









# RWI Index Questionnaire: Chile 2012

<b>Category I</b>	<b>Access to Resources</b>		
1.1	Context		
1.2	Disclosure	50	
1.3	Legal Framework and Practices	67	
<b>Category II</b>	<b>Revenue Generation and Collection</b>		
2.1	Context		
2.2	Disclosure	48	
2.3	Legal Framework and Practices	52	
<b>Category III</b>	<b>State Owned Companies</b>		
3.1	Context		
3.2	Disclosure	94	
3.3	Legal Framework and Practice	83	
<b>Category IV</b>	<b>Natural Resource Funds</b>		
4.1	Context		
4.2	Disclosure	100	
4.3	Legal Framework and Practice	83	
<b>Category V</b>	<b>Subnational Transfers</b>		
5.1	Context		
5.2	Disclosure	N/A	
5.3	Legal Framework and Practice	N/A	

[Download PDF](#)

# Chile - RWI Index Questionnaire

[Back](#)

Indicator	Score
4.1.1	Context
4.1.1 Context	

## 4.1.1.050: Has the government created a special fund or natural resource fund that concentrates revenue directly from oil, gas or mineral extraction?

Score: **A** B C

### Comments:

The Copper Stabilization Fund was created in 1985 and in 2006 Chile passed the Fiscal Responsibility Law which involved the creation of two new sovereign wealth funds. The first of these is the Pension Reserve Fund (PRF) which is essentially a Savings Fund (no withdrawals are allowed to be made from the fund for a minimum of ten years). This fund receives between 0.2% and 0.5% of GDP depending on the size of Chile's overall budget surplus each year, and initially received a one-off sum of \$600 million in 2006 to kick-start the fund.

In 2007, the Chilean Government created the second fund, the Economic and Social Stabilization Fund (ESSF). This fund replaced the original Copper Stabilization Fund. It receives fiscal surpluses which are above 1% of GDP and came into existence with a one-off payment of approximately \$5 billion (as a result of the closure of the original Copper Stabilization Fund). Through the ministry of finance of Chile, the financial committee proposed investment policy on the social and economic stabilization fund to the minister of finance during March 2007. The investment strategy intends to diversify assets in the fund, putting 15% of the portfolio into variable income assets, 20% in corporate fixed income papers, gradually adjusting assets currently held, and especially liquid assets.

### Strategies and Objectives:

The aim of the Pension Reserve Fund is to address an expected future government pension liability shortfall. As a Savings Fund, it takes a longer-term view and has the responsibility of enabling a transfer of wealth from one generation to the next for the purpose of future sustainability. This means it has a higher risk profile and can invest in a broader range of asset classes. The Economic and Social Stabilization Fund, on the other hand, has macroeconomic stabilization objectives. It has the aim of accumulating excess copper revenues when the price of copper is high in order to channel revenues into the budget when the price of copper is low, thereby smoothing out government expenditure. As a Stabilization Fund, it has a lower risk profile in terms of its investments because it must take a short-term view due to liquidity concerns. The strategy is to be gradually implemented and external managers will be responsible for part of the fund. The fund primarily invests in currencies and foreign government agency bonds & financial institution bonds.

The Funds are exclusively invested in low-risk asset classes, similar to those used in international reserves. The strategic asset allocation for both funds is made up of 66.5% in sovereign bonds, 30% in money market instruments, and 3.5% in inflation-indexed sovereign bonds. The currency composition of the funds is broken down as follows: 50% USD, 40% Euro, and 10% Japanese Yen.

### References:

<http://www.hacienda.cl/fondos-soberanos/fondo-de-estabilizacion-economica-y.html>

The Copper Stabilization Fund of Chile.

**4.1.1.051: What authority is responsible for the natural resource fund?****Score:**  A  B  C  D  E**References:**

<http://www.hacienda.cl/fondos-soberanos/fondo-de-estabilizacion-economica-y.html>



[http://www.dipres.gob.cl/572/articles-21682\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-21682_doc_pdf.pdf)

Ministry of Finance. Chile.

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# Chile - RWI Index Questionnaire

[Back](#)

Indicator		Score
4.2.1	Comprehensive reports	100 
4.2.2.056	Audited reports	100 

4.2.1 Comprehensive reports

## 4.2.1.052: Are the rules for the fund's deposits and withdrawals published, including the formula(s) for deposits and withdrawals?

Score:  A  B  C

### References:

<http://www.hacienda.cl/fondos-soberanos/fondo-de-estabilizacion-economica-y/informes-trimestrales.html>

Quarterly Report. Economic and Social Stabilization Fund.  
Ministry of Finance. Chile.

## 4.2.1.053: Does the fund management or authority in charge of the fund publish comprehensive information on its assets, transactions and investments?

Score:  A  B  C  D  E

### References:

Annual Report on Sovereign Wealth Funds  
[http://www.minhda.cl/english/fondos\\_soberanos/informes\\_anual\\_fondos\\_soberanos.php](http://www.minhda.cl/english/fondos_soberanos/informes_anual_fondos_soberanos.php)

## 4.2.1.054: Are the reports containing information on the fund's assets and transactions understandable?

Score:  A  B  C  D  E

### References:

Annual Report on Sovereign Wealth Funds  
[http://www.minhda.cl/english/fondos\\_soberanos/informes\\_anual\\_fondos\\_soberanos.php](http://www.minhda.cl/english/fondos_soberanos/informes_anual_fondos_soberanos.php)

## 4.2.1.055: How often are financial reports published by the fund management or authority in charge?

Score:  A  B  C  D  E

### References:

Ministry of Finance website

[http://www.minhda.cl/english/fondos\\_soberanos/informes\\_ejecutivos\\_mensuales.php](http://www.minhda.cl/english/fondos_soberanos/informes_ejecutivos_mensuales.php)

#### 4.2.2.056 Audited reports

---

##### 4.2.2.056a: Are the fund s financial reports audited?

Score:  A  B  C  D  E

**References:**

Annual Report on Sovereign Wealth Funds

[http://www.minhda.cl/english/fondos\\_soberanos/informes\\_anual\\_fondos\\_soberanos.php](http://www.minhda.cl/english/fondos_soberanos/informes_anual_fondos_soberanos.php)

---

##### 4.2.2.056b: Are the audited financial reports published?

Score:  A  B  C

**References:**

Annual Report on Sovereign Wealth Funds

[http://www.minhda.cl/english/fondos\\_soberanos/informes\\_anual\\_fondos\\_soberanos.php](http://www.minhda.cl/english/fondos_soberanos/informes_anual_fondos_soberanos.php)

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# Chile - RWI Index Questionnaire

[Back](#)

Indicator	Score
4.3.1 <span style="color: red;">Legal Framework and Practice</span>	83 <span style="color: green;">■</span>

4.3.1 Legal Framework and Practice

### 4.3.1.057: Are the rules governing deposits into the fund defined by legislation?

Score:  A  B  C

**References:**

<http://www.hacienda.cl/fondos-soberanos/legislacion.html>

Ministry of Finance. Chile.

### 4.3.1.058: In practice, does the government follow the rules governing deposits to the natural resource fund?

Score:  A  B  C  D  E

**References:**

<http://www.hacienda.cl/fondos-soberanos/legislacion.html>

Ministry of Finance. Chile.

### 4.3.1.059: Are the rules governing withdrawal or disbursement from the fund defined by legislation?

Score:  A  B  C

**Comments:**

The Economic and Social Stabilization Fund (ESSF) was established on March 6th, 2007 with an initial contribution of US\$2.58 billion, much of which (US\$ 2.56 billion) was derived from the old Copper Stabilization Fund, which was replaced by the ESSF.

According to the Fiscal Responsibility Law, the ESSF receives each year the positive balance resulting from the difference between the effective fiscal surplus and the contributions to the Pension Reserve Fund and to the Central Bank of Chile, discounting the payment of public debt and advances made the year before.

**References:**

<http://www.hacienda.cl/fondos-soberanos/legislacion.html>

Ministry of Finance. Chile.

### 4.3.1.060: In practice, does the government follow the rules governing withdrawal or spending from natural resource fund?

Score:  A  B  C  D  E

**Comments:**

Chilean Self-Assessment of Compliance with Santiago Principles

In line with Chile's commitment to best international practices, the government has participated actively in international initiatives that seek to establish an operational framework for sovereign wealth funds (SWFs) and promote their transparency. In particular, the Finance Ministry played an active role in the International Working Group of Sovereign Wealth Funds (IWG-SWF), established in May 2008, to draw up and promote a common set of voluntary principles for SWFs, based on existing practices, in order to help maintain the free flow of cross-border investment and the openness and stability of financial systems.

**References:**

<http://www.hacienda.cl/fondos-soberanos/legislacion.html>

Ministry of Finance. Chile.

---

**4.3.1.061: Are withdrawals or spending from the fund reserves approved by the legislature as part of the budget process?**

Score:  A  B  C

**Comments:**

The Economic and Social Stabilization Fund allows financing of fiscal deficits and amortization of public debt. Thus, the ESSF provides fiscal spending stabilization since it reduces its dependency on global business cycles and revenue's volatility derived from fluctuations of copper price and other sources. For example, budget reductions originated from economic downturns can be financed in part with resources from the ESSF, reducing the need for issuing debt.

According to the Fiscal Responsibility Law, the ESSF receives each year the positive balance resulting from the difference between the effective fiscal surplus and the contributions to the Pension Reserve Fund and to the Central Bank of Chile, discounting the payment of public debt and advances made the year before.

**References:**

<http://www.hacienda.cl/fondos-soberanos/legislacion.html>

Ministry of Finance. Chile.

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**4.3.1.062: Are officials of the natural resource fund required to disclose information about their financial interest in any oil, gas or mining projects?**

Score:  A  B  C

**References:**

<http://www.hacienda.cl/fondos-soberanos/legislacion.html>

Legal Framework. Ministry of Chile.

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# Chile - RWI Index Questionnaire

[Back](#)

Indicator	Score
5.1.1	Context
5.1.1 Context	

## 5.1.1.063: Do central governments transfer resources to subnational authorities based on extraction of mineral resources?

Score: A B C **(D)** E

### Comments:

There is no transfers based on resources. Comments on subnational transfers have been kept in that section but scores are marked as 'not applicable'.

### References:

The Organic Constitutional Law of Government and Regional Administration 19.175.

<http://www.coredelosrios.cl/Ley%2019175.pdf>

### Peer Review Comments:

There is no explicit mechanism of natural resource revenue transfer. The revenues are mixed with other revenues form the central budget. There exist the SUBDERE (Subsecretaría de desarrollo regional, Regional Development Secretariat), which is in charge of the regional development. The main source of resources is something called National Fund for Regional Development. There is no mention to any special treatment to copper revenues. See [http://www.subdere.gov.cl/programas/division\\_desarrollo\\_regional](http://www.subdere.gov.cl/programas/division_desarrollo_regional)

## 5.1.1.064: Are conditions imposed on subnational government as part of revenue sharing regime?

Score: A B **(C)**

### Comments:

This question is marked as not applicable as resource revenues are not reallocated as such. Regions have an important role in the allocation of public investment funds. Both the amount of these funds as well as a broad definition of the type of projects to be executed is determined at the central level. With varied degrees of autonomy depending on the fund at stake, regional governments decide on the specific investments to be made. The so called National Investment System establishes a procedure to evaluate each separate project on the basis of its present net social benefit. In the same way as a social discount rate is determined, shadow prices on the foreign currency and the cost of labor are recalculated regularly. Three administrative bodies are in charge of the identification and corresponding proposal of projects to the regional councils (CORE). They are the municipal councils, the regional branches of specific national ministries (SEREMIS) and the provincial governors, who are empowered to partially decide on the ranking of investment proposals. In most cases, the local Secretary of Planing (SERPLAC) makes the economic evaluation of the project at stake and sends back a report to the regional government.

The most important one is the National Fund of Regional Development (FNDR) which occupies more than 52% of the regionally decided public investment (RDPI).



**References:**

The Organic Constitutional Law of Government and Regional Administration 19.175.

<http://www.coredelosrios.cl/Ley%2019175.pdf>

The Budget Law 2012.

<http://www.dipres.gob.cl/572/propertyvalue-21326.html>

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# Chile - RWI Index Questionnaire

[Back](#)

Indicator	Score
5.2.1	Disclosure

5.2.1 Disclosure

## 5.2.1.065: Are the rules for revenue transfers from central to sub national governments published, including the formula(s) for revenue sharing?

Score: A B **C**

### References:

Decree Law 1263 establishes that Central Government funds activities of Regional governments.

## 5.2.1.066: Does the central government publish comprehensive information on transfers of resource related revenues to sub-national governments?

Score: A B C D **E**

### References:

2010 Budget Bill, Ministry of Finance  
<http://www.minhda.cl/english/ministerio/presupuesto2010.php>

## 5.2.1.067: Are the reports containing information on transfers of resource related revenues to sub-national governments understandable?

Score: A B C D **E**

### References:

<http://intranet.munistgo.cl/integridad/web2/file/tei/cuentas-publicas/Cuenta%20Publica%20FINAL2011,%20de%20abril%202012.pdf>

Municipality of Santiago

[http://www.dipres.gob.cl/574/articles-87197\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/574/articles-87197_doc_pdf.pdf)

<http://www.dipres.gob.cl/574/multipropertyvalues-14341-21327.html>

Budget Execution. Quarterly Report 2012. Regional Government Los Rios.

<http://www.subdere.gov.cl/documentacion/fndr-ejecuci%C3%B3n-presupuestaria-al-31-de-marzo-de-2012>

The Undersecretary of Regional Development and Administration. Chilean Government.

Law of Transparency. 20.285

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**5.2.1.068: How often does the central government publish information on transfers of resource related revenues to sub-national governments?**

**Score:** A B C D **E**

**References:**

<http://intranet.munistgo.cl/integridad/web2/file/tei/cuentas-publicas/Cuenta%20Publica%20FINAL2011,%20de%20abril%202012.pdf>

Municipality of Santiago

[http://www.dipres.gob.cl/574/articles-87197\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/574/articles-87197_doc_pdf.pdf)

<http://www.dipres.gob.cl/574/multipropertyvalues-14341-21327.html>

Budget Execution. Quarterly Report 2012. Regional Government Los Rios.

<http://www.subdere.gov.cl/documentacion/fndr-ejecuci%C3%B3n-presupuestaria-al-31-de-marzo-de-2012>

The Undersecretary of Regional Development and Administration. Chilean Government.

Law of Transparency. 20.285

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**5.2.1.069: Do sub-national governments publish information on transfers received from central governments?**

**Score:** A B **C**

**References:**

<http://intranet.munistgo.cl/integridad/web2/file/tei/cuentas-publicas/Cuenta%20Publica%20FINAL2011,%20de%20abril%202012.pdf>

Municipality of Santiago

[http://www.dipres.gob.cl/574/articles-87197\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/574/articles-87197_doc_pdf.pdf)

<http://www.dipres.gob.cl/574/multipropertyvalues-14341-21327.html>

Budget Execution. Quarterly Report 2012. Regional Government Los Rios.

<http://www.subdere.gov.cl/documentacion/fndr-ejecuci%C3%B3n-presupuestaria-al-31-de-marzo-de-2012>

The Undersecretary of Regional Development and Administration. Chilean Government.

Law of Transparency. 20.285

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# Chile - RWI Index Questionnaire

[Back](#)

Indicator	Score
5.3.1 Legal Framework and Practice	N/A

## 5.3.1 Legal Framework and Practice

### 5.3.1.070: Are arrangements (including formulas and responsible institutions) for resource revenue sharing between central and sub-national governments defined by legislation?

Score: A B **C**

**References:**

The Organic Constitutional Law of Government and Regional Administration 19.175.

<http://www.coredelosrios.cl/Ley%2019175.pdf>

The Budget Law 2012.

<http://www.dipres.gob.cl/572/propertyvalue-21326.html>

### 5.3.1.071: In practice, does the government follow the rules established by resource revenue sharing legislation?

Score: A B C D **E**

**References:**

The Organic Constitutional Law of Government and Regional Administration 19.175.

<http://www.coredelosrios.cl/Ley%2019175.pdf>

The Budget Law 2012.

<http://www.dipres.gob.cl/572/propertyvalue-21326.html>

Law of Transparency. 20.285

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# Chile - RWI Index Questionnaire

## Context

[Back](#)

Indicator	Score
1.1	Context
1.1	Context

### 1.1.001: Does the country have a clear legal definition of ownership of mineral resources?

Score:  A  B  C  D  E

#### Comments:

The main legal frame is the political Constitution, current since 1980, which establishes that the State has the domain of all the mines.

#### CHAPTER III

#### CONSTITUTIONAL RIGHTS AND OBLIGATIONS

Article 19: The Constitution guarantees to all persons:

24. The right of ownership in its diverse aspects over classes of corporeal and incorporeal property.

The State has absolute, exclusive, inalienable and imprescriptible domain over all mines, including guano deposits, metal bearing sands, salt mines, coal and hydrocarbon deposits and the other fossil substances, with the exception of superficial clays, despite the ownership held by individuals or body corporate over the land in which the above should be contained. The superficial landed property shall be subject to the obligations and limitations prescribed for by law to facilitate exploration, exploitation and development of said mines.

Mining Code

#### TITLE I

#### STATE OWNERSHIP AND MINERAL RIGHTS

Paragraph I.

General Rules

#### ARTICLE 1:

The State has absolute, exclusive, inalienable and imprescriptible ownership of all mines, including natural guano deposits, metal bearing sands, salt deposits, coal and hydrocarbon deposits and fields and other fossil substances except surface clays, regardless of property rights of natural or legal individuals over lands wherein they may be found.

Any person is, however, entitled, under Paragraph 2 of this Title, to dig test pits and to remove samples in the search for mineral substances, as well as to establish a concession for the search or mining of substances over which, under organic constitutional laws, concessions may be granted, with the sole exception of individuals mentioned in article 22.

#### References:

- Political Constitution of the Republic of Chile.

<http://www.gobiernodechile.cl/la-moneda/constitucion-politica/>

- Mining Code (Law 18.248 of 1983). Legal Guidelines.

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>  
Mining Ministry. Chilean Government.

---

### 1.1.002: Who has authority to grant hydrocarbon and mineral rights or licenses?

Score: A  B C D E

#### Comments:

A judicial proceeding must be followed before the ordinary lower courts with jurisdiction in the area where the concession is located grants rights. This judicial system made Chilean mining concession granting process very unique, since there is no intervention of an administrative or political authority. The concession is granted by a court resolution.

Technical aspects are managed and monitored by SERNAGEOMIN.

The National Service of Geology and Mining (SERNAGEOMIN) gives technical assistance in the following areas:

- Mining Concessions: Inform the Courts of Justice about the technical aspects related to the measurement operations of the exploitation concessions and the requests of the constituent judgment of the exploration mining concessions.
- Geothermal Concessions: Advise the Ministry of Mining on the process of Constituting the Exploration and Exploitation Concessions to Geothermal Energy Sources. In order to achieve this, it registers and keeps the mining national cadaster on the Exploitation Concessions to the given Geothermal Energy Sources.
- Geologic: Satisfy the authorities' and public institutions' requests in identification matters, the use and conservation of mineral, energetic resources and of underground waters; also in the prevention and mitigation of natural disasters and consultancy in regional geology and paleontology, among other services.

#### References:

- Constitution of the Republic, article 19 No. 24, paragraphs 6 to 10 (the property right on a mining concession is constitutionally protected);
- Constitutional Organic Law No. 18,097 on Mining Concessions (of 21 January 1982);
- Mining code (Law No. 18,248 of 14 October 1983); and
- Regulations of the Mining code (of 27 February 1987).

<http://www.sernageomin.cl/propiedadadminera.php>

#### Peer Review Comments:

As it says in the section of comments, the concession is granted by a court of law by a simple procedure. The Sernageomin (governmental agency) only receives the information from the court. The court of law or the judge are neither a regulator nor a regulatory agency.

---

### 1.1.003: What licensing practices does the government commonly follow?

Score: A B  C D E

#### Comments:

Article 5: The mining concessions shall be granted by resolution of the ordinary courts of justice, in a procedure followed before them and without decisive intervention of any kind or any other authority or person. Any person can acquire, under any title, such mining concessions, or quotas thereof, over the substances that this law determines. Only those persons that the Mining Code indicates in the provisions, that must be approved by a qualified quorum according to the constitutional regulations in

force, are excluded. The first person to file a claim for the establishment of a mining concession respect to a territorial extension not protected by a mining concession in effect, is deemed to be the discoverer, who shall have preference to constitute it, unless there has been force or fraud to be early in the proceedings or to delay those of the person who really discovered it first. If the party who initiates the proceedings is a person who executes mining work under command or behalf of another, it shall be understood that the proceeding is carried out for this person. If the State deems necessary to exercise its rights to exclusively explore and exploit grantable substances, it shall act through companies owned by it or those in which it participates, and constitute or acquire the respective mining concession that are authorized for that purpose in accordance with the constitutional regulations in force. The Mining Code is to regulate the way to assert rights, whether during the constitution procedure or after it, of those who are impaired by the constitution of the mining concession. Once the mining concession is constituted, the judge shall order its registration according to that Code, which shall also deem some other publicity measure.

**References:**

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>

LAW N°18.097

ORGANIC CONSTITUTIONAL LAW ON MINING CONCESSIONS

Published on Official Gazette on 21/01/1982

Chilean Government

**Peer Review Comments:**

According to article 5 of LAW N°18.097 ORGANIC CONSTITUTIONAL LAW ON MINING CONCESSIONS, it is on a first come first serve basis that a concession is granted.

**1.1.004: What is the fiscal system for mineral resources?**

**Score:** (A) B C D E

**Comments:**

The Constitution distinguishes between mineral substances that can be explored and/or exploited through a concession and mineral substances that cannot. Minerals in the first group can be explored or exploited by any person through the constitution of a mining concession, which can be either for exploration or exploitation.

The only obligation imposed by Chilean legislation to maintain a mining concession is the payment of an annual fee. Payment of such a fee is undertaken in fulfillment of the obligation of protection that the Constitution imposes on the titleholders of mining concessions (amparo). There is no exploration or work commitment required.

The amparo regime in Chile consists in the payment of an annual advanced licence fee (Patente de Amparo or Patente Minera) within the month of March of each year. The amount varies if it is an exploration or exploitation concession. For each hectare or fraction that comprises an exploration concession, the amount equivalent to one-fiftieth of a 'monthly tax unit' (approximately US\$1.6) must be paid, and for the same area that the exploitation concession comprises, the sum equivalent to one-tenth of a UTM must be paid (approximately US\$8). Chilean law establishes no other obligation to keep the mining concession in force, such as a minimum investment or performance of a mining activity.

**References:**

The Mining Code (Law 18,248 of 1983), which concerns mining companies, mortgages and concessions as well as the competence of ordinary courts of law and other relevant matters.

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>

Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.

Constitutional Organic Law No. 18,097 on Mining Concessions (of 21 January 1982).

Regulations of the Mining code (of 27 February 1987).

Political Constitution of the Republic of Chile.

<http://www.gobiernodechile.cl/la-moneda/constitucion-politica/>

<http://www.garciasayan.com.pe/clientes.html>

Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru.

---

### 1.1.005: What agency has authority to regulate the hydrocarbon and mineral sector?

Score:  A  B  C  D  E

#### Comments:

The Comptroller-General of the Republic is Chile's supreme audit institution.

In constitutional terms, it is not an office of the legislature but is rather considered a co-equal branch of government.

The Comptroller-General of the Republic is in charge of oversight of ENAMI, CODELCO and COCHILCO.

#### References:

[http://www.contraloria.cl/NewPortal2/portal2/appmanager/portalCGR/v3ENG?\\_nfpb=true&\\_pageLabel=P18604040991288028015987](http://www.contraloria.cl/NewPortal2/portal2/appmanager/portalCGR/v3ENG?_nfpb=true&_pageLabel=P18604040991288028015987)

[http://200.93.128.205/c/document\\_library/get\\_file?&folderId=58613139&name=DLFE-38309.pdf](http://200.93.128.205/c/document_library/get_file?&folderId=58613139&name=DLFE-38309.pdf)  
Law 10.336

#### Peer Review Comments:

From the WEB of the Comptroller Office of the Republic:

The General Comptroller Office of the Republic (CGR) is in charge of controlling the State's Administration, a task assigned it in the Political Constitution. It is independent from the Executive Branch and other government entities.

It essentially ensures that the acts of the State Administration are legal. It is not subordinate, nor overseen by the Executive Branch or Congress.

The task of the CGR is by far oversight. It is charged with protecting the principle of legality, i.e. confirming that the organs of the State's Administration act according to their attributions following the procedures contemplated in the law.

It is not a regulatory agency, its goal is to oversight the correct fulfillment of the law by the State Administration. It is the Ministry of Mining that, among other tasks, proposes policies and rules to regulate the activity.

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# Chile - RWI Index Questionnaire

## Disclosure

[Back](#)

Indicator		Score
1.2.006	Information on licensing process	67 
1.2	Contract transparency	0 
1.2.008	Environmental and social impact assessments	50 
1.2	Access to information and legislation	84 

1.2.006 Information on licensing process

### 1.2.006.a: What information does the government publish on the licensing process before negotiations?

Score: A  B  C  D  E

#### Comments:

ARTICLE 50:

The Secretary shall issue a certified copy of a petition for exploration or mining rights, as the case may be, setting forth the date and hour of filing in the Court and of the resolution ordering that said petition be registered and published.

Said copy shall also include, in the case mentioned in the first subsection of the preceding Article, the resolution ordering that errors be remedied and the writ whereby the Court orders were discharged.

ARTICLE 52:

Any person may request the registration or recording of a petition for a concession to explore or of a mining claim in the Register of Discoveries of the corresponding Registry of Mines. Said request shall consist of complete transcript of the copy referred to in article 50. The hereinbefore mentioned publication shall be made once and shall comprise a complete transcript of the registration. The recording and publication must be made within thirty days from the date of the pertinent order.

#### References:

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>  
Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.  
Article 50 and 52.

#### Peer Review Comments:

There is no mention of taxes for licenses in the mining legislation.

### 1.2.006.b: What information does the government publish on the licensing process after negotiations?

Score: A  B  C  D  E

#### Comments:

## Procedures to be Followed after Petitioning for a Concession to Explore

### ARTICLE 55:

Within ninety days of the date of the resolution ordering the registration and publication of the petition, the petitioner or any of them, if more than one, shall request, in the pertinent proceedings a decision with regard to the concession to explore. The request may include all or part of the area being requested but, under no circumstances, may it include tracts located outside thereof.

Furthermore, the request shall state the M.U.T. coordinates of the corners of the surface of the concession tract, relating one of them, at least, as to distance and heading, to the midpoint indicated in the request or application.

The request shall include:

1. Receipt for payment of the filing fee,
2. Certificate for payment of the proportional fee, pursuant to article 144,
3. Certified copy of the record of the petition for a concession to explore,
4. A copy of the Official Bulletin of Mines wherein the registration was published,
5. A map of the configuration of the concession, the coordinates of the corners and the relation, as to heading and distance of the selfsame corner -linked in the application- to the midpoint.

### References:

<http://www.chileatiende.cl/fichas/ver/2791>

SERNAGEOMIN

Chilean Mining Cadastre.

Mining Code. Procedures to be Followed after Petitioning for a Concession to Explore. Article 55

## 1.2 Contract transparency

---

### 1.2.007: Are all contracts, agreements or negotiated terms for exploration and production, regardless of the way they are granted, disclosed to the public?

Score: A B C **(D)** E

### References:

<http://www.minmineria.gob.cl/ministerio/mision-institucional/>

Mining Ministry. Chilean Government.

## 1.2.008 Environmental and social impact assessments

---

### 1.2.008.a: Does legislation require that mining, gas and oil development projects prepare an environmental impact assessment prior to the award of any mineral rights or project implementation?

Score: **(A)** B C

### Comments:

The approval of the Environmental Impact Studies (EIA) needed by every company before the beginning of their projects, is every time more complicated for the companies, in terms of regulations to protect the environment and the communities.

The backbone of the environmental legislation in Chile is the Act 19,300 that establishes the Basis of the Environment. In Article 1, this body of laws declares the right of every person to live in a pollution-free environment.

This act, therefore, regulates the environment's protection, the preservation of nature and the maintenance of the environmental heritage. Likewise, it clarifies every concept involved in this regulation.

Lastly, the quoted body of laws describes the tasks and attributions for the National Environmental Commission (CONAMA), as a competent organization to evaluate and sanction the Studies of Environmental Impact presented by the companies that want to concrete mining projects in the country.

**References:**

Act 20.417 created by the Ministry of Environment, the Environmental Evaluation Service and the Environmental Superintendence.

This law changes the Act 19,300 that establishes the Basis of the Environment.

<http://www.garciasayan.com.pe/clientes.html>

Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru.

---

**1.2.008.b: Are environmental impact assessments for oil, gas and mining projects published by the authority in charge of regulating the sector and is there a consultation process?**

Score:  A  B  C  D  E

**Comments:**

TEXT OF THE LAW N°19,300 GENERAL BASES OF THE ENVIRONMENT,  
PUBLISHED ON THE OFFICIAL GAZETTE ON 9th March 1994.

Paragraph 3º

Community Participation in the Environmental Impact Assessment Process

Article 26: It shall be the Regional Commissions and the National Commission on the Environment's responsibility, as the case may be, to establish the mechanisms to ensure informed participation of the organized community in the Assessment process of the Environmental Impact Studies submitted to them.

Article 27: The Head of the project or activity shall publish at his own cost an abstract duly approved by the respective Commission in the Official Gazette and in a newspaper or periodical of the region's capital or of nationwide circulation, as the case may be, of the Environmental Impact Study. Such publications shall be made within ten days after the Study has been submitted.

**References:**

[http://www.cochilco.cl/english/normativa/descarga/Law19.300\\_general\\_basesofthe\\_environment.pdf](http://www.cochilco.cl/english/normativa/descarga/Law19.300_general_basesofthe_environment.pdf)

TEXT OF THE LAW N°19,300 GENERAL BASES OF THE ENVIRONMENT,  
PUBLISHED ON THE OFFICIAL GAZETTE ON 9th March 1994.

Paragraph 3º

Community Participation in the Environmental Impact Assessment Process

Article 26

Article 27

<http://www.garciasayan.com.pe/clientes.html>

Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru.

---

**1.2.008.c: Does legislation require that mining, gas and oil development projects prepare a social impact assessment?**

Score: A  B  C

**Comments:**

No, the legislation does not require preparation of a social impact assessment for new mining projects. The Chilean legislation just indicate the following article:

TEXT OF THE LAW N°19,300 GENERAL BASES OF THE ENVIRONMENT,  
PUBLISHED ON THE OFFICIAL GAZETTE ON 9th March 1994.

Article 45: The prevention and decontamination plans shall contain, at least:

g) The estimation of their economic and social costs.

**References:**

<http://www.sea.gob.cl/contenido/que-es-el-sistema-de-evaluacion-de-impacto-ambiental>  
Environmental Evaluation Service

**Peer Review Comments:**

There is nothing specific in the law that requests a social impact assessment, except what is concerned with the social impact of pollution.

---

**1.2.008.d: Are social impact assessments for oil, gas and mining projects published and is there a consultation process?**

Score: A B C  D E

**Comments:**

The legislation does not require preparation of a social impact assessment for new mining projects so they are not published.

**References:**

<http://www.garciasayan.com.pe/clientes.html>  
Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru.

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>  
Mining Ministry. Chilean Government.

The Mining Code (Law 18,248 of October 14 1983), which concerns mining companies, mortgages and concessions as well as the competence of ordinary courts of law and other relevant matters.

---

1.2 Access to information and legislation

**1.2.009: Does the government publish detailed mineral/hydrocarbon resource legislation?**

Score:  A B C D E

**Comments:**

Chile has established the "game rules" through a clear legislation, which has allowed trust among the investors. The main legal frame is the political Constitution, current since 1980, which establishes that the State has the domain of all the mines.

Chile's current mining law dates from 1983. It contains detailed and unambiguous rules that aim to provide security of mine titles and give guidelines for the resolution of conflicts.

**References:**

- Political Constitution of the Republic of Chile.  
<http://www.gobiernodechile.cl/la-moneda/constitucion-politica/>

- Mining Code (Law 18.248 of 1983). Legal Guidelines.

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>  
Mining Ministry. Chilean Government.

---

**1.2.010: This country has adopted a rule or legislation that provides for disclosure of information**

**in the oil, gas and mineral sectors.****Score:** A (B) C D E**Comments:**

On August 20, 2008, The Law N° 20.285 on Transparency and Access to Public Information Law was issued. All government institutions must insure access for all citizens to documents and records, especially those referring to salaries of employees, type of contracts, benefits received and the details of contracting of goods and services.

**References:**

The Law N° 20.285

<http://www.minmineria.gob.cl/acceso-a-la-informacion-publica/>

**Peer Review Comments:**


The disclosure of information law is for all public agencies. In the mining sector operate private companies that are not subject to this law.

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# Chile - RWI Index Questionnaire

## Legal Framework and Practices

[Back](#)

Indicator	Score
1.3 Legal Framework and Practices	67 

### 1.3 Legal Framework and Practices

#### 1.3.011: The authority in charge of awarding licenses or contracts for mineral or hydrocarbon production is independent of the state owned company (SOC) or other operating companies.

Score:  A  B  C

##### Comments:

This judicial system made Chilean mining concession granting process very unique, since there is no intervention of an administrative or political authority. The concession is granted by a court resolution.

The mining concessions are granted by the civil courts, they are independent of the state owned company (SOC) or other operating companies.

##### References:

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>  
Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.

#### 1.3.012: Is the licensing process intended to be open and competitive to all qualified companies?

Score:  A  B  C  D  E

##### Comments:

According to the Mining Constitutional Law and to the Mining Code, any person, Chilean or foreign, can obtain a mining concession to explore and/or exploit mineral wealth.

Foreign investment regimes in Chile are mainly regulated by two legal bodies, the Foreign Investment Statute (Decree Law No. 600) and chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank of Chile (Chapter XIV). Decree Law No. 600 provides a tax stability regime in benefit of foreign investors, and establishes a special tax stability regime for mining projects.

Investments made under article 11 of Decree Law No. 600 are entitled to the rights described below, which are included in a foreign investment agreement signed between the foreign investor and the Republic of Chile.

##### References:

Decree Law No. 600  
<http://www.minmineria.gob.cl/normativa-legal/decretos-y-reglamentos-ministeriales/>

Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.  
<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>

---

**1.3.013: Does the licensing process or legislation impose limits to discretionary powers of the authority in charge of awarding licenses or contracts?**

Score:  A  B  C  D  E

**References:**

Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.  
<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>

<http://www.garciasayan.com.pe/clientes.html>  
Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru.

---

**1.3.014: Does the legislative branch have any oversight role regarding contracts and licenses in the oil, gas and mining sector?**

Score:  A  B  C  D  E

**Comments:**

There is no law requiring parliamentary overseeing in mining contracts and licenses.

**References:**

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>  
Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.

**Peer Review Comments:**

There is a Commission in the Senate of the Republic called Commission of Mining and Energy. This commission does not oversee the sector but analyzes laws and listen to reports from the Minister of Mining. See the following link:

[http://www.senado.cl/appsenado/index.php?mo=comisiones&ac=ficha&id=196&tipo\\_comision=10](http://www.senado.cl/appsenado/index.php?mo=comisiones&ac=ficha&id=196&tipo_comision=10)

---

**1.3.015: Is there a due process to appeal licensing decisions?**

Score:  A  B  C

**Comments:**

Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.

**ARTICLE 235:**

The very brief and summary rules to be followed in events mentioned in the preceding article shall be as follows:

The final decision may be taken in appeal but said appeal shall not suspend the application or execution thereof, unless the court, in a reasoned decision which, in turn, shall not be subject to appeal, shall grant the remedy with both effects. All other decisions shall be unappealable, and the appeal shall be governed by the rules on motions and shall enjoy preference for a hearing and decision.

**References:**

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>

Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.

---

**1.3.016: Is there a legal or regulatory requirement to disclose all beneficial ownership in oil, gas and mining companies or projects?****Score:** A **B** C**Comments:**

The Mining Code does not detail a legal or regulatory requirement to disclose all beneficial ownership in mining companies or projects.

**References:**

<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>

Mining Ministry. Chilean Government. Mining Code. Legal Guidelines.

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# Chile - RWI Index Questionnaire

## Context

[Back](#)

Indicator	Score
2.1 Context	100 

### 2.1 Context

#### 2.1.017: Does the government receive in-kind payments instead of financial payments from resource companies?

Score: A  B C

**Comments:**

The Political Constitution of the Republic of Chile does not detail a legal or regulatory requirement about the government receiving in-kind payments instead of financial payments from resource companies.

**References:**

- Political Constitution of the Republic of Chile.  
<http://www.gobiernodechile.cl/la-moneda/constitucion-politica/>

#### 2.1.018: If the government or state owned companies sell physical commodities (oil, gas or minerals) from in-kind payments or own production, is there information about how these commodities are marketed?

Score:  A B C D E

**References:**

<http://www.bcentral.cl/eng/studies/working-papers/pdf/dtbc424.pdf>

<http://www.bcentral.cl/eng/studies/working-papers/pdf/dtbc567.pdf>

Central Bank of Chile.

#### 2.1.019: What authority actually collects payments from resource companies?

Score:  A B C D E

**Comments:**

The operational income of the mining activity is calculated following the rules established by law. They consist of adding or deducting amounts or items from the First Category Tax Base that the mining activity tax law contemplates.

In Chile, the administration of taxes is undertaken by three agencies: the Chilean Tax Service (Servicio de Impuestos Internos), the Treasury (Tesorería General de la República) and Customs (Servicio Nacional de Aduanas).

The Chilean Tax Service (SII) is responsible for tax compliance procedures, audit and enforcement.

The Treasury is in charge of collection of outstanding debt, taxes and duties as determined by the SII and Customs.

**References:**

Ministry of Finance:

1. The Chilean Tax Service (Servicio de Impuestos Internos).  
<http://www.sii.cl/pagina/jurisprudencia/legislacion/basica/basica.htm>
2. The Treasury (Tesorería General de la República).  
<http://www.tesoreria.cl/web/inicio/InicioController.jspf>
3. Customs (Servicio Nacional de Aduanas).  
[http://www.aduana.cl/prontus\\_aduana/site/edic/base/port/inicio.html](http://www.aduana.cl/prontus_aduana/site/edic/base/port/inicio.html)

**Peer Review Comments:**

The Treasury collect the taxes and it depends on the Ministry of Finance














<http://www.hacienda.cl/english/the-ministry/the-finance-ministry/subsidiary-entities.html>

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# Chile - RWI Index Questionnaire

## Disclosure

[Back](#)

Indicator		Score	
2.2A.020	Does the Ministry of Finance publish periodical information on revenue generation?	33	
2.2A.020.j	Does the Ministry of Finance publish information on disaggregated revenue streams?	29	
2.2A	Quality of reports	67	
2.2B.020	Does the Ministry of the extractive sector publish information on revenue generation?	44	
2.2B.020.j	Does the Ministry of the extractive sector publish information on disaggregated revenue streams?	0	
2.2B	Quality of reports	50	
2.2C.020	Does a Regulatory Agency publish information on revenue generation?	70	
2.2C.020.j	Does a Regulatory Agency publish information on disaggregated revenue streams?	43	
2.2C	Quality of reports	67	
2.2D.020	Does the Central Bank publish information on revenue generation?	44	
2.2D.020.j	Does the Central Bank publish information on disaggregated revenue streams?	14	
2.2D	Quality of reports	84	
2.2E.020	Does any other government agency or entity publish information on revenue generation?	N/A	
2.2E.020.j	Does any other government agency or entity publish information on disaggregated revenue streams?	N/A	
2.2E	Quality of reports	N/A	
2.2	Public sector balance	78	

2.2A.020 Does the Ministry of Finance publish periodical information on revenue generation?

### 2.2A.020.a: Reserves

Score: A B C **(D)** E

References:

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

### 2.2A.020.b: Production volumes

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/documentos/estadisticas.html>

[http://www.ine.cl/canales/chile\\_estadistico/estadisticas\\_economicas/mineria/series\\_estadisticas/series\\_estadisticas.php](http://www.ine.cl/canales/chile_estadistico/estadisticas_economicas/mineria/series_estadisticas/series_estadisticas.php)

The Ministry of Finance. Chilean Government.

---

### 2.2A.020.c: Information on prices

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/documentos/indicadores.html>

<http://www.cochilco.cl/>

The Ministry of Finance. Chilean Government.

---

### 2.2A.020.d: Value of resource exports

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/documentos/indicadores.html>

The Ministry of Finance. Chilean Government.

**Peer Review Comments:**

Central Bank of Chile also reports exports by sectors.

---

### 2.2A.020.e: Estimates of investment in exploration and development

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/documentos/indicadores.html>

The Ministry of Finance. Chilean Government.

---

### 2.2A.020.f: Production costs

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/documentos/indicadores.html>

The Ministry of Finance. Chilean Government.

---

### 2.2A.020.g: Names of companies operating in country

Score: A B C  D E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

### 2.2A.020.h: Production data by company and/or block

Score: A B C  D E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

### 2.2A.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C  D E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

2.2A.020.j Does the Ministry of Finance publish information on disaggregated revenue streams?

---

### 2.2A.020.j1: Production streams value

Score: A B C  D E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

### 2.2A.020.j2: Government s share in PSC

Score: A B C D  E

**Comments:**

No PSC, only concessions.

**References:**

N/A

---

### 2.2A.020.j3: Royalties

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

**Peer Review Comments:**

The Budget Office publishes this information. See Table 7 in  
<http://www.dipres.gob.cl/572/multipropertyvalues-15492-20971.html>

---

**2.2A.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)**

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

**Peer Review Comments:**

The Budget office. See table 7  
<http://www.dipres.gob.cl/572/multipropertyvalues-15492-20971.html>

---

**2.2A.020.j5: Dividends**

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

**2.2A.020.j6: Bonuses**

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

**2.2A.020.j7: License fees**

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

**2.2A.020.j8: Acreage fees**

Score:  A  B  C  D  E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

**2.2A.020.j9: Other (Explain in 'comments' box.)**

**Score:** A B C D  E

**References:**

<http://www.minhda.cl/>  
The Ministry of Finance. Chilean Government.

---

## 2.2A Quality of reports

**2.2A.021: Are periodical reports containing information on revenue generation published by the Ministry of Finance understandable?**

**Score:**  A B C D E

**References:**

The Ministry of Finance. Chilean Government.  
[http://www.dipres.gob.cl/572/articles-73549\\_doc\\_pdf\\_Presentacion\\_IT.pdf](http://www.dipres.gob.cl/572/articles-73549_doc_pdf_Presentacion_IT.pdf)  
[http://www.dipres.gob.cl/572/articles-88213\\_doc\\_pdf3.pdf](http://www.dipres.gob.cl/572/articles-88213_doc_pdf3.pdf)

---

**2.2A.022: How often are the periodical reports containing information on revenue generation published by the Ministry of Finance?**

**Score:** A B  C D E

**References:**

[http://www.dipres.gob.cl/572/articles-88213\\_doc\\_pdf3.pdf](http://www.dipres.gob.cl/572/articles-88213_doc_pdf3.pdf)

**Peer Review Comments:**

The Ministry of Finance publish a report through the budget office. See  
[http://www.dipres.gob.cl/572/articles-88213\\_doc\\_pdf3.pdf](http://www.dipres.gob.cl/572/articles-88213_doc_pdf3.pdf)

---

## 2.2B.020 Does the Ministry of the extractive sector publish information on revenue generation?

**2.2B.020.a: Reserves**

**Score:**  A B C D E

**References:**

<http://www.minmineria.gob.cl/informacion-estadistica/graficos-internacionales-reservas/>

Mining Ministry. Chilean Government.

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---

**2.2B.020.b: Production volumes****Score:**  A  B  C  D  E**References:**

<http://www.minmineria.gob.cl/informacion-estadistica/graficos-nacionales-produccion/>

Mining Ministry. Chilean Government.

---

**2.2B.020.c: Information on prices****Score:**  A  B  C  D  E**References:**

<http://www.minmineria.gob.cl/informacion-estadistica/graficos-nacionales-precios/>

Mining Ministry. Chilean Government.

---

**2.2B.020.d: Value of resource exports****Score:**  A  B  C  D  E**References:**

<http://www.minmineria.gob.cl/informacion-estadistica/graficos-nacionales-exportaciones/>

Mining Ministry. Chilean Government.

**Peer Review Comments:**

See also the Central Bank of Chile and the Yearbook of Cochilco (assessed in the regulatory agency section)

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2B.020.e: Estimates of investment in exploration and development****Score:**  A  B  C  D  E**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

**2.2B.020.f: Production costs****Score:**  A  B  C  D  E**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

**Peer Review Comments:**

Cochilco publishes this information however.



<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

### 2.2B.020.g: Names of companies operating in country

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>  
Mining Ministry. Chilean Government

**Peer Review Comments:**

Cochilco publishes this information too  
<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

### 2.2B.020.h: Production data by company and/or block

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>  
Mining Ministry. Chilean Government

**Peer Review Comments:**

Cochilco publishes this information  
<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

### 2.2B.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>  
Mining Ministry. Chilean Government.

2.2B.020.j Does the Ministry of the extractive sector publish information on disaggregated revenue streams?

---

### 2.2B.020.j1: Production streams value

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>  
Mining Ministry. Chilean Government.

**Peer Review Comments:**

Cochilco publishes this information

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

### 2.2B.020.j2: Government s share in PSC

Score: A B C D  E

**References:**

No PSC

---

### 2.2B.020.j3: Royalties

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

### 2.2B.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

### 2.2B.020.j5: Dividends

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

### 2.2B.020.j6: Bonuses

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

### 2.2B.020.j7: License fees

Score: A B C  D E

**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

**2.2B.020.j8: Acreage fees**

**Score:** A B C  D E

**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

**2.2B.020.j9: Other (Explain in 'comments' box.)**

**Score:** A B C D  E

**References:**

<http://www.minmineria.gob.cl/>

Mining Ministry. Chilean Government.

---

**2.2B Quality of reports**

---

**2.2B.021: Are periodical reports containing information on revenue generation published by the Ministry of the extractive sector understandable?**

**Score:** A  B C D E

**References:**

<http://www.minmineria.gob.cl/informacion-estadistica/>

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

Mining Ministry. Chilean Government.

---

**2.2B.022: How often are the periodical reports containing information on revenue generation published by the Ministry of the extractive sector?**

**Score:** A B  C D E

**References:**

<http://www.minmineria.gob.cl/informacion-estadistica/>

Mining Ministry. Chilean Government.

---

**2.2C.020 Does a Regulatory Agency publish information on revenue generation?**

---

**2.2C.020.a: Reserves**

**Score:** A B  C D E

**Comments:**

SERNAGEOMIN and COCHILCO are assessed in this section as regulatory agencies. SERNAGEOMIN publishes information only on reserves until 2007.

**References:**

[http://www.sernageomin.cl/index.php?option=com\\_content&task=view&id=133&Itemid=197](http://www.sernageomin.cl/index.php?option=com_content&task=view&id=133&Itemid=197)

SERNAGEOMIN

---

**2.2C.020.b: Production volumes**

**Score:**  A B C D E

**References:**

<http://www.sernageomin.cl/sminera-estadisticasprod.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.c: Information on prices**

**Score:**  A B C D E

**References:**

<http://www.sernageomin.cl/sminera-estadisticasprod.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.d: Value of resource exports**

**Score:**  A B C D E

**References:**

<http://www.sernageomin.cl/sminera-estadisticasprod.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.e: Estimates of investment in exploration and development**

Score: A B C **(D)** E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

---

**2.2C.020.f: Production costs**

Score: **(A)** B C D E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.g: Names of companies operating in country**

Score: **(A)** B C D E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.h: Production data by company and/or block**

Score: **(A)** B C D E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.i: Cost of subsidies or social investments paid by mineral revenue**

Score: A B C **(D)** E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

2.2C.020.j Does a Regulatory Agency publish information on disaggregated revenue streams?

---

**2.2C.020.j1: Production streams value**

**Score:**  A  B  C  D  E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.j2: Government s share in PSC**

**Score:**  A  B  C  D  E

**References:**

No PSC.

---

**2.2C.020.j3: Royalties**

**Score:**  A  B  C  D  E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

---

**2.2C.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)**

**Score:**  A  B  C  D  E

**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>

---

**2.2C.020.j5: Dividends****Score:**  A  B  C  D  E**References:**<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**Peer Review Comments:**

Cochilco

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>**2.2C.020.j6: Bonuses****Score:**  A  B  C  D  E**References:**<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**2.2C.020.j7: License fees****Score:**  A  B  C  D  E**References:**<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**2.2C.020.j8: Acreage fees****Score:**  A  B  C  D  E**References:**<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

**2.2C.020.j9: Other (Explain in 'comments' box.)****Score:**  A  B  C  D  E**References:**<http://www.sernageomin.cl/sminera-estadisticas.php>

SERNAGEOMIN

## 2.2C Quality of reports

**2.2C.021: Are periodical reports containing information on revenue generation published by the Regulatory Agency understandable?**Score:  A  B  C  D  E**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>  
SERNAGEOMIN

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>  
Cochilco

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**2.2C.022: How often are the periodical reports containing information on revenue generation published by the Regulatory Agency?**Score:  A  B  C  D  E**References:**

<http://www.sernageomin.cl/sminera-estadisticas.php>  
SERNAGEOMIN

<http://www.cochilco.cl/productos/descarga/anuarios/anuario2010.pdf>  
Cochilco

---

2.2D.020 Does the Central Bank publish information on revenue generation?

**2.2D.020.a: Reserves**Score:  A  B  C  D  E**Comments:**

The Central Bank of Chile was created by decree law No. 486, 22 August 1925, under the government of President Arturo Alessandri Palma. This initiative arose as one of four projects presented that year by the Kemmerer mission. That mission, which was hired by the government at the time to restructure Chile's monetary and financial system, was headed by Edwin Walter Kemmerer, professor of economics at the University of Princeton.

The projects included the monetary law, which sought to stabilize the value of Chile's currency and the gold standard as the basis of the country's monetary unit, the creation of the Central Bank of Chile, the passing of the general banking law and the general budget law.

**References:**

[http://www.bcentral.cl/estadisticas-economicas/series-indicadores/index\\_se.htm](http://www.bcentral.cl/estadisticas-economicas/series-indicadores/index_se.htm)

---

**2.2D.020.b: Production volumes**Score:  A  B  C  D  E**References:**

<http://www.bcentral.cl/publicaciones/indextema.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

---



**2.2D.020.c: Information on prices**

Score:  A  B  C  D  E

**References:**

<http://www.bcentral.cl/publicaciones/indextema.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

---

**2.2D.020.d: Value of resource exports**

Score:  A  B  C  D  E

**References:**

<http://www.bcentral.cl/publicaciones/indextema.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

---

**2.2D.020.e: Estimates of investment in exploration and development**

Score:  A  B  C  D  E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

**2.2D.020.f: Production costs**

Score:  A  B  C  D  E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

**2.2D.020.g: Names of companies operating in country**

Score:  A  B  C  D  E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

**2.2D.020.h: Production data by company and/or block**

Score:  A  B  C  D  E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

### 2.2D.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C  D E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

2.2D.020.j Does the Central Bank publish information on disaggregated revenue streams?

---

### 2.2D.020.j1: Production streams value

Score:  A B C D E

**References:**

<http://www.bcentral.cl/publicaciones/indextema.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

---

### 2.2D.020.j2: Government s share in PSC

Score: A B C D  E

**References:**

No PSC

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### 2.2D.020.j3: Royalties

Score: A B C  D E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

### 2.2D.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C  D E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

**2.2D.020.j5: Dividends**

**Score:** A B C  D E

**References:**

<http://www.bcentral.cl/publicaciones/estadisticas/informacion-integrada/iei01.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

**Peer Review Comments:**

I did not find the information

---

**2.2D.020.j6: Bonuses**

**Score:** A B C  D E

**References:**

<http://www.bcentral.cl/publicaciones/indextema.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

**Peer Review Comments:**

I did not find the information

---

**2.2D.020.j7: License fees**

**Score:** A B C  D E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

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**2.2D.020.j8: Acreage fees**

**Score:** A B C  D E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

---

**2.2D.020.j9: Other (Explain in 'comments' box.)**

**Score:** A B C D  E

**References:**

<http://www.bcentral.cl/index.asp>

Central Bank of Chile.

## 2.2D Quality of reports

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### 2.2D.021: Are periodical reports containing information on revenue generation published by the Central Bank understandable?

Score: A  B C D E

**References:**

<http://www.bcentral.cl/publicaciones/indextema.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

---

### 2.2D.022: How often are the periodical reports containing information on revenue generation published by the Central Bank?

Score:  A B C D E

**References:**

<http://www.bcentral.cl/publicaciones/indextema.htm>

Central Bank of Chile. Statistics Publications. Monthly Bulletin. April, 2012.

---

## 2.2E.020 Does any other government agency or entity publish information on revenue generation?

---

### 2.2E.020.a: Reserves

Score: A B C D  E

**Comments:**

SONAMI is a private entity, therefore even though references are made to it in that section, scores are N/A.

**References:**

SONAMI. National Mining Society.  
<http://www.sonami.cl/>

---

### 2.2E.020.b: Production volumes

Score: A B C D  E

**References:**

[http://www.sonami.cl/index.php?option=com\\_content&view=article&id=254&Itemid=126](http://www.sonami.cl/index.php?option=com_content&view=article&id=254&Itemid=126)

SONAMI. National Mining Society.

---

### 2.2E.020.c: Information on prices

Score: A B C D  E

**References:**

[http://www.sonami.cl/index.php?option=com\\_content&view=article&id=226&Itemid=119](http://www.sonami.cl/index.php?option=com_content&view=article&id=226&Itemid=119)

SONAMI. National Mining Society.

---

**2.2E.020.d: Value of resource exports**

**Score:** A B C D  E

**References:**

[http://www.sonami.cl/index.php?option=com\\_content&view=article&id=226&Itemid=119](http://www.sonami.cl/index.php?option=com_content&view=article&id=226&Itemid=119)

SONAMI. National Mining Society.

---

**2.2E.020.e: Estimates of investment in exploration and development**

**Score:** A B C D  E

**Comments:**

The amounts are general, no difference between investment exploration and development.

**References:**

[http://www.sonami.cl/index.php?option=com\\_content&view=article&id=219&Itemid=106](http://www.sonami.cl/index.php?option=com_content&view=article&id=219&Itemid=106)

SONAMI. National Mining Society.

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**2.2E.020.f: Production costs**

**Score:** A B C D  E

**References:**

SONAMI. National Mining Society.

<http://www.sonami.cl/>

---

**2.2E.020.g: Names of companies operating in country**

**Score:** A B C D  E

**References:**

[http://www.sonami.cl/index.php?option=com\\_weblinks&view=category&id=32&Itemid=167](http://www.sonami.cl/index.php?option=com_weblinks&view=category&id=32&Itemid=167)

[http://www.sonami.cl/index.php?option=com\\_content&view=article&id=256&Itemid=122](http://www.sonami.cl/index.php?option=com_content&view=article&id=256&Itemid=122)

SONAMI. National Mining Society.

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**2.2E.020.h: Production data by company and/or block**

**Score:** A B C D  E

**References:**

[http://www.sonami.cl/index.php?option=com\\_content&view=article&id=240&Itemid=135](http://www.sonami.cl/index.php?option=com_content&view=article&id=240&Itemid=135)

SONAMI. National Mining Society.

---

### 2.2E.020.i: Cost of subsidies or social investments paid by mineral revenue

Score: A B C D  E

**References:**

SONAMI. National Mining Society.

<http://www.sonami.cl/>

2.2E.020.j Does any other government agency or entity publish information on disaggregated revenue streams?

---

### 2.2E.020.j1: Production streams value

Score: A B C D  E

**References:**

SONAMI. National Mining Society.

<http://www.sonami.cl/>

### 2.2E.020.j2: Government s share in PSC

Score: A B C D  E

**References:**

SONAMI. National Mining Society.

<http://www.sonami.cl/>

### 2.2E.020.j3: Royalties

Score: A B C D  E

**References:**

SONAMI. National Mining Society.

<http://www.sonami.cl/>

### 2.2E.020.j4: Special taxes (e.g. withholding taxes, excise taxes, excess earning taxes, charged on extractive companies)

Score: A B C D  E

**References:**

SONAMI. National Mining Society.

<http://www.sonami.cl/>

---

**2.2E.020.j5: Dividends****Score:** A B C D  E**References:**SONAMI. National Mining Society.  
<http://www.sonami.cl/>

---

**2.2E.020.j6: Bonuses****Score:** A B C D  E**References:**SONAMI. National Mining Society.  
<http://www.sonami.cl/>

---

**2.2E.020.j7: License fees****Score:** A B C D  E**References:**SONAMI. National Mining Society.  
<http://www.sonami.cl/>

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**2.2E.020.j8: Acreage fees****Score:** A B C D  E**References:**SONAMI. National Mining Society.  
<http://www.sonami.cl/>

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**2.2E.020.j9: Other (Explain in 'comments' box.)****Score:** A B C D  E**References:**SONAMI. National Mining Society.  
<http://www.sonami.cl/>

---

**2.2E Quality of reports**

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**2.2E.021: Are periodical reports containing information on revenue generation published by any other government agency or entity understandable?****Score:** A B C D  E

**References:**

SONAMI. National Mining Society.  
<http://www.sonami.cl/>

---

**2.2E.022: How often are the periodical reports containing information on revenue generation published by the any other governmental agency or entity?**

Score: A B C D **E**

**References:**

SONAMI. National Mining Society.  
<http://www.sonami.cl/>

---

**2.2 Public sector balance**

---

**2.2.023: Does the government include the SOC financial balance (its assets and liabilities) within the public sector balance or overall balance of general government in reports to the legislature?**

Score: A B **C** D E

**Comments:**

CODELCO's financial balance is not included in the public sector balance. The Ministry of Finance publishes assets and liabilities of SOCs ([http://www.dipres.gob.cl/593/articles-64217\\_recurso\\_1.pdf](http://www.dipres.gob.cl/593/articles-64217_recurso_1.pdf)) but these are not consolidated.

**References:**

[http://www.dipres.gob.cl/572/articles-89622\\_doc\\_pdf.pdf](http://www.dipres.gob.cl/572/articles-89622_doc_pdf.pdf)

<http://www.hacienda.gov.cl/documentos/estado-de-la-hacienda-publica/estado-de-la-hacienda-publica-2011.html>

---

**2.2.024: Does the government include projections of transactions, accounts of actual spending by the natural resource funds, and their assets and liabilities, within the public sector balance or overall balance of general government in reports to the legislature?**

Score: **A** B C D E

**References:**

<http://www.hacienda.cl/english/sovereign-wealth-funds/economic-and-social-stabilization-fund.html>

---

**2.2.025: Does the government provide information on the non resource fiscal balance in its budget proposal?**

Score: **A** B C

**References:**

[http://www.dipres.gob.cl/572/articles-88213\\_doc\\_pdf3.pdf](http://www.dipres.gob.cl/572/articles-88213_doc_pdf3.pdf)


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# Chile - RWI Index Questionnaire

## Legal Framework and Practices

[Back](#)

Indicator	Score
2.3 Legal Framework and Practices	52 

### 2.3 Legal Framework and Practices

#### 2.3.026: In the legal framework, what government agencies have authority to collect taxes and payments from resource companies?

Score:  A  B  C  D  E

##### Comments:

The operational income of the mining activity is calculated following the rules established by law. They consist of adding or deducting amounts or items from the First Category Tax Base that the mining activity tax law contemplates.

In Chile, the administration of taxes is undertaken by three agencies: the Chilean Tax Service (Servicio de Impuestos Internos), Customs (Servicio Nacional de Aduanas) and the Treasury (Tesorería General de la República), which is in charge of collection of outstanding debt, taxes and duties as determined by the Chilean Tax Service (SII) and Customs. They all fall under the Ministry of Finance, see <http://www.minhda.cl/el-ministerio/organismos-dependientes.html>

##### References:

Three technical agencies collect taxes:

1. The Chilean Tax Service (Servicio de Impuestos Internos).  
<http://www.sii.cl/pagina/jurisprudencia/legislacion/basica/basica.htm>
2. Customs (Servicio Nacional de Aduanas).  
[http://www.aduana.cl/prontus\\_aduana/site/edic/base/port/inicio.html](http://www.aduana.cl/prontus_aduana/site/edic/base/port/inicio.html)
3. The Treasury (Tesorería General de la República).  
<http://www.tesoreria.cl/web/inicio/InicioController.jspf>

The Treasury (Tesorería General de la República), which is in charge of collection of outstanding debt, taxes and duties as determined by the Chilean Tax Service (SII) and Customs. It works under the Ministry of Finance, see <http://www.minhda.cl/el-ministerio/organismos-dependientes.html>

#### 2.3.027: Are all resource related revenues, including those collected by state owned companies, regulatory agencies, ministries, special funds or by the tax authority placed in the national treasury?

Score:  A  B  C  D  E

##### Comments:

There is no complete information about resources related revenues and if they are placed in the national treasury.

**References:**

<http://www.dipres.gob.cl/574/propertyvalue-14873.html>

Budget 's Direction. Chilean Government

**Peer Review Comments:**

All taxes are placed in the treasury.

<http://www.tesoreria.gob.cl/web/quienesSomos/irPrincipalesFunc.do>

---

**2.3.028: Are government officials with a role in the oversight of the oil, gas or mining sector required to disclose information about their financial interest in any extractive activity or projects?**

Score: A  B C

**References:**

No information about it.

---

**2.3.029: Is there independent external validation of internal controls of agencies in charge of receiving payments from resource companies with the objective of providing assurances of integrity of public funds and sound financial management?**

Score:  A B C D E

**Comments:**

The Comptroller-General of the Republic is Chile's supreme audit institution.

In constitutional terms, it is not an office of the legislature but is rather considered a co-equal branch of government.

The Comptroller-General of the Republic is in charge of auditing ENAMI, CODELCO, COCHILCO and the other mining companies.

**References:**

[http://www.contraloria.cl/NewPortal2/portal2/appmanager/portalCGR/v3ENG?\\_nfpb=true&\\_pageLabel=P18604040991288028015987](http://www.contraloria.cl/NewPortal2/portal2/appmanager/portalCGR/v3ENG?_nfpb=true&_pageLabel=P18604040991288028015987)

[http://200.93.128.205/c/document\\_library/get\\_file?&folderId=58613139&name=DLFE-38309.pdf](http://200.93.128.205/c/document_library/get_file?&folderId=58613139&name=DLFE-38309.pdf)  
Law 10.336

<http://www.garciasayan.com.pe/clientes.html>

Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru.

---

**2.3.030: Does the national audit office (or similar independent organization) report regularly to the legislature on its findings, including an objective analysis of agencies in charge of managing resource revenues, and are these reports published?**

Score: A  B C D E

**References:**

[http://www.contraloria.cl/NewPortal2/portal2/appmanager/portalCGR/v3ENG?\\_nfpb=true&\\_pageLabel=P18604040991288028015987](http://www.contraloria.cl/NewPortal2/portal2/appmanager/portalCGR/v3ENG?_nfpb=true&_pageLabel=P18604040991288028015987)

[http://200.93.128.205/c/document\\_library/get\\_file?&folderId=58613139&name=DLFE-38309.pdf](http://200.93.128.205/c/document_library/get_file?&folderId=58613139&name=DLFE-38309.pdf)  
Law 10.336

<http://www.garciasayan.com.pe/clientes.html>

Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru.

---

### 2.3.031: Does a Parliamentary committee scrutinize reports on resource related revenues and, if so, when does this occur?

Score: A B C  D E

#### References:

No, reports on resource-related revenues are not scrutinized.

#### Peer Review Comments:

The Committee of Energy and Mining of the Senate of the Republic received the CEO of Codelco, Enami and Enap to hear about the financial situation of the corresponding companies.

[http://www.senado.cl/appsenado/index.php?mo=comisiones&ac=ficha&id=196&tipo\\_comision=10](http://www.senado.cl/appsenado/index.php?mo=comisiones&ac=ficha&id=196&tipo_comision=10)

---

### 2.3.032: Is this country an EITI candidate or compliant country?

Score: A B C  D E

#### Comments:

National mining companies

1. Nationally-owned, private companies are not a priority

The requirement that private companies in a host country participate in the EITI process can be problematic. If the initiative is restricted to reporting on what these companies already pay in taxes to governments, then EITI compliance should not be a problem, as this information is already centrally recorded in most countries. However, one report commissioned on a South American country indicated that nationally-owned private companies were not interested in participating in EITI precisely because tax evasion was so widespread. This can present a significant problem unless it is determined that these revenues are not material for reporting on, as per the definition of materiality for that country.

#### References:

[http://eiti.org/search/google/Chile?](http://eiti.org/search/google/Chile?query=Chile&cx=011540340774805716622%3Ahjn745868hk&cof=FORID%3A11&sitesearch=)

[query=Chile&cx=011540340774805716622%3Ahjn745868hk&cof=FORID%3A11&sitesearch=](http://eiti.org/search/google/Chile?query=Chile&cx=011540340774805716622%3Ahjn745868hk&cof=FORID%3A11&sitesearch=)  
EITI and the Mining Sector: Stakeholder Research Report

EITI website

[Download PDF](#)

# Chile - RWI Index Questionnaire

[Back](#)

Indicator	Score
3.1.1	67 

3.1.1 Context

### 3.1.1.033: Is there a state-owned company? If so, what is its role in the extractive sector?

**Score:** A  B  C  D  E

**Comments:**

The National Copper Corporation, Codelco, which is 100% owned by the Chilean State, is the main copper producing company in the world.

ENAMI 's mission is to promote small and medium size private sector mining in Chile.

Discrimination Complaint Mechanism

Article 9 of DL 600 establishes the principle of non-discrimination, guaranteeing that, in the exercise of their business activities, foreign investors operating under this law will be subject to the same laws and regulation as local investors in the same sector of activity.

In order to ensure the effectiveness of this guarantee, Articles 9 and 10 of DL 600 establish an administrative procedure to prevent or overturn decisions that are at odds with the principle of non-discrimination.

Article 10 of DL 600 regulates this procedure and requires that an appeal is filed against "legal norms" that can be "considered discriminatory". The first condition refers to whether an appeal is admissible and the second to the grounds on which it can be accepted.

**References:**

<http://www.minmineria.gob.cl/normativa-legal/decretos-y-reglamentos-ministeriales/>

Foreign Investor Statute (LD 600 of 1974).  
Mining Ministry. Chilean Government.

[http://www.codelco.cl/prontus\\_codelco/site/edic/base/port/nosotros.html](http://www.codelco.cl/prontus_codelco/site/edic/base/port/nosotros.html)

CODELCO

The Law Decree 1,350 of 1976 created the Corporación Nacional del Cobre de Chile, Codelco, conceived as a mining, industrial and commercial company owned by the Chilean State.

ENAMI. The Chilean National Mining Corporation

ENAMI ("Empresa Nacional de Minería") was founded on the 5th of April, 1960, inheriting a long tradition of small and medium size mining promotion that started in 1927 when the Mining Credit Fund ("Caja de Crédito Minero") was created.

**3.1.1.034: How is government ownership of resource companies structured in this country?****Score:** (A) B C D E**Comments:**

POLITICAL CONSTITUTION OF THE REPUBLIC OF CHILE

CHAPTER III  
CONSTITUTIONAL RIGHTS AND OBLIGATIONS

Article 19: The Constitution guarantees to all persons:

The State has absolute, exclusive, inalienable and imprescriptible domain over all mines, including guano deposits, metal bearing sands, salt mines, coal and hydrocarbon deposits and the other fossil substances, with the exception of superficial clays, despite the ownership held by individuals or body corporate over the land in which the above should be contained. The superficial landed property shall be subject to the obligations and limitations prescribed for by law to facilitate exploration, exploitation and development of said mines.

Mining Code

TITLE I  
STATE OWNERSHIP AND MINERAL RIGHTSParagraph I.  
General Rules

ARTICLE 1:

The State has absolute, exclusive, inalienable and imprescriptible ownership of all mines, including natural guano deposits, metal bearing sands, salt deposits, coal and hydrocarbon deposits and fields and other fossil substances except surface clays, regardless of property rights of natural or legal individuals over lands wherein they may be found.

Any person is, however, entitled, under Paragraph 2 of this Title, to dig test pits and to remove samples in the search for mineral substances, as well as to establish a concession for the search or mining of substances over which, under organic constitutional laws, concessions may be granted, with the sole exception of individuals mentioned in article 22.

CODELCO

The issuing of the constitutional reform that nationalized copper, on July 11th 1971, set in motion a process that culminated in the creation of a company responsible for operating and managing the mining properties given to the State.

The Law Decree 1,350 of 1976 created the Corporación Nacional del Cobre de Chile, Codelco, conceived as a mining, industrial and commercial company owned by the Chilean State.

ENAMI

The Executive Decree 153 established ENAMI as an autonomous state-owned enterprise which is governed by the articles of the above decree and by the resolutions of its Board of Directors. These legal articles define the functions, social objectives, and guidelines for the financial and administrative operating procedures.

**References:**

- Political Constitution of the Republic of Chile.  
<http://www.gobiernodechile.cl/la-monedas/constitucion-politica/>

- Mining Code (Law 18.248 of 1983). Legal Guidelines.  
<http://www.minmineria.gob.cl/normativa-legal/leyes-sectoriales/>

Mining Ministry. Chilean Government.

<http://www.garciasayan.com.pe/clientes.html>

Interview Luis Eduardo Ramírez. Lawyer at Estudio García Sayán . Lima, Peru. March 21, 2012.

[http://www.codelco.cl/gobierno-corporativo/prontus\\_codelco/2011-02-25/171143.html](http://www.codelco.cl/gobierno-corporativo/prontus_codelco/2011-02-25/171143.html)

CODELCO

<http://www.enami.cl/images/stories/pdf/reglamento/leyorganicadeenamidl153.pdf>

ENAMI

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### 3.1.1.035: Is there more than one state-owned company (SOC) operating in the extractive sector?

Score:  A  B  C

#### Comments:

The Name Codelco represents the Corporación Nacional del Cobre de Chile, an autonomous company owned by the Chilean State which main business is the exploration, development and exploitation of copper mineral resources and byproducts, their processing to refined copper and its commercialization.

ENAMI ´s mission is to promote small and medium size private sector mining in Chile.

#### References:

<http://www.minmineria.gob.cl/la-mineria-en-chile/la-mineria-metalica/>

Mining Ministry. Chilean Government.

<http://www.codelco.cl/>

CODELCO

<http://www.enami.cl/>

ENAMI

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### 3.1.1.036: Do the roles and responsibilities of the SOC include provision of subsidies or social expenditures (quasi-fiscal activities)?

Score:  A  B  C

#### References:

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011






<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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# Chile - RWI Index Questionnaire

[Back](#)

Indicator		Score	
3.2.1	Comprehensive reports	100	
3.2.2.038	Does the SOC publish information on revenue generation?	100	
3.2.3.038.j	Disaggregated Revenue Streams	93	
3.2.4	Quality of reports	75	
3.2.5.043	Audited reports	100	

## 3.2.1 Comprehensive reports

### 3.2.1.037: Does the SOC publish comprehensive reports with information about its operations and subsidiaries?

Score:  A  B  C  D  E

#### References:

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

#### Peer Review Comments:

The information on financial statements is included in the memoirs of Codelco. Besides it publishes quarterly reports on its financial situation.

[http://www.codelco.com/prontus\\_codelco/site/artic/20120326/asocfile/20120326105956/estados\\_financieros\\_codelco\\_2011.pdf](http://www.codelco.com/prontus_codelco/site/artic/20120326/asocfile/20120326105956/estados_financieros_codelco_2011.pdf)

## 3.2.2.038 Does the SOC publish information on revenue generation?

### 3.2.2.038.a: Reserves

Score:  A  B  C  D  E

#### References:

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

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**3.2.2.038.b: Production volumes****Score:** (A) B C D E**References:**[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/nuestra-labor/produccion/plantas-de-beneficios/planta-vallena.html>

ENAMI

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**3.2.2.038.c: Information on prices****Score:** (A) B C D E**References:**[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/nuestra-labor/comercial.html>

ENAMI

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**3.2.2.038.d: Value of resource exports****Score:** (A) B C D E**References:**[http://www.codelco.com/prontus\\_codelco/site/artic/20120411/asocfile/20120411124635/memoria\\_codelco\\_abr13\\_1.pdf](http://www.codelco.com/prontus_codelco/site/artic/20120411/asocfile/20120411124635/memoria_codelco_abr13_1.pdf)

CODELCO. Annual Report 2011

**Peer Review Comments:**

Cochilco presents that information too.

---

**3.2.2.038.e: Estimates of investment in exploration and development****Score:** (A) B C D E**References:**[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

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**3.2.2.038.f: Production costs**



**Score:** (A) B C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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**3.2.2.038.g: Names of companies operating in country**

**Score:** (A) B C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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**3.2.2.038.h: Production data by company and/or block**

**Score:** (A) B C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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**3.2.2.038.i: Quasi fiscal activities**

**Score:** (A) B C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**Peer Review Comments:**

See the quarterly report where they compare the current year with the previous one

[http://www.codelco.com/prontus\\_codelco/site/artic/20120326/asocfile/20120326105956/estados\\_finan](http://www.codelco.com/prontus_codelco/site/artic/20120326/asocfile/20120326105956/estados_finan)

cieros\_codelco\_2011.pdf

### 3.2.3.038.j Disaggregated Revenue Streams

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#### 3.2.3.038.j1: Production streams value

**Score:** (A) B C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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#### 3.2.3.038.j2: Government s share in PSC

**Score:** A B C D (E)

**References:**

No PSC

---

#### 3.2.3.038.j3: Royalties

**Score:** A B C D (E)

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**Peer Review Comments:**

I would say it is not applicable - CODELCO does not pay royalties.

---

#### 3.2.3.038.j4: Special taxes

**Score:** (A) B C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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**3.2.3.038.j5: Dividends****Score:**  A  B  C  D  E**References:**[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>ENAMI. Annual Report 2010

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**3.2.3.038.j6: Bonuses****Score:**  A  B  C  D  E**References:**[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>ENAMI. Annual Report 2010

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**3.2.3.038.j7: License fees****Score:**  A  B  C  D  E**References:**[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**Peer Review Comments:**I would say it is not applicable to the SOC.

---

**3.2.3.038.j8: Acreage fees****Score:**  A  B  C  D  E**References:**<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**Peer Review Comments:**

The report publish the information for that year.

---

**3.2.3.038.j9: Other (Describe below)**

**Score:** A B C D  E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**3.2.4 Quality of reports**

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**3.2.4.039: Are the reports published by the state owned company understandable?**

**Score:** A  B C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**3.2.4.040: How often are the reports or statistical databases containing information on revenue generation published by the state owned company?**

**Score:** A B  C D E

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**3.2.4.041: If the SOC is involved with quasi fiscal activities, does it publish information about them?**

---

**Score:** (A) B C

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

**Peer Review Comments:**

See also

[http://www.codelco.com/prontus\\_codelco/site/artic/20120326/asocfile/20120326105956/estados\\_financieros\\_codelco\\_2011.pdf](http://www.codelco.com/prontus_codelco/site/artic/20120326/asocfile/20120326105956/estados_financieros_codelco_2011.pdf)

---

**3.2.4.042: If there are joint ventures, does the SOC (or government) publish information on its share of costs and revenues deriving from its equity participation in joint ventures?**

**Score:** (A) B C

**References:**

[http://www.codelco.com/prontus\\_codelco/site/edic/base/port/nosotros.html](http://www.codelco.com/prontus_codelco/site/edic/base/port/nosotros.html)

CODELCO

<http://www.enami.cl/>

ENAMI

**Peer Review Comments:**

There is information in the financial reports

[http://www.codelco.com/prontus\\_codelco/site/artic/20120326/asocfile/20120326105956/estados\\_financieros\\_codelco\\_2011.pdf](http://www.codelco.com/prontus_codelco/site/artic/20120326/asocfile/20120326105956/estados_financieros_codelco_2011.pdf)

---

3.2.5.043 Audited reports

**3.2.5.043.a: Is the SOC subject to annual audits conducted by an independent external auditor to ensure that the financial statements represent the financial position and performance of the company?**

**Score:** (A) B C D E

**Comments:**

Ernst & Young is the organization in charge of auditing financial statements of CODELCO.

**References:**

[http://www.svs.cl/documentos/hes/hes\\_2012040057968.pdf](http://www.svs.cl/documentos/hes/hes_2012040057968.pdf)

[http://www.codelco.com/prontus\\_codelco/site/artic/20120326/asocfile/20120326105956/estados\\_financieros\\_codelco\\_2011.pdf](http://www.codelco.com/prontus_codelco/site/artic/20120326/asocfile/20120326105956/estados_financieros_codelco_2011.pdf)


**3.2.5.043.b: Are SOC audited reports published?****Score:**  A  B  C  D  E**References:**

[http://www.codelco.com/prontus\\_codelco/site/artic/20120326/asocfile/20120326105956/estados\\_financieros\\_codelco\\_2011.pdf](http://www.codelco.com/prontus_codelco/site/artic/20120326/asocfile/20120326105956/estados_financieros_codelco_2011.pdf)

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# Chile - RWI Index Questionnaire

[Back](#)

Indicator	Score
3.3.1 Legal Framework and Practice	83 

## 3.3.1 Legal Framework and Practice

### 3.3.1.044: Does the SOC have a legal obligation to publish financial reports?

Score:  A  B  C

**Comments:**

Law 20.285, on transparency of the civil service and access to information on the state administration applies to ministries, regional governments, provincial governorships and municipalities, as well as all other state services and state owned companies. The armed forces, police and public security forces are also covered.

**References:**

[http://www.codelco.com/ley-de-transparencia/prontus\\_codelco/2011-02-25/181921.html](http://www.codelco.com/ley-de-transparencia/prontus_codelco/2011-02-25/181921.html)

### 3.3.1.045: Does the SOC follow internationally recognized accounting standards?

Score:  A  B  C

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

### 3.3.1.046: Do SOC audits include consolidated accounts that cover all of the SOC subsidiaries?

Score:  A  B  C

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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**3.3.1.047: Are officials of the SOC required to disclose information about their financial interest in any oil, gas or mining projects?**

**Score:** A  B C

**Comments:**

Law 20,392 describes how to appoint Codleco's board members. It does not mention disclosure of financial interest. See <http://www.leychile.cl/Navegar?idNorma=1007982&idParte=&idVersion=2009-11-14>

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

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**3.3.1.048: Does the SOC publish information on the composition of its Board of Directors?**

**Score:**  A B C

**References:**

[http://www.codelco.com/memorias/prontus\\_codelco/2011-02-24/174324.html](http://www.codelco.com/memorias/prontus_codelco/2011-02-24/174324.html)

CODELCO. Annual Report 2011

<http://www.enami.cl/memorias.html>

ENAMI. Annual Report 2010

---

**3.3.1.049: Does the SOC publish information about the rules governing decision making by the Board of Directors?**

**Score:**  A B C

**References:**

Law No. 20,285 on Transparency in Public Duties and on Access to Government Administration Information, published in the Official Gazette on August 20, 2008, went into effect on April 20, 2009.

[http://www.codelco.cl/ley-de-transparencia/prontus\\_codelco/2011-02-25/181921.html](http://www.codelco.cl/ley-de-transparencia/prontus_codelco/2011-02-25/181921.html)  
CODELCO

<http://www.enami.cl/otros/gobierno-transparente.html>  
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