	0.1	0.1	0.1	0.1	0.1	0.2	0.1
15 -Base metals and articles of base metal	5.8	5.2	5.2	5.7	6.0	5.7	6.4	5.5
72. Iron and steel	1.8	1.6	1.8	2.1	2.1	1.8	2.5	2.0
73. Articles of iron or steel	2.2	1.8	1.7	1.9	2.2	2.1	2.0	1.8

Description	2015	2016	2017	2018	2019	2020	2021	2022
16 -Machinery and mechanical appliances; electrical equipment; parts thereof	23.6	24.1	22.5	21.5	22.5	27.0	23.4	18.6
84. Nuclear reactors, boilers, machinery and mechanical appliances	12.8	12.0	11.9	11.6	12.7	13.8	12.1	10.4
85. Electrical machinery and equipment; sound and image recorders	10.8	12.1	10.6	9.9	9.9	13.2	11.3	8.2
17 -Vehicles, aircraft, vessels and associated transport equipment	12.0	13.1	13.3	14.3	13.0	9.0	11.6	11.8
87. Vehicles other than railway or tramway rolling-stock	9.7	10.4	12.3	13.2	11.2	8.1	10.9	11.5
18 -Optical, photographic and cinematographic instruments and apparatus	2.1	2.2	2.1	2.1	2.2	2.4	2.1	1.7
19 -Arms and ammunition; parts thereof	0.2	0.2	0.2	0.3	0.1	0.2	0.2	0.1
20 -Miscellaneous manufactured articles	2.3	2.6	2.6	2.5	2.4	2.2	2.8	2.2
21 -Works of art, collectors' pieces and antiques	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other	3.4	2.8	1.5	0.0	0.0	0.0	0.0	0.7

Source: WTO Secretariat calculations based on UN Comtrade data.

**Table A1.3 Merchandise exports by trading partner, 2015-22**

(USD million and %)

Description	2015	2016	2017	2018	2019	2020	2021	2022
<b>Exports</b>	<b>62,118</b>	<b>60,769</b>	<b>68,904</b>	<b>74,838</b>	<b>68,792</b>	<b>74,081</b>	<b>94,677</b>	<b>97,491</b>
	(USD million)							
	(% of exports)							
The Americas	33.2	32.8	33.3	30.3	30.6	27.2	29.9	29.6
United States	13.2	13.9	14.6	13.9	13.9	13.2	15.8	13.9
Other - Americas	20.0	18.9	18.7	16.4	16.7	14.0	14.1	15.7
Brazil	4.9	4.9	5.0	4.4	4.5	4.2	4.8	4.6
Peru	2.6	2.5	2.5	2.3	2.6	2.1	1.7	1.9
Mexico	2.2	2.0	1.7	1.7	1.9	1.4	1.5	1.8
Canada	2.0	1.6	2.1	1.4	1.5	1.3	1.2	1.5
Plurinational State of Bolivia	2.1	2.1	1.7	1.4	1.3	1.1	1.0	1.2
Colombia	1.3	1.2	1.0	1.0	0.9	0.8	0.7	1.0
Argentina	1.3	1.2	1.4	1.1	0.9	0.8	0.8	0.9
Ecuador	0.7	0.7	0.7	0.7	0.6	0.6	0.5	0.6
Paraguay	0.9	0.8	1.0	0.9	0.8	0.5	0.5	0.5
Panama	0.3	0.3	0.4	0.3	0.3	0.2	0.2	0.3
Costa Rica	0.4	0.4	0.3	0.3	0.2	0.2	0.3	0.3
Europe	14.6	14.1	13.9	12.8	12.0	11.7	10.9	9.6
EU(27)	12.1	11.8	11.9	10.8	9.8	9.4	8.9	7.8
Netherlands	2.6	2.7	2.5	2.1	2.3	1.8	1.6	2.0
Spain	2.1	2.3	2.5	2.2	1.8	1.6	1.6	1.4
France	1.3	1.3	1.3	1.4	1.3	1.8	1.7	1.1
Germany	1.3	1.2	1.6	1.4	1.2	1.4	1.1	0.9
Belgium	1.2	0.9	0.8	0.8	0.7	0.6	0.5	0.8
EFTA	0.9	0.9	0.6	0.8	0.9	1.2	1.0	1.0
Switzerland	0.8	0.8	0.6	0.7	0.9	1.1	1.0	0.9
Other - Europe	1.6	1.4	1.3	1.3	1.3	1.2	1.0	0.8
United Kingdom	1.1	1.0	0.8	0.9	0.9	0.8	0.6	0.6
Türkiye	0.5	0.4	0.5	0.4	0.3	0.4	0.3	0.2
Commonwealth of Independent States (CIS) <sup>a</sup>	1.0	0.9	1.1	1.3	1.3	1.1	0.8	0.6
Russian Federation	0.9	0.8	1.0	1.2	1.2	0.9	0.7	0.5
Georgia	0.1	0.0	0.1	0.0	0.2	0.2	0.1	0.1
Africa	0.5	0.4	0.3	0.5	0.6	0.6	0.6	0.6
South Africa	0.2	0.1	0.1	0.2	0.1	0.1	0.2	0.2
Nigeria	0.0	0.0	0.1	0.1	0.1	0.1	0.1	0.1
Côte d'Ivoire	0.0	0.0	0.0	0.0	0.0	0.0	0.1	0.1
Middle East	0.8	0.7	0.7	0.8	0.7	0.7	0.6	0.6
United Arab Emirates	0.1	0.1	0.2	0.2	0.3	0.3	0.2	0.2
Israel	0.1	0.1	0.2	0.2	0.2	0.1	0.1	0.1
Kingdom of Bahrain	0.1	0.1	0.1	0.1	0.0	0.0	0.1	0.1
Kingdom of Saudi Arabia	0.2	0.2	0.1	0.1	0.2	0.2	0.1	0.1
Asia	49.3	50.4	50.0	53.7	54.1	58.3	57.0	58.5
China	26.1	28.5	27.4	33.2	32.2	38.7	38.6	39.4
Japan	8.5	8.5	9.2	9.2	9.0	8.9	7.6	7.6
Other - Asia	14.7	13.3	13.4	11.2	12.9	10.6	10.8	11.4
Korea, Republic of	6.4	6.9	6.2	5.7	6.5	5.6	5.1	6.2
Chinese Taipei	2.3	1.8	1.9	1.8	2.2	1.8	2.2	1.6
India	3.0	2.3	3.0	1.7	1.7	1.0	1.4	1.3
Thailand	0.5	0.5	0.5	0.6	0.5	0.5	0.5	0.7
Viet Nam	0.4	0.3	0.4	0.4	0.4	0.3	0.3	0.4
Other	0.7	0.6	0.6	0.7	0.6	0.3	0.3	0.5
<i>Memorandum</i>								
EU-28	13.1	12.8	12.8	11.7	10.7	10.2	9.5	8.4

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations based on UN Comtrade data.



**Table A1.4 Merchandise imports by trading partner, 2015-22**

(USD million and %)

Description	2015	2016	2017	2018	2019	2020	2021	2022
<b>Imports</b>	<b>62,319</b>	<b>59,285</b>	<b>65,168</b>	<b>74,612</b>	<b>69,855</b>	<b>59,201</b>	<b>92,191</b>	<b>104,402</b>
	(USD million)							
	(% of imports)							
Americas	44.2	42.0	44.3	45.0	44.7	42.7	42.2	47.2
United States	19.0	17.5	18.0	18.8	19.6	17.8	17.4	20.9
Other - Americas	25.1	24.6	26.3	26.2	25.1	24.9	24.8	26.4
Brazil	7.8	8.1	8.7	9.1	8.2	7.4	8.4	9.7
Argentina	4.0	4.3	4.5	4.5	5.0	5.6	5.3	5.8
Mexico	3.5	3.4	3.3	3.2	2.9	2.7	2.7	2.2
Peru	1.8	1.7	1.4	1.6	1.7	1.9	2.0	1.9
Colombia	1.4	1.3	1.8	1.9	1.8	1.9	1.5	1.7
Ecuador	1.9	1.7	2.3	2.2	2.3	1.5	1.3	1.2
Paraguay	1.1	1.0	1.0	0.9	1.0	1.4	1.2	1.2
Canada	1.2	1.0	1.2	1.2	1.0	1.3	1.3	1.0
Trinidad and Tobago	1.4	1.1	1.2	0.9	0.3	0.3	0.3	0.6
Plurinational State of Bolivia	0.2	0.2	0.2	0.2	0.2	0.3	0.3	0.4
Europe	16.6	18.1	15.9	16.0	17.3	16.7	14.3	12.9
EU(27)	14.7	16.1	14.0	13.9	15.2	14.5	12.3	11.1
Germany	3.8	3.8	4.0	3.9	4.0	3.9	3.2	2.7
Spain	2.5	2.6	2.2	2.2	2.4	2.4	2.3	1.9
Italy	1.9	1.8	1.8	1.7	1.9	1.9	1.6	1.4
France	2.5	3.2	1.9	1.9	2.5	1.5	1.3	1.3
Belgium	0.6	0.7	0.6	0.6	0.6	0.6	0.6	0.7
EFTA	0.6	0.7	0.5	0.6	0.6	0.8	0.5	0.5
Switzerland	0.4	0.4	0.4	0.4	0.4	0.5	0.3	0.3
Norway	0.1	0.2	0.1	0.2	0.2	0.3	0.2	0.2
Other - Europe	1.3	1.3	1.4	1.5	1.5	1.4	1.4	1.2
Türkiye	0.4	0.5	0.5	0.6	0.6	0.5	0.7	0.6
United Kingdom	0.9	0.8	0.9	0.9	0.8	0.9	0.7	0.6
Commonwealth of Independent States (CIS) <sup>a</sup>	0.1	0.1	0.1	0.1	0.1	0.1	0.3	0.2
Kazakhstan	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1
Russian Federation	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.1
Africa	0.3	0.2	0.2	0.4	0.5	0.5	0.9	1.0
Equatorial Guinea	0.1	0.0	0.0	0.3	0.1	0.2	0.1	0.5
Angola	0.1	0.0	0.0	0.0	0.3	0.1	0.6	0.4
South Africa	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Middle East	0.5	0.4	0.4	0.4	0.3	0.3	0.3	0.3
Israel	0.2	0.2	0.2	0.2	0.2	0.2	0.1	0.1
United Arab Emirates	0.1	0.1	0.1	0.1	0.1	0.0	0.1	0.1
Asia	35.9	36.6	36.7	35.2	34.8	37.4	40.2	36.1
China	23.6	24.4	24.1	23.6	23.6	27.8	29.8	25.3
Japan	3.2	3.3	3.1	3.2	3.4	2.0	2.3	2.6
Other - Asia	9.1	9.0	9.5	8.4	7.9	7.7	8.0	8.2
Korea, Republic of	3.2	2.9	2.9	2.5	2.0	1.7	2.0	1.9
India	1.1	1.2	1.2	1.3	1.5	1.2	1.4	1.4
Viet Nam	1.0	1.2	1.4	1.0	1.1	1.4	1.4	1.4
Australia	0.4	0.6	0.5	0.3	0.3	0.5	0.5	0.8
Thailand	1.2	1.1	1.4	1.3	1.0	0.8	0.8	0.8
Other	2.4	2.5	2.4	2.9	2.3	2.3	2.0	2.3
<i>Memorandum</i>								
EU-28	15.5	16.9	14.9	14.8	16.0	15.4	13.0	11.7

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations based on UN Comtrade data.

**Table A2.1 Chile's most recent notifications to the WTO, July 2023**

Agreement and provision	Type of measure notified	Frequency	WTO document	Date
<b>Agreement on Agriculture</b>				
Article 18.2 (MA:2)	Imports under tariff quotas	On an annual basis	G/AG/N/CHL/74	18/07/2023
Article 18.2 (DS:1)	Domestic support	On an annual basis	G/AG/N/CHL/76	19/07/2023
Articles 10 and 18.2 (ES:1)	Export subsidies	On an annual basis	G/AG/N/CHL/70	18/07/2023
Articles 10 and 18.2 (ES:2)	Export subsidies	On an annual basis	G/AG/N/CHL/72	18/07/2023
<b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>				
Article 7, Annex B(3)	Notification of sanitary and phytosanitary measures (SPS) applicable to various products	<i>Ad hoc</i>	G/SPS/N/CHL/491 to G/SPS/N/CHL/741/Add.1	09/01/2015 to 20/07/2023
<b>Agreement on Technical Barriers to Trade</b>				
Article 2.9	Technical regulations	<i>Ad hoc</i>	G/TBT/N/CHL/304 to G/TBT/N/CHL/625/Add.2	02/06/2015 to 18/07/2023
Article 5.6	Conformity assessment procedures	<i>Ad hoc</i>	G/TBT/N/CHL/299 to G/TBT/N/CHL/655	31/03/2015 to 19/07/2023
Articles 2.9 and 5.6	Technical regulations and conformity assessment procedures	<i>Ad hoc</i>	G/TBT/N/CHL/294 to G/TBT/N/CHL/578	02/02/2015 to 22/11/2021
Article 2.10	Technical regulations (urgent)	<i>Ad hoc</i>	G/TBT/N/CHL/634	27/03/2023
Article 5.7	Conformity assessment procedures (urgent)	<i>Ad hoc</i>	G/TBT/N/CHL/641	21/06/2023
Articles 2.10 and 5.7	Technical regulations and conformity assessment procedures (urgent)	<i>Ad hoc</i>	G/TBT/N/CHL/298	12/03/2015
Article 15.2	Administrative provisions, laws and regulations (measures in existence or taken to ensure the implementation and administration of the TBT Agreement)	Once only, subsequently notification of changes	G/TBT/2/Add.16/Rev.2	13/07/2023
<b>Anti-Dumping Agreement</b>				
Article 16.4	Anti-dumping actions	On a semi-annual basis	G/ADP/N/377/Add.1	20/04/2023
<b>Agreement on Rules of Origin</b>				
Annex II, paragraph 4	Preferential rules of origin	<i>Ad hoc</i>	G/RO/N/252	04/05/2023
<b>Agreement on Import Licensing Procedures</b>				
Article 7.3	Import licensing procedures	On an annual basis	G/LIC/N/3/CHL/9	29/03/2022
<b>Agreement on Subsidies and Countervailing Measures</b>				
Article 25.1	Subsidy programmes	On an annual basis	G/SCM/N/401/CHL	30/06/2023
Article 25.11	Countervailing duty actions (taken within the preceding six months)	On a semi-annual basis	G/SCM/N/399/Add.1	20/04/2023
<b>Agreement on Safeguards</b>				
Article 12	Termination	<i>Ad hoc</i>	G/SG/N/9/CHL/12	25/01/2019
Article 12.1(a)	Initiation	<i>Ad hoc</i>	G/SG/N/6/CHL/20	09/03/2018
Article 12.1(b)	Finding	<i>Ad hoc</i>	G/SG/N/8/CHL/7/Suppl.1	26/04/2016
Article 12.1(c)			G/SG/N/10/CHL/9/Suppl.1	
Article 9, note 2			G/SG/N/11/CHL/10/Suppl.1	
<b>Agreement on Trade Facilitation</b>				
Articles 1.4, 10.4.3, 10.6.2 and 12.2.2	Provisions on transparency, trade-related formalities and customs cooperation	Once only, subsequently notification of changes	G/TFA/N/CHL/2/Rev.2	24/08/2020
Article 15	Category A commitments	Once only, subsequently notification of changes	G/TFA/N/CHL/1	15/02/2018
<b>General Agreement on Trade in Services (GATS)</b>				
Article III:4, Article IV:2	Enquiry and contact points	Once only, subsequently notification of changes	S/ENQ/78/Rev.23	10/02/2023
LDC services waiver (WT/L/847)	Preferential treatment to services and service suppliers of LDCs	Once only	S/C/N/834	12/10/2015

Agreement and provision	Type of measure notified	Frequency	WTO document	Date
<b>TRIPS Agreement</b>				
Article 67	Designation of contact points for TRIPS-related technical cooperation	Once only, subsequently notification of changes	IP/N/7/CHL/2	02/04/2020
<b>Ministerial Decision on preferential rules of origin for LDCs (WT/L/917/Add.1)</b>				
Paragraph 4.3	Preferential rules of origin	<i>Ad hoc</i>	G/RO/LDC/N/CHL/1/Rev.1	27/10/2020
<b>GATT 1994, Article XVII:4</b>				
Article XVII:4(a)	State trading enterprises (STR)	Biennial	G/STR/N/19/CHL	11/04/2023
<b>GATT 1994, Article XXIV, and GATS, Article V (Participation in regional trade agreements)</b>				
GATT 1994, Article XXIV:7(a)	Establishment of a free trade area	<i>Ad hoc</i>	WT/REG395/N/5	09/06/2023
GATS, Article V:7(a)	Economic integration agreements	<i>Ad hoc</i>	S/C/N/920/Add.4	09/06/2023
<b>Transparency Mechanism for Regional Trade Agreements (WT/L/671)</b>				
Paragraph 14	Changes to an already implemented RTA	Once only	WT/COMTD/RTA15/N/1/Add.230	07/02/2023

Note: The covered notification period is from 1 January 2015 to 20 July 2023.

Source: WTO Secretariat.

**Table A2.2 Chile's current trade agreements, July 2023**

Country or region	Type of agreement	Entry into force
Plurinational State of Bolivia	Economic complementarity agreement	06/04/1993
Venezuela, Bolivarian Republic of	Economic complementarity agreement	01/07/1993
MERCOSUR	Economic complementarity agreement	01/10/1996
Canada	Free trade agreement	05/07/1997
Mexico	Free trade agreement	31/07/1999
Central America	Free trade agreement	14/02/2002
European Union	Association agreement	01/02/2003
United States	Free trade agreement	01/01/2004
Korea, Republic of	Free trade agreement	01/04/2004
EFTA	Free trade agreement	01/12/2004
China	Free trade agreement	01/10/2006 <sup>a</sup>
P-4 (Chile, Singapore, New Zealand and Brunei Darussalam)	Economic partnership agreement	08/11/2006
India	Partial scope agreement	17/08/2007
Japan	Economic partnership agreement	03/09/2007
Panama	Free trade agreement	07/03/2008
Cuba	Economic complementarity agreement	27/06/2008
Peru	Free trade agreement	01/03/2009
Australia	Free trade agreement	06/03/2009
Colombia	Free trade agreement	08/05/2009
Türkiye	Free trade agreement	01/03/2011
Malaysia	Free trade agreement	18/04/2012
Viet Nam	Free trade agreement	01/01/2014
Hong Kong, China	Free trade agreement	29/11/2014 <sup>b</sup>
Thailand	Free trade agreement	05/11/2015
Pacific Alliance	Trade protocol	01/05/2016
Uruguay	Free trade agreement	13/12/2018
Argentina	Free trade agreement	01/05/2019
Indonesia	Comprehensive economic partnership agreement	10/08/2019
United Kingdom	Economic partnership agreement	01/01/2021
Brazil	Free trade agreement	25/01/2022
Ecuador	Trade integration agreement	16/05/2022
CPTPP	Plurilateral economic integration agreement	21/02/2023

- a The protocol amending the Free Trade Agreement and the Supplementary Agreement on Trade in Services of the Free Trade Agreement between Chile and China entered into force on 1 March 2019.
- b The updated schedule of services under that agreement entered into force on 6 April 2023.

Source: WTO Secretariat, on the basis of online information from SUBREI.

**Table A3.1 Summary analysis of the MFN tariff excluding *ad valorem* equivalents, 2023**

Product description	MFN				Bound tariff range <sup>a</sup> (%)
	Number of lines	Average (%)	Range (%)	Coefficient of variation (CV)	
<b>Total</b>	<b>8,738</b>	<b>6.0</b>	<b>0 - 6</b>	<b>0.1</b>	<b>0 - 98</b>
HS 01-24	2,092	6.0	6	0.0	25 - 98
HS 25-97	6,646	6.0	0 - 6	0.1	0 - 25
<b>By WTO category</b>					
Agricultural products	1,455	6.0	6	0.0	25 - 98
Animals and animal products	183	6.0	6	0.0	25
Dairy products	37	6.0	6	0.0	25 - 31.5
Fruit, vegetables and garden produce	535	6.0	6	0.0	25
Coffee and tea	29	6.0	6	0.0	25
Cereals and cereal preparations	143	6.0	6	0.0	25 - 31.5
Oilseeds, fats and oils and their products	129	6.0	6	0.0	25 - 31.5
Sugar and confectionery	22	6.0	6	0.0	25 - 98
Beverages, alcohol and tobacco	119	6.0	6	0.0	25
Cotton	5	6.0	6	0.0	25
Other agricultural products n.e.s.	253	6.0	6	0.0	25
Non-agricultural products (including petroleum)	7,283	6.0	0 - 6	0.1	0 - 25
Non-agricultural products (excluding petroleum)	7,255	6.0	0 - 6	0.1	0 - 25
Fish and fish products	707	6.0	6	0.0	25
Mineral products and metals	1,035	6.0	6	0.0	0 - 25
Chemicals and photographic products	1,632	6.0	6	0.0	25
Wood, wood pulp, paper and furniture	437	5.9	0 - 6	0.1	25
Textiles	655	6.0	6	0.0	25
Clothing	217	6.0	6	0.0	25
Leather, rubber, footwear and travel articles	175	6.0	6	0.0	25
Non-electrical machinery	941	6.0	0 - 6	0.0	23 - 25
Electrical machinery	419	6.0	0 - 6	0.0	25
Transport equipment	474	5.6	0 - 6	0.3	3 - 25
Non-agricultural products n.e.s.	563	6.0	0 - 6	0.0	15 - 25
Petroleum	28	6.0	6	0.0	25
<b>By ISIC sector<sup>b</sup></b>					
Agriculture and fishing	887	6.0	6	0.0	0 - 31.5
Mining	119	6.0	6	0.0	25
Manufacturing	7,731	6.0	0 - 6	0.1	3 - 98
<b>By HS section</b>					
01 Live animals; animal products	861	6.0	6	0.0	25 - 31.5
02 Vegetable products	737	6.0	6	0.0	25 - 31.5
03 Fats and oils	78	6.0	6	0.0	25 - 31.5
04 Prepared foodstuffs, etc.	416	6.0	6	0.0	25 - 98
05 Mineral products	197	6.0	6	0.0	0 - 25
06 Products of the chemical or allied industries	1,508	6.0	6	0.0	25
07 Plastics and rubber	293	6.0	6	0.0	25
08 Raw hides and skins, leather	79	6.0	6	0.0	25
09 Wood and articles of wood	212	6.0	6	0.0	25
10 Pulp of wood, paper, etc.	183	5.9	0 - 6	0.1	25
11 Textiles and textile articles	855	6.0	6	0.0	25
12 Footwear, headgear	51	6.0	6	0.0	25
13 Articles of stone	177	6.0	6	0.0	25
14 Precious stones, etc.	62	6.0	6	0.0	25
15 Base metals and articles of base metal	629	6.0	6	0.0	25
16 Machinery and mechanical appliances	1,352	6.0	0 - 6	0.0	23 - 25
17 Vehicles, aircraft, vessels and associated transport equipment	493	5.6	0 - 6	0.3	3 - 25
18 Precision instruments	307	6.0	6	0.0	25
19 Arms and ammunition	24	6.0	6	0.0	25
20 Miscellaneous manufactured articles	194	6.0	6	0.0	15 - 25
21 Works of art, etc.	30	6.0	6	0.0	25
<b>By stage of processing</b>					
First stage of processing	1,554	6.0	6	0.0	0 - 31.5
Semi-processed products	2,453	6.0	6	0.0	25 - 98
Fully processed products	4,731	6.0	0 - 6	0.1	3 - 31.5

a The bound rates correspond to the HS 2017 classification and the applied rates to HS 2022.

b ISIC (Rev.2), excluding electricity (one line).

Source: WTO Secretariat calculations based on data provided by the authorities.

**Table A4.1 Main agricultural exports and imports, 2015-22**

Product (HS 2 digits)	Description	2015	2016	2017	2018	2019	2020	2021	2022
<b>Exports: top 10 products (% of total agricultural exports<sup>a</sup>)</b>									
08	Edible fruit and nuts; peel of citrus fruit or melons	48.8	52.7	50.7	52.8	54.4	52.9	52.5	51.5
22	Beverages, spirits and vinegar	17.3	16.7	18.4	16.6	15.6	15.0	15.5	14.4
02	Meat and edible meat offal	8.6	8.0	7.3	7.9	9.1	11.1	11.1	11.3
20	Preparations of vegetables, fruit, nuts or other parts of plants	5.6	5.3	5.5	5.4	5.0	4.7	5.2	6.1
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder.	3.1	3.1	3.6	3.5	3.2	2.9	2.9	3.5
15	Animal or vegetable fats and oils; prepared edible fats	1.1	0.9	1.0	1.1	1.0	1.2	1.5	1.8
21	Miscellaneous edible preparations	3.6	3.1	2.9	2.4	2.1	2.1	1.7	1.6
04	Dairy produce; birds' eggs; natural honey; edible products of animal origin	1.5	1.1	1.3	1.3	1.1	1.0	1.0	1.5
11	Products of the milling industry; malt; starches; inulin; wheat gluten	0.7	0.6	0.6	1.2	1.3	1.7	1.5	1.5
19	Preparations of cereals, flour, starch or milk	2.3	2.0	2.1	1.4	1.4	1.4	1.3	1.2
-	Other	7.5	6.4	6.7	6.5	5.9	6.0	5.8	5.5
<b>Imports: top 10 products (% of total agricultural imports)</b>									
02	Meat and edible meat offal	19.1	21.3	22.3	21.6	22.5	21.0	23.3	19.4
10	Cereals	11.4	10.1	11.0	11.4	12.5	13.9	12.2	13.5
23	Residues and waste from the food industries; prepared animal fodder	11.9	12.2	12.0	12.8	12.1	11.0	11.3	12.9
15	Animal or vegetable fats and oils; prepared edible fats	7.9	7.2	8.1	7.8	7.1	7.6	7.5	9.0
22	Beverages, spirits and vinegar	6.7	7.0	6.7	6.6	7.2	5.7	7.1	6.9
21	Miscellaneous edible preparations	7.6	7.4	6.8	5.8	6.1	6.5	6.1	6.2
17	Sugars and sugar confectionery	5.3	5.8	4.1	3.9	3.8	3.8	3.6	4.3
20	Preparations of vegetables, fruit, nuts or other parts of plants	3.7	4.2	3.9	3.8	3.9	3.4	3.7	3.9
04	Dairy produce; birds' eggs; natural honey; edible products of animal origin	3.4	3.5	4.8	4.6	4.2	4.7	4.3	3.8
19	Preparations of cereals, flour, starch or milk	3.4	3.2	3.1	3.1	3.7	3.6	3.5	3.5
-	Other	19.6	18.1	17.3	18.5	17.0	18.8	17.4	16.6

a Classification of agricultural products by WTO definition.

Source: WTO Secretariat on the basis of UN Comtrade data.



**Table A4.2 Imports of products subject to price bands, 2015-22**

(USD million)

Product (HS 6 digits)	Description	2015	2016	2017	2018	2019	2020	2021	2022
1001.99	Wheat (other than seed)	192.5	186.2	305.0	293.7	285.5	278.1	417.4	494.2
1101.00	Wheat or meslin flour	6.7	5.8	6.0	8.0	7.7	10.0	9.9	17.3
1701.12	Beet sugar	1.1	2.4	2.6	2.0	1.8	1.6	2.7	2.5
1701.13	Cane sugar	0.0	0.0	0.1	0.3	0.3	0.4	0.5	0.3
1701.14	Other cane sugar	47.9	85.8	25.6	25.9	29.1	31.4	58.3	74.1
1701.91 <sup>a</sup>	Containing added flavouring or colouring matter	0.0	0.1	0.1	0.1	0.0	0.3	0.0	0.0
1701.99 <sup>a, b</sup>	Cane sugar, refined	149.7	154.4	146.8	166.7	144.6	164.1	187.7	260.5
1701.99 <sup>a, b</sup>	Beet sugar, refined	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1701.99 <sup>a, b</sup>	Other	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

a Products subject to preferential tariff quotas.

b Products subject to tariff quotas.

Source: WTO Secretariat calculations based on UN Comtrade data.

**Table A4.3 List of agricultural support programmes notified to the WTO, 2022**

Programme	Description	Focus of activity	Implementing entity
Agricultural research funds	Co-financing of innovation projects	Research	FIA
Research and development centre projects	Generation, adaptation and dissemination of scientific and technological knowledge and products that contribute to the sustainable (social, economic and environmental) development of the competitiveness of the various agricultural sector actors.	Research	INIA
Technical Advisory Service	Financing for technical advisory services	Training services	INDAP
Fund for Organizational Development Projects	Financing for training programmes	Training services	INDAP
Business management centre for small producers	Financing for technical and economic (accounting, fiscal, legal and strategic) advisory services	Training services	INDAP
Development promotion services	Financing for technical advisory services to improve productivity and the environmental situation and to raise partnership levels.	Training services	INDAP
Rural Women Programme	Financing for technical training and education for women in rural areas	Training services	INDAP and Foundation for the Advancement and Development of Women (PRODEMU)
Technical Assistance Funds	Financing for contracting consultancy services for small and medium-sized agricultural producers, including for designing irrigation projects under the Irrigation and Energy Efficiency Pre-Investment Programmes.	Advisory services	Ministry of Agriculture and CORFO
Agricultural Protection Programme	Financing to improve food safety and quality systems and plant and animal health systems.	Inspection services	SAG
Promotion Programme	The payment of incentives to encourage business modernization through the association of similar or complementary enterprises established in the same area.	Marketing and promotion	Ministry of Agriculture and CORFO
Supplier Development Programme (PDP)	Financing for business projects with a view to improving supplier quality and productivity.	Marketing and promotion	Ministry of Agriculture and CORFO
Law No. 18.450	Promotion of private investment in irrigation and drainage works through competitive funds.	Irrigation infrastructure	National Irrigation Commission
Irrigation for small-scale farming	Financing for projects that seek to diversify and increase the productivity of small-scale farming by introducing, improving and expanding irrigation.	Irrigation infrastructure	INDAP
Agricultural Emergency Fund	Assistance for the agricultural sector to offset the adverse effects of climatic events.	Financial assistance	Ministry of Agriculture
Agricultural insurance	Agricultural insurance subsidy	Financial assistance	Agricultural Insurance Committee

Source: WTO document G/AG/N/CHL/76 of 19 July 2023.

**Table A4.4 Air rights agreements signed by Chile during the 2015-22 period**

Country	Year	Between territories of the parties (3rd and 4th freedoms)	Between counterparty territory and third countries (5th and 6th freedoms) <sup>a</sup>	From counterparty territory to third countries (7th freedom) <sup>b</sup>	Cabotage
Cyprus	2019	Open skies	Open skies	Open skies	Open skies
Saint Vincent and the Grenadines	2016	Open skies	Open skies	Open skies	Open skies
Malta	2019	Open skies	Open skies	Open skies (cargo) <sup>c</sup>	Open skies
Rwanda	2018	Open skies	Open skies	Open skies	Unilateral opening
Botswana	2017	Open skies	Open skies	Open skies	Unilateral opening
Namibia	2017	Open skies	Open skies	Open skies	Unilateral opening
Ethiopia	2018	Open skies	Open skies	Open skies (cargo)	Unilateral opening
Thailand	2018	Open skies	Open skies	Open skies (cargo)	Unilateral opening
Bahamas	2017	Open skies	Open skies	Open skies (cargo)	Unilateral opening
Oman	2017	Open skies	Open skies	Open skies (cargo)	Unilateral opening
Sri Lanka	2017	Open skies	Open skies	Open skies (cargo) <sup>d</sup>	Unilateral opening
Guyana	2016	Open skies	Open skies	Open skies (cargo)	Unilateral opening
Cabo Verde	2015	Open skies	Open skies	Open skies (cargo)	Unilateral opening
Netherlands	2018	Open skies	Open skies <sup>a</sup>	Open skies (cargo)	Unilateral opening
Belize	2021	Open skies	Open skies	Without rights	Unilateral opening
Greece	2019	Open skies	Open skies	Without rights	Unilateral opening
Latvia	2019	Open skies	Open skies	Without rights	Unilateral opening
Mozambique	2019	Open skies	Open skies	Without rights	Unilateral opening
Türkiye	2019	Open skies	Open skies	Without rights	Unilateral opening
Austria	2019	Open skies	Open skies <sup>e</sup>	Without rights	Unilateral opening
Kenya	2018	Open skies	Open skies	Without rights	Unilateral opening
Czech Republic	2017	Open skies	Open skies	Without rights	Unilateral opening
Kingdom of Saudi Arabia	2022	Open skies	Open skies (cargo), 21 flights/week.	Without rights	Unilateral opening

a Between the territory of the other Party and third countries touching down in Chilean territory.

b From the territory of the other Party to third countries without touching down in Chilean territory.

c The aeronautical authorities reserve the right to authorize 7<sup>th</sup> freedom operations on a case-by-case basis.

d Open skies for 7<sup>th</sup> freedom only at Mattala (VCRI) and Santiago (SCEL) airports.

e Subject to specific conditions.

Note: Open skies means without limitation on the number of flights or operating points.

Source: Chilean Civil Aeronautics Board (JAC).