

FOREIGN INVESTMENT IN CHILE: SOME SPECIAL FEATURES

DECREE LAW N° 600



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Foreign investment in Chile: some special features Decree Law 600

INTRODUCTION

The provisions for inflow and treatment of foreign investment in Chile stem from the certain need to supplement domestic with foreign investment. This is addressed to obtaining an additional flow of financial and real resources from third countries, whether in the form of foreign currency, credit or tangible assets, or else in the area of knowledge, technology, business management and administration, access to new products and markets, all of them involving foreign investment, with a view to promoting the country's economic development both harmoniously and speedily.

There is no doubt, on the other hand, that for any foreign investor—whether actual or purely potential—the frame of reference, the basic principles, and the stability of the economic policy in force in the receiving country are of the greatest importance for defining investment decisions and the degree of commitment to the economy in which the investment is made.

The political-economic situation in the investor's country of origin, together with the behavior of the international economy and markets will also weigh significantly in the investor's decisions and the pace at which projects undertaken abroad are implemented.

In the case of Chile, the fundamentals of economic policy are those of a social market economy favoring private ownership of resources as well as private management and initiatives, where the market is the basic mechanism for allocating resources to productive purposes, and where the State fills a subsidiary role in functions not inherent to it.

In any event, the State furnishes the necessary legal framework, policy measures, and resolution mechanisms to promote economic activity and general progress in the country, allow participating economic agents to operate satisfactorily, minimize or suppress possible imperfections in market operation, and safeguard the legitimate interests of the parties in the productive process. The State takes direct action only in areas of manifest social profit and interest, where private activity is not present to the proper extent, and in sectors of national priority.

In this scheme, whereby among other developments domestic markets have been liberalized, the economy has been opened to international markets, and Chile has complied with its economic obligations, foreign investment, together with domestic savings and access to international financial markets, is viewed as an element of greatest significance for achieving speedier and more enduring economic growth.

FOREIGN INVESTMENT PROVISIONS IN CHILE

In the above framework there are in Chile various legal provisions permitting the inflow of foreign investment.

The principal regime governing such access, because of the variety of possible forms of contribution covered, its formality specificity, and the volume of investment mobilized thereby, is Decree Law 600, of 1977, Foreign Investment Statute, which is the main subject of this paper.

Another form of access is granted under Article 14 of the Foreign Exchange Law contained in Decree Law No. 471, of 1977, whereby capital contributions may be made from abroad in the form of foreign currency only, subject to registration of the operation with the Central Bank. Access to the foreign currency market is guaranteed for purposes of subsequent repatriation; this also applies to the product of such contribution obtained in the country, duly subject to relevant regulations issued by the Central Bank and in force at the time the associated registration certificate is granted. The product of the contribution may be remitted at any time; the contribution itself must remain in Chile for not less than three years since it was received. The Central Bank operates as governing body in respect of this form of access.

DECREE LAW 600 – FOREIGN INVESTMENT STATUTE

BASIC POLICY PRINCIPLES

The basic principles contained in Decree Law 600, consistent with the spirit of the prevailing economic policy, may be summarized as follows:

- Free access by foreign investors to domestic markets and sectors, subject to prevailing legal provisions. As regards choice of activity, form of organization, possible association with other investors, volume of operations, and subsequent project development, foreign investors may make their own decisions based on their own judgment and profit and efficiency considerations.

- Non-discrimination between domestic and foreign investors. The treatment of foreign investors is comparable to the treatment of domestic investors, the Statute being based on objective norms applicable to all foreign investment, and following a non-discretionary analysis and decision procedure. Chilean legislation, regulations, and procedures apply with equal force to domestic and foreign investors.

- Impersonal and automatic processing of foreign investment applications. Rules and contractual framework, together with investor rights and obligations, are fixed beforehand, thus eliminating in practice any need for negotiation between the authorities and foreign investors. This provides for expeditious, standardized, and non-bureaucratic processing of the authorization and implementation of foreign investment contracts in Chile.

BASIC PROVISIONS, GUARANTIES, AND PROCEDURES CONTAINED IN THE STATUTE

Under the Foreign Investment Statute, foreign natural and juridical persons, and Chilean persons residing abroad are eligible for transferring foreign capitals to Chile and executing investment contracts pursuant to the provisions of Decree Law 600.

Such capital contributions may be made in the following ways:

- (a) Freely convertible foreign currency exchanged at authorized financial institutions. The banking market exchange rate is applicable.

- (b) Tangible assets in any form or condition entered under the general provisions governing imports without exchange coverage, valued in accordance with general procedures applicable to imports.

- (c) Technology, when suitable for capitalization. Not assignable for any reason separately from the company to which it was contributed, nor eligible for writeoff or depreciation.

(d) External credits associated with the foreign investment in question; financial terms, form of contract, and general provisions governing them to be as authorized by the Central Bank generally for external credits contracted by Chile.

(e) Capitalization of external credits and debts in freely convertible currency contracted with due authorization. And

(f) Capitalization of profits eligible for remittance abroad.

Foreign investment authorization is granted by formal contract registered as a public document, executed by the foreign investor, either directly or through legal representatives, and by the Republic of Chile represented, as the case may be, by the Chairman of the Foreign Investment Committee or by the Executive Secretary of this Committee, which is described elsewhere in this paper. It is worth noting that such contracts are characterized as law-contracts; in other words, they are contracts executed by the Republic of Chile exercising a legal power, under which certain commitments are entered into in respect of the investor concerned and which are endowed with immunity vis-à-vis possible subsequent changes in legislation. Such contracts are recognized by Chilean legislation and jurisprudence, therefore may only be modified by mutual agreement between the parties.

Fundamentally, the contracts contemplate basic format and clauses setting forth the amount invested, object of the contribution, term allowed for materialization, and guaranties given to the foreign investor.

The general term for materialization of contributions is up to three years, eight years in the case of mining investments; the latter term may be extended to twelve years by unanimous decision of the Foreign Investment Committee, where prior exploration is required, based on the nature and estimated duration of such exploration.

Guaranties given to the investor include the following:

1. Right to transfer abroad capital and net profits resulting from it, without limitation as to amount or term. Capital, however, may not be remitted before three years have elapsed since it was received. Profits may be remitted at any time.

In any event, foreign currency intended for capital remittance may be acquired solely with the product of sale of stock or representative rights of the foreign investment in question, or sale or liquidation of companies acquired or organized with the investment.

Net proceeds obtained from sale or liquidation of contributions are exempt from any and all taxes, assessments, or charge up to the amount of investment authorized by the Investment Committee and duly materialized by the investor. Any surplus over such amount is subject to the general provisions of tax legislation.

The applicable exchange rate for transfer of capital and profits is the banking market rate, in use for foreign trade operations, external credits, and capital contributions from abroad. Investors have guaranteed access to the foreign exchange market for purchase of foreign currency required and its transfer abroad.

2. At the investor's request, the right to have the contract specify that the total tax rate on the income obtained from the relevant contribution will be 49.5% and will remain invariable for ten years from the date when the company starts operating. Any investor having opted for invariable tax rate may renounce it for one time only, thereby becoming permanently subject to ordinary taxation from then on.

3. Right to have the investment contract specify that the provisions governing Value Added Tax (VAT) and the custom duties in force at the time of signing the contract, applicable to import of machinery and equipment not manufactured in Chile and included in a special list mentioned under Article 12 of the Value Added Tax Law, will remain invariable for the time it takes to materialize the investment concerned. Such list is contained in Supreme Decree No. 635, issued by the Ministry of Economic Affairs, in December 1976. The provisions governing Value Added Tax in respect of goods of this kind exempts them from payment of VAT on import provided they are included on the current list and there is a foreign investment contract involved. The rate of value added tax is currently 20 per cent.

Customs provisions in turn permit deferred payment of customs duties, taxes, clearance and other charges collected through Customs. Such charges are denominated in dollars of the United States of America and are payable in a single instalment, free of interest, when seven

years have elapsed since the goods entered the country. Payment is made in Chilean currency converted at the exchange rate prevailing on the date of payment. The debt is written off yearly in the proportion between exports of goods produced with the machinery and equipment eligible for deferred payment of customs duties, and the total invoice value of sales of goods produced with the same machinery and equipment. The percentage write-off may not exceed 50 per cent of the original debt per year, nor the total f.ob. value of exports in the same period. In practice this implies virtual exemption from duties in respect of projects designed substantially for export. The current tariff in Chile is 35 per cent.

4. Lastly, guaranteed non-discrimination; foreign investment and the enterprises in which it participates are subject to the legal framework applicable to domestic investment, and no discrimination, whether direct or indirect, is allowed against it or them, with the sole exception that well-grounded provisions may be enacted in respect of foreign investment, limiting access to domestic credit. This limitation has never been exercised.

A legal provision or regulation is deemed discriminatory in respect of a given activity when it applies generally to such activity excluding foreign investment.

Non-discrimination favors any foreign investment, which may for instance benefit from legal provisions for zonal, regional or otherwise special incentives, provided the requirements applicable to domestic investment are met.

Should the holders of foreign investment or the ventures in which they participate deem themselves subject to discriminatory legislation, they may apply, to the Foreign Investment Committee for suppression of such discrimination, provided not more than one year has elapsed since relevant provisions were enacted. Should the Committee fail to make a pronouncement within not more than sixty days after the application, or in the event of rejection or refusal, or if it is not possible administratively to suppress the discrimination, the applicants may resort to the courts to determine whether discrimination exists or not, and to rule accordingly.

The above is what refers to guaranties. Regarding decisions, Decree Law 600 provides that the body known as Foreign Investment Committee is the sole organ authorized on behalf of the Republic of Chile to accept inflow of capital from abroad under its legal provisions.

The Foreign Investment Committee is a body at ministerial level composed of the Minister for Economy, Development, and Reconstruction, who chairs it, the Minister for Finance, the Minister for Foreign Affairs, the Minister responsible for the area concerned, in the event of investment applications in ministerial areas not represented on the Committee, and the Minister-Director of the National Planning Office, ODEPLAN.

The Committee performs its functions through an Executive Secretariat, currently attached to the Central Bank, and headed by an Executive Secretary. The Executive Secretariat is the administrative-technical body of the Committee and is responsible for information, registration, statistics, promotion, and coordination in respect of foreign investments, receives investment applications, reports on them, and otherwise performs the duties provided under the Statute.

The foreign investment authorization procedure is simple and expeditious.

The interested party submits an investment application through the Executive Secretariat of the Committee, in a standard format containing basic project background and information. Committee policy envisages examining only applications involving an amount equivalent to US\$ 100,000 or more, with the requirement that the associated external credits do not amount to more than 85 per cent of the total contribution involved.

It is worth noting that as soon as the application is submitted, the investor may begin to exchange its contribution in foreign currency with the mere statement and presentation of a copy of the application to a commercial bank, in proof of having an application in process.

The Secretariat prepares a concise report to the Committee or the Executive Secretary, as the case may be. In the case of projects intended for certain specific sectors where access or treatment is regulated by third parties, such as banks and financial institutions, fisheries, and others, prior authorization or additional information is requested from the third parties in question.

Investments under US\$ 5 million or its equivalent in other currencies are authorized by the Executive Secretary with the prior consent of the Chairman of the Committee. In any event, at the following Committee Meeting the Executive Secretary must report on authorizations granted.

If the investment is for over US\$ 5 millions or if, regardless of amount, the project is intended for a sector or activity normally performed by the State, or if it is to operate in public utilities, mass communications media, or is to be performed by a foreign State or foreign juridical person subject to public law, the application requires approval by the Foreign Investment Committee.

Committee meetings are chaired by the Minister of Economy or, in his absence, by the Minister for Finance. The voting quorum is three members and decisions are adopted by majority vote.

Once the application is approved the foreign investor and the Republic of Chile execute an investment contract in the form of a public document, as described above. The current policy is that the contract should be executed within six months from the date the application is approved.

Once the contract is executed and delivered, the foreign investor may operate fully in Chile for materialization and subsequent operation of the investment, subject to the legislation of the investment, subject to the legislation, rules, and general administrative and supervisory procedures applicable in the country to the chosen activity.

CURRENT STATUS

To date significant volumes of foreign investment have been approved and materialized under Decree Law 600. 1/

During 1983, for instance, 148 applications for contributions were approved, amounting to the equivalent of US\$ 328 million, of which 75 were new projects, 73 were expansions of the original contributions. In the same year investment contributions from abroad amounting to approximately US\$ 229 million were materialized, based on provisional data. This amount comprises materialization of projects authorized both in previous years and in the course of the year in question.

Regarding authorized projects and amounts as accumulated to December 1983, there are about 870 registered foreign investment projects under way in Chile, originating in 43 different countries, for a net current amount equivalent to nearly US\$ 7.3 billion 2/. The first country in order of importance is the USA, with almost 220 projects for an authorized amount of US\$ 5.15 billion, or 71 per cent of the total authorized. Other countries follow at a considerable distance: Canada, 10 projects and 11 per cent of the total; Spain and UK, 66 and 59 projects respectively, 3 per cent of the total each. As regards amounts materialized, the total is nearly US\$ 2.1 billion, with the USA accounting for practically half that figure, and followed relatively more closely now by Spain, 9 per cent of the total; UK, 7.0 per cent; and Panama, 6.0 per cent. Comparing the degree of investment materialization in the case of the more representative countries, Canada and the USA, in that order, are observed to register the lowest percentages, respectively 3 per cent and 20 per cent of the total authorized for each. Percentage materialization for the remaining countries grouped together is 73 per cent of the total authorized. The rate of total materialization by all countries is 28.5 per cent of the total authorized. The situation is explained in Table 1.

Table 2 registers current status by economic activity, according to amounts authorized and materialized accumulated to the end of 1983. It may be observed that out of 871 investment projects in force at the time, 806 had been partly or totally materialized, that is 92.5 per cent of the total, only 65 projects or the remaining 7.5 per cent had still to materialize. This may be considered normal, if we take into account recently authorized new projects and the fact that the term regularly granted for materialization of non-mining projects – which are the majority – is three years.

The same table shows that the Mining sector, with only 53 projects what accounts for 6 per cent of the total number of registered projects represents the largest volume of authorized investment, with US\$ 5.73 billion, or 79 per cent of the cumulative total authorized. Next, and considerably lower in order of importance, are Industry, with 266 projects (31 per cent) equivalent to US\$ 694 million authorized (10 per cent), and Services, with 394 projects and 9 per cent of the total authorized. Other significant sectors are Construction and Agriculture.

1/ The figures cover the various forms of contribution pursuant to DL 600.

2/ Net means total contributions made after deducting capital remittances abroad.

Table 1
FOREIGN INVESTMENT AUTHORIZED BY COUNTRY OF ORIGIN
(Thousand US dollars)

COUNTRY	No OF PROJECTS*	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
USA	218	5,149,530	70.7	1,054,137	50.8	20.5
Canada	10	777,102	10.7	27,797	1.3	3.6
Spain	66	220,232	3.0	191,426	9.2	86.9
UK	59	218,397	3.0	145,477	7.0	66.6
Panama	147	173,742	2.4	124,335	6.0	71.5
Netherlands	21	118,955	1.6	91,557	4.4	77.0
France	22	65,584	0.9	60,460	2.9	99.2
Brazil	28	65,569	0.9	57,635	2.8	87.9
Federal Rep. Germany	61	61,720	0.8	47,073	2.3	76.3
Japan	21	57,208	0.8	45,233	2.2	79.0
Bermuda	12	56,555	0.8	49,448	2.4	87.4
Switzerland	33	39,951	0.5	37,319	1.8	93.4
Luxembourg	4	37,487	0.5	8,351		22.3
International Organizations	5	36,813	0.5	1,050		2.8
South Africa	6	30,260		6,275		20.7
Argentina	25	27,756		22,148		79.8
Liberia	2	15,322		10,586		69.1
Hong Kong	4	14,373		13,128		91.3
Australia	2	14,000		5,598		40.0
Cayman Is.	12	13,775		3,524		25.6
Liechtenstein	12	13,772		9,343		67.8
Colombia	4	13,265		12,637		95.2
Uruguay	20	13,229		12,164		91.9
Venezuela	12	9,218		5,984		64.9
Sweden	8	7,738		6,460		83.5
Belgium	8	5,638		5,484		97.3
Bahama	5	5,529		4,620		83.5
Mexico	7	4,628		3,289		71.1
Italy	7	4,106		4,029		98.1
Korea	5	3,310		2,155		65.1
Romania	1	3,115		3,115		100.0
Taiwan	5	1,770		288		16.3
Austria	4	1,450		774		53.4
Curaçao	1	1,000		464		46.4
Costa Rica	1	662		542		81.9
Peop. Rep. China	1	650		197		30.3
Jordan	1	500		205		41.0
El Salvador	2	430		250		58.1
Peru	3	260		136		52.3
Paraguay	2	254		169		66.5
Ecuador	1	200		—		—
India	1	90		54		60.0
Norway	1	75		57		76.0
Arab Emirates	1	50		—		—
TOTAL	871	7,285,270	100.0	2,074,974	100.0	28.5
NUMBER OF COUNTRIES: 43						
INTERNATIONAL ORGANIZATIONS: 2						

* Original applications.

Table 2

**STATUS OF FOREIGN INVESTMENT UNDER DL 600
AUTHORIZED AND MATERIALIZED AS OF DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Mining	53	5,729,157	78.6	850,524	41.0	14.8
Industry	266	694,217	9.5	502,510	24.2	72.4
Services	394	625,100	8.6	560,205	27.0	89.6
Construction	69	130,713	1.8	97,499	4.7	74.6
Agriculture	68	83,069	1.2	43,350	2.1	52.2
Forestry	5	11,010	0.2	9,786	0.5	88.9
Transport	14	10,349	0.1	9,445	0.5	91.3
Energy & Fuel	2	1,655	—	1,655	—	100.0
TOTAL	871	7,285,270	100.0	2,074,974*	100.0	28.5
Materialization — Mining : 14.8%						
Materialization — Non-Mining: 78.7%						
TOTAL	28.5%					
No. projects under way	No. projects partly or totally materialized		No. projects pending materialization			
871	806		65			
(100.0%)	(92.5%)		(7.5%)			

(*) Provisional.

By the end of 1983 materialized investment —based on provisional data— amounted to practically US\$ 2.1 billion, as mentioned earlier. The largest volume is also accounted for by Mining, with approximately US\$ 850 million materialized under Decree Law 600, or 41 per cent of the total. Next in importance, relatively closer now, are Services (27%) and Industry (24%). It is worth noting that Mining shows the lowest rate of materialization in respect of volumes authorized (14.8%), significantly lower than most other sectors of activity. The aggregate percentage materialization of the remaining activities grouped together is close to 79 per cent, compared to 14.8 per cent in the mining sector, and 28,5 per cent in general.

As may be supposed from the above, the Mining sector weighs significantly in the total volume of projects originating in the countries, showing both the largest percentage of total authorized investment in Chile, and the lowest rate of relative materialization: the USA and Canada.

This is observed in the two following tables, which show the breakdown of authorized and materialized investment by economic activity.

Table 3 shows that approximately 94 per cent of total authorized investment is accounted for by the Mining sector, in the case of the USA, or 74 per cent of materialized investments of that country. The rate of materialization in the sector would be 16.1 per cent. The rate of materialization of all other activities grouped together, however, is 87 per cent, and 20.5 per cent including Mining. This is followed by Services, with 93 per cent materialization of the total authorized, and Industry, with 88 per cent. Of the total materialized in Services by all countries investing in the sector, or US\$ 560 million, as shown in Table 1, 31 per cent originated in the USA; in Industry, 17 per cent.

Table 3

**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
BY ECONOMIC ACTIVITY, ORIGINATING IN THE USA, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Mining	34	4,833,483	93.9	780,428	74.1	16.1
Services	103	183,190	3.6	171,123	16.2	93.4
Industry	63	95,372	1.8	84,072	8.0	88.1
Construction	6	31,861	0.6	15,043	1.4	47.2
Agriculture	10	4,215	0.1	2,098	0.2	49.8
Energy & Fuel	1	1,073	—	1,073	0.1	100.0
Transport	1	336	—	300	—	89.3
TOTAL	218	5,149,530	100.0	1,054,137	100.0	20.5

Materialization — Mining : 16.1
Materialization — Non-Mining: 86.6

TOTAL: 20.5

* Provisional.

In the case of Canada, referred to in Table 4, Mining accounts for 99 per cent of authorized investment, 76 per cent of materialized investment. Materialization in Mining accounts for about 3 per cent of the total authorized; the aggregate for the remaining activities accounts for 79 per cent. Materialization in all sectors amounts to 4 per cent. Mining is followed in importance by Industry.

Table 4

**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
BY ECONOMIC ACTIVITY, ORIGINATING IN CANADA, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Mining	4	768,500	98.9	21,017	75.6	2.7
Industry	4	8,374	1.1	6,660	24.0	79.5
Agriculture	1	125	—	17	—	13.6
Services	1	103	—	103	0.4	100.0
TOTAL	10	777,102	100.0	27,797	100.0	3.6

Materialization — Mining : 2.7
Materialization — Non-Mining: 78.8

TOTAL: 3.6

* Provisional.

The following tables show the volumes of authorized and materialized investment by economic activity for the next eight countries with the highest amounts of authorized investment. As will be observed, in these countries Mining is less important or non-existent; other sectors become more significant and there are higher rates of materialization.

The following tables refer respectively to Spain, UK, Panama, Netherlands, France, Brazil, Federal Republic of Germany, and Japan.

Of the total materialized under DL 600 in the Mining sector, the first ten countries examined so far account for 97 per cent. The most significant in this respect is the USA, with 92 per cent.

As regards Industry, the same ten countries contribute 78 per cent, the UK being most significant (22%), followed by Netherlands and USA (about 18% in each case), and Japan (7%). Investments in the cement and tobacco industries, mainly, would account for a major portion of UK's participation; detergents and similar products in the case of the Netherlands.

In Services, the USA accounts for 31 per cent of materialization in the sector, followed by Spain (28%) and Brazil (7%). The establishment in Chile of branches of major foreign banks would account for a significant part of the above figures, to a different degree in each of the various countries of origin.

Regarding Construction, France has the largest participation (40%), followed by the USA (15%), Panama and Brazil (approximately 14% each). The work being done in the Colbun-Machicura hydroelectric power plant operated by Endesa would account to a considerable extent for the percentages of France, USA, and Brazil.

Table 5

**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
BY ECONOMIC ACTIVITY, ORIGINATING IN SPAIN, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Services	31	163,180	74.1	158,470	82.8	97.1
Industry	26	44,828	20.4	22,868	11.9	51.0
Construction	7	10,924	4.9	8,788	4.6	80.4
Agriculture	2	1,300	0.6	1,300	0.7	100.0
TOTAL	66	220,232	100.0	191,426	100.0	86.9

* Provisional.

Table 6

**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
BY ECONOMIC ACTIVITY, ORIGINATING IN UNITED KINGDOM,
AS OF DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Industry	23	165,920	76.0	109,634	75.5	66.1
Services	27	33,570	15.4	28,521	19.7	85.0
Mining	2	11,000	5.0	845	0.6	7.7
Agriculture	3	3,288	1.5	2,184	1.5	66.4
Transport	1	2,200	1.0	1,839	1.3	83.6
Construction	2	1,837	0.8	1,516	1.0	82.5
Energy & Fuel	1	582	0.3	582	0.4	100.0
TOTAL	59	218,397	100.0	145,121	100.0	66.4

Materialization – Mining : 7.7%

Materialization – Non-Mining: 69.6%

TOTAL: 66.4%

* Provisional.

Table 7

**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
BY ECONOMIC ACTIVITY, ORIGINATING IN PANAMA, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Services	78	56,815	32.7	40,734	32.8	71.7
Mining	5	38,005	21.9	21,558	17.3	56.7
Industry	24	35,494	20.4	26,926	21.6	75.8
Construction	27	18,889	10.9	14,009	11.3	74.1
Agriculture	9	12,831	7.4	9,820	7.9	76.5
Forestry	1	8,708	5.0	8,708	7.0	100.0
Transport	3	3,000	1.7	2,580	2.1	86.0
TOTAL	147	173,742	100.0	124,335	100.0	71.5

Materialization – Mining : 56.7%

Materialization – Non-Mining: 75.7%

TOTAL: 71.5%

* Provisional.

Table 8
**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
ORIGINATING IN THE NETHERLANDS, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Industry	10	115,556	97.1	88,158	96.3	76.3
Services	9	3,188	2.7	3,188	3.5	100.0
Agriculture	2	211	0.2	211	0.2	100.0
TOTAL	21	118,955	100.0	91,557	100.0	77.0

* Provisional.

Table 9
**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
ORIGINATING IN FRANCE, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Construction	5	39,294	60.0	38,659	63.9	98.4
Services	8	20,160	30.7	18,314	30.3	90.8
Industry	6	5,655	8.6	3,165	5.2	56.0
Agriculture	2	260	0.4	108	0.2	41.5
Transport	1	215	0.3	214	0.4	99.5
TOTAL	22	65,584	100.0	6,460	100.0	92.2

* Provisional.

Table 10
**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
ORIGINATING IN BRAZIL, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Services	18	47,757	72.8	41,961	72.8	87.8
Construction	4	15,864	24.2	13,861	24.0	87.4
Industry	5	1,945	3.0	1,810	3.1	93.0
Transport	1	3	—	3	0.1	100.0
TOTAL	28	65,569	100.0	57,635	100.0	87.9

* Provisional.

Table 11

**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
ORIGINATING IN FEDERAL REPUBLIC OF GERMANY
AS OF DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	b/a %
Industry	15	25,545	41.4	23,372	49.7	91.5
Services	24	13,331	21.6	10,258	21.7	76.9
Mining	2	10,998	17.8	4,663	9.9	42.4
Agriculture	16	10,705	17.3	7,889	16.8	73.7
Construction	3	1,123	1.8	873	1.9	77.7
Transport	1	18	0.1	18	—	—
TOTAL	61	61,720	100.0	47,073	100.0	76.3

* Provisional.

Table 12

**NET FOREIGN INVESTMENT DL 600 AUTHORIZED AND MATERIALIZED
ORIGINATING IN JAPAN, AS OF
DECEMBER 31, 1983***

ACTIVITY	No. PROJECTS	(a) AUTHO- RIZED US\$'000	%	(b) MATERI- ALIZED US\$'000	%	
Industry	6	34,412	60.2	22,949	50.7	66.7
Services	12	22,196	38.8	21,742	48.1	98.0
Transport	1	500	1.0	500	1.1	100.0
Agriculture	2	100	—	42	0.1	42.0
TOTAL	21	57,208	100.0	45,233	100.0	79.1

* Provisional.

Five major copper mining projects account for about 93 per cent of the balance of Mining operations pending materialization, slightly over 87 per cent of all pending investments under DL 600. The amount authorized for these five projects represents more than 70 per cent of the total authorized for all activities as of December 31, 1983.

The projects are listed below:

Table 13
MAJOR MINING INVESTMENTS UNDER DL 600
AUTHORIZED AS OF DECEMBER 31, 1983
(Thousand US\$)

INVESTOR (PROJECT)	COUNTRY	AUTHORIZED
1. Anaconda Chile Inc. (Los Pelambres)	USA	1,500,000
2. Minera Getty Mining (Chile) Inc. & Minera Utah de Chile (Escondida)	USA	1,500,000
3. Exxon Minerals Chile Inc. Cía. Minera Disputada de Las Condes, S.A.	USA	1,200,000
4. Falconbridge Nickel Mines Limited, The Superior Oil Company & Canadian Superior Oil Limited (Quebrada Blanca)	USA & Canada	500,000
5. Rio Algom Limited (Cerro Colorado)	Canada	500,000
TOTAL		5,200,000

The above situation would be accounted for to a considerable extent by the large size of the projects, which require extensive exploration and complex technical, economic, and engineering prefeasibility and feasibility studies. Extensive works and high outlay are required for a prolonged period, significantly increasing once the decision is made to commence construction and materialization; consequently, the associated contracts provide for longer implementation terms, generally between eight and twelve years. The above projects have also been affected by unfavorable conditions in the international economy owing to recent serious and prolonged world recession, high interest rates, and resulting high cost of possible financing, together with depressed copper prices, much below their historical levels, all of which has tended to sensitize the economic feasibility studies even more.

A brief description of the above projects is given below, including recent developments, based mainly on information furnished by the Chilean Copper Commission.

LOS PELAMBRES

The Los Pelambres deposit is located 79 km East of the village of Salamanca in Region IV, between 3,000 and 3,600 meters above sea level.

This deposit belonged to a group of private individuals who called for bids in 1979 and awarded the deposit to Anaconda. A foreign investment contract between Anaconda Chile Inc. and the Republic of Chile was executed on October 1, 1979, amounting to US\$ 1,5 billion for purchase, exploration, and development. Anaconda Chile S.A., was organized to perform exploration and development.

The feasibility study was completed in mid-1983; the following stage of project development has been postponed indefinitely.

LA ESCONDIDA

The La Escondida copper deposit is located in Region II at about 160 km SE of Antofagasta as the crow flies.

It was discovered in March 1981 by the Utah International–Getty Oil consortium, as a result of an exploration programa with dust-recovery soundings conducted in the Norte Grande area.

On May 3, 1982 Minera Getty Mining de Chile Inc. and Minera Utah de Chile Inc. executed a foreign investment contract with the Republic of Chile amounting to US\$ 1.5 billion, for a prefeasibility study and development of the deposit, and for an exploration program aimed at discovering and subsequently developing other –primarily copper– ore deposit.

The feasibility study is currently under way.

DISPUTADA DE LAS CONDES

On January 24, 1978, Exxon Minerals Chile Inc. and the Republic of Chile executed a contract for US\$ 1.2 billion, covering exploration and exploitation of the Disputada de Las Condes mining operation composed of two mine sites and one foundry. Since an operating facility was acquired in this case, the associated level of expenditure was considerably higher than for the other four projects, which comprise exploration and prospection.

The Cordillera or Disputada group is composed of the Los Bronces mine, 65 km NE of Santiago and 3,500 m above sea level, and the San Francisco concentration plant, 6 km below the mine and 2,800 m above sea level.

Exploratory work was conducted between 1978 and 1980 in support of studies aimed at increasing production.

The Soldado (Norte) group is in Nogales, 130 km N of Santiago. It comprises the El Soldado ore deposit and the El Cobre concentration plant.

Engineering studies for expansion of the El Soldado mine were completed in the first half of 1983; completion of construction work on the expansion project is expected for mid-1984.

QUEBRADA BLANCA

The Quebrada Blanca deposit is located in Region I, about 160 km SE of Iquique, 4,000 to 4,500 meters above sea level.

The group of investors composed of The Superior Oil Co, Falconbridge Nickel Mines Ltd. Canadian Superior Oil Ltd., and Mc Intyre Mines Nevada Ltd., signed a general agreement in February 1977, and on July 7, 1977 executed a foreign investment contract with the Republic of Chile for exploration and exploitation of the Quebrada Blanca deposit, amounting to US\$ 500 million.

Compañía Exploradora Doña Ines Ltda. receives the contributions made by the foreign investors and is responsible for conducting the exploration work. Mc Intyre Mines Nevada Ltd. assigned its rights in 1983, only three investors remaining in the group.

The feasibility study was completed in late 1982. Work is currently under way on projects intended to lower the capital investment determined in the feasibility study.

CERRO COLORADO

Cerro Colorado is in Region I, about 120 km NE of Iquique, 2,600 m above sea level.

In 1981, Compañía Minera Riochilex Ltda., a subsidiary of Rio Algom Ltd., signed an option agreement with the owners. Subsequently, Compañía Minera Cerro Colorado S.A. was organized and given responsibility for exploration and development of the ore deposit, and Rio Algom applied to the Foreign Investment Committee for authorization to invest up to US\$ 500 million in exploration and exploitation. The foreign investment contract was executed on September 13, 1982.

The associated feasibility study was completed in late 1982. Currently steps are being taken to obtain financing.

OTHER COPPER MINING PROJECTS

Among other major, totally materialized, mining projects, two are worth mentioning: El Indio and the concentration plant operated by Mantos Blancos. The latter company recently submitted a substantial expansion project, at present under materialization.

EL INDIO

The El Indio ore deposit is in the high Andes, in the boundary area between Region III and Region IV, about 100 km by road ENE of Vicuña, approximately 4,000 m above sea level.

On July 15, 1977 Compañía Minera San Jose and the Republic of Chile executed a foreign investment contract amounting to US\$ 100 million intended for one or more mining projects.

On December 16, 1977, Compañía Minera San Jose and a group of individuals organized Compañía Minera El Indio for exploiting the deposit, the foreign investor retaining 80 per cent ownership of the company.

The facilities at El Indio were officially started on December 2, 1981. The mine is currently operating normally.

MANTOS BLANCOS

Mantos Blancos is located in Region II, 45 km NE of Antofagasta, about 1000 m above sea level.

The present flotation plant was completed in 1981. The associated foreign investment contract was executed on July 14, 1977, authorizing foreign investors Marvis Corporation S.A. and Empresas Sudamericanas Consolidadas S.A. to make a capital contribution amounting to US\$ 17 million, intended to prolong operations at the copper mine owned by Empresa Mantos Blancos by utilizing underground ore reserves, and to extend the life of the mine until 1985, virtually setting up a new underground mine.

On December 6, 1983 another contract amounting to nearly US\$ 50.8 million was executed by the two above investors and the International Finance Corporation, an agency of the World Bank, intended for expansion of the flotation plant, mine, and ancillaries of the company, as part of an investment program for US\$ 71.3 to be undertaken by these investors for that purpose.

OTHER PROJECTS

There are other projects in respect of which no foreign investment contract has been signed yet, and which are in an advanced stage of consideration, negotiation, and agreement among the parties concerned. The most significant are described below:

METHANOL

Construction of a plant to produce chemical and/or fuel grade methanol from natural gas. The plant to be located at Cabo Negro, 30 km from Punta Arenas, with capacity for 2,270 metric tons per day approximately.

The plant would be built, financed, and operated by an American corporation, with possible participation of minority partners, including some Chileans, in the company to be organized. The International Finance Corporation, of the World Bank, might also help to finance this project.

Total investment would amount to US\$ 313 million, to be financed by capital contributions of the partners, and foreign credit.

The plant would consume about 2.2 million cu.m. of gas per day for 20 years; production would be intended for export. Natural gas would be provided by ENAP under a supply contract at present in the final stage of negotiation.

This contract would allow the investor to formalize steps to obtain project financing.

The above project would be one of the first in Chile to enjoy the support for the Overseas Private Investment Corporation (OPIC), a federal agency of the United States for insurance and financing of foreign investment projects of American origin. OPIC is currently resuming operations in Chile and would insure up to 90 per cent of the investor's risk capital, with a ceiling of 100 per cent. There is also the possibility of OPIC insurance on loans for this purpose.

If the supply contract is executed and financing obtained in the course of 1984, plant engineering and construction could begin in early 1985, the process taking about three years 1/.

About 800 persons would be employed during the construction stage, subsequently 200 would work in direct operation of the plant, plus a substantial number of workers in indirect operation. Commercial production would begin in late 1987.

AMMONIA AND UREA

Construction of a plant to produce ammonia and urea located at Cabo Negro, 30 km from Punta Arenas, with capacity for 1,350 metric tons per day of ammonia and 1,725 metric tons per day of urea. Since ammonia is used to produce urea, final daily production would amount to 350 tons of ammonia and 1,725 tons of urea, utilizing 1.5 million cu.m. of gas per day, for 20 years. Production would be basically intended for export.

The cost of investment, including phasing and financial costs, would be US\$ 350 million, approximately.

Execution of a natural gas supply contract with ENAP is essential for operating the plant. Such a contract is under negotiation with four foreign investors: two from the USA, one from Sweden, one from Germany. Project financing for the processing plant would include equity capital, foreign credit, possible participation of other foreign or Chilean minority partners.

Depending upon the speed with which the supply contract and project financing are negotiated, plant engineering and construction could begin in 1985; the process would take about three years. About 700 persons would be employed during construction, 450 later for plant operation, and a significant number of indirect jobs would be originated. Commercial production would begin in late 1987.

RECENT LEGISLATION AND FOREIGN INVESTMENT

Recently enacted legislation has a bearing on promotion of foreign investment. Mining laws, Chile-USA bilateral agreement on foreign investment, and income tax reform deserve special mention.

1/ The supply contract was signed in May 1984.

MINING LAWS

New mining laws are in force since December 13, 1983, when the new Mining Code became effective. Pursuant to such laws, the State retains ownership of all mines. Notwithstanding, any person generally has a right to hold concessions on concessible substances, that is, all save those explicitly excepted in the law as follows: liquid or gaseous hydrocarbons, lithium and all deposits located in maritime waters under national jurisdiction or in areas of national security. Non-concessible substances may be explored or exploited by the State directly or by means of administrative concessions or operation contracts.

Owing to their strategic importance, the State has the first option to buy any thorium and lithium that may be mined by holders of the concession, at market prices and under market terms and conditions. To date, operation contracts have been traditionally used for hydrocarbon exploration and exploitation.

Concessions on concessible ores may be for exploration or exploitation. The former last for two years; they are renewable, but only for half the area granted under the original concession, for another two years. Exploitation concessions are of indefinite duration. A concession is determined on the basis of a definite delimited area, and comprises all concessible mineral substances found within its geographic limits, which eliminates any possibility of overlapping claims.

A mining concession is granted by court ruling with no intervention by administrative authorities. The court ruling gives title to the concession and requires registration with the Registrar of Mines.

The mining concession is a real and immovable right, different and independent from title to ownership of the surface ground, even though both may belong to the same owner. It may be exercised vis-à-vis the State or any other person, transferred or transmitted, may be subject to lien or any other right, and in general to any act or contract. The holder of a mining concession enjoys right of property guaranties and may only be deprived of the concession under a general or special law authorizing expropriation for reasons of public utility or national interest. The holder may contest the legality of expropriation before the courts and will in any event be entitled to compensation for actual damage suffered to property, such compensation to be determined by mutual agreement between the parties or by lawsuit; the court will decide after hearing expert reports that take account of present value of net income flows based on ore reserves that may be proved to exist, in order to establish the commercial value of the concession.

The holder retains title to the concession by paying a license for fiscal benefit annually in advance per hectare of area of the concession. If the license is not paid when due, legal action is taken for auctioning off the concession. Should there be no bidders the court declares the land released for such purposes and registration is cancelled. The original holder may not bid but may suspend the auction by paying twice the amount owed. The annual exploitation license is equivalent to one tenth of one Monthly Tax Unit per hectare of concession; exploration license is equivalent to one fiftieth of the same unit. The Monthly Tax Unit is adjusted monthly in accordance with price index variations.

CHILE—USA BILATERAL AGREEMENT

An Agreement on Incentives and Investments between the Government of Chile and the Government of the USA was signed in Santiago as of September 22, 1983 and became effective on February 14, 1984.

Under the Agreement the Overseas Private Investment Corporation (OPIC), a federal agency of the USA, is allowed to resume its operations in Chile.

The object of OPIC is to insure private investments overseas by US nationals against political risks, and grant both direct and indirect supplementary financing for development of US-originated projects in third countries.

As regards insurance, OPIC insures US investors overseas against so-called political risks. They include:

(a) Inconvertibility, which is inability of the investor to convert local into foreign currency for purposes of repatriating the original investment or remitting profits and revenues derived from it, owing to restrictions imposed by the authorities of the country where the investment was made.

(b) Expropriation, which is loss of investment owing to nationalization, expropriation, or confiscation by the government of the country receiving the investment, without proper compensation.

(c) Armed conflict, which is loss of investment owing to the occurrence of armed conflict.

OPIC insurance policies generally apply to new investments intended to create assets and may extend to purchase of existing assets only if complemented by expansion of the productive capacity so acquired.

Coverage is not limited by the form of the investment, which may be made by financial contributions, supply of goods and services, transfer of technology, etc.

Coverage usually extends to 90 per cent of the value at risk and may be raised or lowered.

OPIC coverage applies not only to the original investment but also to income derived from it up to 270 per cent of the value of the original insured investment, such value included.

Coverage may be extended for up to 20 years, depending upon the nature of the operations involving the investment.

As regards financing, OPIC grants financing to US investors overseas in the following ways:

(a) Direct credit by means of loans ranging from US\$ 0.1 million to US\$ 4.0 million for development of projects sponsored by US cooperatives or small companies.

(b) Credit guaranty, applicable to large companies not eligible for direct credit. OPIC grants guaranty on third-party credits obtained by such companies, for up to US\$ 50 million.

For determining credit and guaranty terms and conditions the possible financial flow of the project being financed is considered. Commitment fees, management and advisory fees are normally considered, as well as interest, which may vary according to the form of the loan and the situation of capital markets. Cost of guaranties may range between 1,5% and 3% per annum, depending upon the result of the political and commercial risk assessment performed by OPIC.

The funds from loans granted or guaranteed must be used for purchase of goods in the USA, the beneficiary country, or other less developed countries.

OPIC financing is understood to be complementary to financing contributed by investors sponsoring the project and may not be more than 50 per cent of the cost of a new venture or 75 per cent of the cost of expansion of an existing one.

In addition to the above, OPIC also provides the following services:

(a) Financing for feasibility studies, research, and studies addressed to identifying and evaluating investment opportunities.

(b) Insurance in favor of US contractors and participants in tenders, covering the risk of performance or other bonds being made arbitrarily effective against the insured.

(c) Insurance against political risks that may entail losses to US exporters.

OPIC attaches priority to projects designed for agricultural development and food, gas or oil production, supply of medical services, works to provide basic services (drinking water, sewers, communications, electric power), and development of financial institutions.

Furthermore, OPIC promotes projects and insures verifiably profitable investments in the private sector. As a rule, eligible ventures should be at least 51 per cent privately owned and may provide services to entities with majority government ownership only if management is performed by the private owners. It neither insures nor finances totally government-controlled projects.

INCOME TAX REFORM

The Income Tax Reform was published in the Official Gazette on January 31, 1984.

The amendments to previous legislation contained in it are designed to encourage savings, promote investment by corporations and the public, and reduce the tax burden. Under the reform the subject of tax becomes to a significant extent the individual rather than the enterprise, and taxable income for calculating taxes is based on withdrawal or distribution rather than earning.

Plowing back profits by corporations is fostered by granting different treatment to drawn and retained income. The latter is subject to a low 10 per cent First-Category Tax applicable to income earned by the corporation. While the owner or partners do not draw such income, they are not taxable except indirectly by the above 10 per cent rate, and will not be subject to Supplementary or Additional Income Tax —applicable to national or foreign investors respectively— until they draw or remit such income abroad; at this time they may credit to such taxes a percentage of the 10 per cent first-category tax paid in by the corporation when due.

Under the previous legislation, income was taxed when earned by the corporation and in the period when earned, whether or not drawn by owners, partners, or stockholders.

The reform also contemplates reduction of progressive income tax affecting individuals, that is tax on remunerations and Supplementary Income Tax, by lowering the rate applicable to each income bracket and broadening the range between brackets. Savings and investment by individuals are also encouraged by allowing tax deductions, within certain limits, for investments of certain kinds made by such individuals, including stock of open corporations, nominative deposit notes meeting certain requirements and others, which the taxpayer should keep for a minimum specified period.

For corporations, as described above, the 10 per cent First-Category Tax continues to apply in respect of earned income.

Additional tax rate (Article 21 of the Income Tax Law) will continue to apply temporarily for tax years 1985 and 1986 (calendar 1984 and 1985), at decreasing rates of 30 per cent and 15 per cent respectively, thereafter disappearing altogether. This tax rate formerly applied to corporations and is no longer justified since it had been enacted originally to place the corporate tax burden on a par with other forms of enterprises, it then became an advance on individual stockholders' Supplementary Income Tax. The difference would disappear under the reform taxing the income of stockholders or owners of enterprises of whatever legal status, based on income drawn and in the period when drawn.

The 40 per cent Additional Tax on the income of agencies and other foreign entities established in Chile and on remittances is maintained, although the tax is applied —as in the case of taxpayers generally— on actual drawing or remittance abroad.

The 10 per cent First-Category Tax may be credited to Supplementary or Additional Tax. Credit is equivalent to 10 per cent of the amount of income taxed by First-Category Tax included in taxable income subject to Supplementary or Additional Tax. For this purpose only income drawn from the enterprise is included.

New rate scales are set for the single labor tax and Supplementary Income Tax providing for broader income brackets, raising the top bracket from 100 to 150 tax units and reducing the rate by three percentage points, the highest rate to be not more than 50 per cent in any case.

The new rate scales will apply as of 1986; for 1984 and 1985 the present rates will be reduced by one percentage point per year.

Effective 1985 the present 7 per cent Second Category Tax affecting professionals will be suppressed. For 1984 the applicable rate will be 3.5 per cent.

Taxpayers generally, including workers and professionals, may deduct from their personal taxable income 20 per cent of amounts invested in shares, deposits and other securities with maturities of one year at least, and the total amount of additional deposits made to a Pension Fund. (Administradoras de Fondos de Pensiones). Such deductions may not exceed certain limits.

CONCLUSIONS

As may be concluded from the above discussion, there is in Chile today a wide diversity of major projects likely to be implemented in the relatively near future, apart from the significant number of medium— and small—scale foreign investment ventures likely to materialize sooner, which are currently under consideration and which are of considerable importance because of their general implications for production and employment.

The legal provisions lately enacted would in turn enhance foreign investment in Chile by granting increased security to both Chilean and foreign investors involved in mining projects; by allowing the Overseas Private Investment Corporation (OPIC), a federal agency of the USA, to resume operations in Chile; and lastly by enacting tax reform under specially favorable conditions for corporations tending to save and plow back profits in their own or other productive operations, and also lowering the ordinary income tax burden.

If to the above is added Chile's traditionally favorable receptive attitude towards foreign investment, the stable basic principles of economic policy in force, and the relative improvement to be expected in world economic conditions, both in regard to trade and to international financial markets, the part to be played by foreign investment in Chile's development should be strengthened and heightened thereby.

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DECREE LAW Nº 600



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