

Chile

Legal Provisions

Compiled by:

Swiss Business Hub Chile

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GENERAL REMARKS

The purpose of this document is to give an overview of trade-related legal provisions and regulations, particularly those relevant for small and medium sized Swiss companies operating from outside the target country. It outlines the current state of legislation and, to the extent possible, its practical application.

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CUSTOMS LAW AND DUTIES

Chile has currently 31 active trade agreements, amongst others with the USA, EU, China, EFTA, MERCOSUR (with Chile as an associate member), South Korea, Japan, Canada, India, Central America, Mexico, Colombia, Peru and Argentina.¹

For a copy of the free trade agreement between EFTA and Chile, as well as all annexes and the bilateral agriculture agreement between Chile and Switzerland, please visit: <http://secretariat.efta.int/free-trade/free-trade-agreements/chile.aspx>.

Chile generally applies a Most F Nation (MFN) tariff of 6% on imports. However, based on the Free Trade Agreement in place between Chile and EFTA countries, no MFN is applied for Switzerland for most of the products. S-GE offers concrete information about tariffs based on the customs number / HS-Code: <http://www.s-ge.com/en/customs-database-worldwide-customs-tariffs>. For some agricultural products, it maintains a price band system. Importers must pay VAT of 19% based on the Cost, Insurance and Freight value (+ duties) at the point of entry.

Please refer to our Factsheet about customs in Chile for detailed information: <https://www.s-ge.com/en/overview/customs-regimes-chile>.

More information and detailed lists for all products affected by additional taxes can be found under http://www.sii.cl/aprenda_sobre_impuestos/impuestos/impuestos_indirectos.htm.

IMPORT REGULATIONS / NON-TARIFF RESTRICTIONS

For the protection of human health, animal and plant life as well as the environment, for imports of meat, seeds, plants, vegetables, soil and other plant and animal products (cheese, milk, yoghurt, etc.), special regulations need to be followed and in some cases permissions are necessary.

Animals and animal products can only be exported after validation of a sample health certificate between the Chilean authorities and the Swiss Federal Food Safety and Veterinary Office (FSVO). Currently there is a certificate for dairy products and products containing milk ingredients validated between Switzerland and Chile. Companies wishing to export to Chile must be registered in the list of approved company for import. For dairy products, there are currently around 19 Swiss [companies registered](#). To get registered, please contact the FSVO or the cantonal enforcement authority (<https://www.blv.admin.ch/blv/en/home/import-und-export/export/lebensmittel.html>).

These regulations are strictly overseen and administrated by the government's Agriculture and Livestock Service (SAG): www.sag.cl (Spanish). This website contains information on phytosanitary requirements of different countries as well as on import requirements for agricultural goods.

PRODUCT REGISTRATION AND TECHNICAL STANDARDS

Pharmaceutical products, food for medical use, and cosmetics must be authorized and registered by the Public Health Institute: www.ispch.cl (Spanish). This website has information on norms, registered products and provides registration forms.

Food products for medical use must obtain an authorization for sale ("resolución sanitaria") from a regional health service when a product is introduced to Chile. The authorization can take between two to three weeks to be issued and requires the payment of a small fee. Any regional authorization is valid

¹ All trade agreements of Chile are available under <https://www.subrei.gob.cl/>

for the entire country, but the same procedure must be followed for each new shipment. After three shipments and a special analysis by the health service, an authorization allowing the product to go on sale more quickly can be obtained. For further information: Health Service of the Metropolitan Region of Santiago: www.asrm.cl (Spanish). This website has information on health, on procedures for registration and provides the corresponding forms.

Decree No. 977 outlines, amongst others, the applicable regulations for packaging, labelling and storage of food for human consumption. It states that food products must have labels in Spanish, indicating ingredients, weight, date of manufacturing and country of origin.

Since June 2016, all food items which exceed defined levels of energy, sugar, salt and saturated fats require additional labelling. Responsible for the correct labelling are the producers, distributors and importers of the products. The regulation also restricts the sales and marketing of these products. For more information see: “[Reglamento Sanitario de los Alimentos](#)” (Spanish).

There are also specific requirements for canned food, shoes, electric machinery, liquid and compressed natural gas equipment (LNG and CNG), plastics, wines and alcoholic beverages, textiles and apparel, wheat flour, detergents and insecticides for agricultural use.

The “Instituto Nacional de Normalización” (National Institute of Normalization) sets standards and provides information on standards and regulations by product category: www.inn.cl (Spanish).

CURRENCY REGULATIONS AND OTHER TRANSFER RESTRICTIONS

The exchange rate of the Chilean Peso CLP is determined daily by the market under a floating system. The Central Bank maintains very few foreign-exchange controls. Some operations, such as the remittance of profits under the Foreign Investment Law, must be made through authorized banks. For many other transactions, foreign-exchange houses can be used. Contracts, for example employment or hiring contracts, are often concluded in “Unidad de Formento (UF)” which is an inflation-adjusted currency. The UF can make a significant difference in a business plan.

Foreign-exchange houses attend the needs of small businesses, individuals, and tourists.

According to the Chilean Central Bank’s regulations (www.bcentral.cl), all transactions, from and to foreign countries, exceeding USD 10’000 have to be reported to the Central Bank.

COMMERCIAL REGISTER AND OTHER SOURCES OF COMPANY INFORMATION

In order to do any business in Chile, apart from exporting goods, it is necessary to establish a local legal presence. All companies set up in Chile, regardless of foreign participation, are considered Chilean. The setting up of companies can be done by a lawyer or via the website “Tu empresa en un día” (www.empresasenundia.cl/) provided by the Chilean Ministry of Economy. The formal establishment of a company can be done fast and there is no minimum capital share for any of these company structures.

As with all forms of a company, the tax authority requires that at least one legal representative of the company has a Chilean registered address. Furthermore, in practice banks often ask for one of the shareholders to have a Chilean registered address.

When doing business, it is common for companies to use a private credit-history checking service called “DICOM” www.dicom.cl to see if business partners are sound.

Please note that contracts and important documents must often be legalized through a local notary.

It may also be useful to visit the website of the “Superintendencia Valores y Seguros”: www.svs.cl (Spanish).

LEGAL FORMS OF COMPANIES

Companies can be set up in several ways, the most common being:

1. Corporations (“Sociedad Anónima”- “S.A.”) either open (“abierta”) or closed (“cerrada”). Corporations are overseen by the Superintendence (regulator) for Securities and Insurance - the SVS- if they are “open”. Corporations must be “open” if they have more than 500 shareholders, or 10% of capital belongs to 100 or more shareholders.
2. The “Sociedad por Acciones” (Company per shares or” SpA”) is a legal entity based on shareholders equity. It may exist with only one shareholder (Chilean or foreigner). The shareholders' liability is limited to the amount of their contribution to the capital. The company's structure is very simple and flexible. In the absence of specific provisions, the rules governing the S.A. apply.
3. Limited Partnerships (“Sociedad de Responsabilidad limitada”)
4. Branch of a foreign corporation

REGULATIONS GOVERNING SALES AGENTS AND COMMERCIAL REPRESENTATIVES

Each business activity requires establishing a local legal presence even just for importing. At the beginning, many companies do this through a local partner (whether it is a sales agent or a commercial representative; depending on the individual situation).

ENTRY CONDITIONS FOR STAFF PERFORMING MAINTENANCE OR REPAIR SERVICES

Swiss nationals with a valid passport do not require an entry visa for tourism and are allowed to stay up to 90 days. A visa is, however, required to undertake remunerated work; it is usually issued by a Chilean consulate abroad in cooperation with the Chilean Foreign Ministry in Santiago. The workpermit “subject to a contract” allows the holder to work only for the employer who supports the visa application. Holders of university degrees can apply for the “visa temporaria para profesionales y técnicos de nivel superior” that allows them to stay in the country independent of their work status for a year (extendable by another year). This visa can be obtained via the Chilean consulates abroad, requires a work offer (not a contract) and the apostilled university diploma, and is not dependent on a specific employer.

If individuals or companies have any doubts about immigration and visa issues, they should contact the Chilean Embassy in Berne before setting out on any business trip: <http://chileabroad.gov.cl/suiza/en> (English and Spanish). Further information can be found at <https://serviciomigraciones.cl/>.

PROTECTION OF INTELLECTUAL PROPERTY

The main types of intellectual property protection in Chile are the following: patents, trademarks, utility models, industrial designs, new plant varieties and copyright. In addition, there is also legal protection for microorganisms, undisclosed information (in the pharmaceutical and agro-chemical fields), appellations of origin and trade secrets.

Chile is a party to most of the main international treaties and agreements on intellectual property, such as the Paris Convention on Industrial Property, the Berne Convention on Copyright, the Patent

Cooperation Treaty (PCT), the WIPO Convention, the TRIPS Agreement (1994) as well as to several bilateral trade treaties containing extensive chapters on intellectual property.

The National Institute of Industrial Property (INAPI) is the body in charge of administering and performing services related to industrial property in Chile. It is also responsible for promoting the protection granted by industrial property and for disseminating the technological assets and information it has access to.

SAG is a public decentralized service in charge of aiding in the development of agriculture, forests, and livestock, through the protection and improvement of the health of animals and plants. Its mission statement is to protect and improve productive resources in forestry and agriculture, the natural renewable resources of the country, and the safety of farming materials and foodstuff, in order to support the sustainable and competitive development of the forestry and agricultural sector.

An overview of intellectual property rights and their Chilean administrative institutions can be found here: <https://www.inapi.cl/en/intellectual-and-industrial-property/information/intellectual-property-rights-and-their-administrative-institutions/>

PROCEDURES FOR COLLECTING PAYMENT

Invoicing requirements for a foreign company in Chile dictate that all companies legally operating in Chile are able to issue an invoice when selling a product or service. Likewise, any organization developing commercial transactions with another organization or service provider must always issue an invoice. In order to comply with invoicing requirements for a foreign company in Chile, legal entities operating in the country must include the following information:

- Economic activity of the issuer and receiver of the invoice, as registered with the SII
- Physical address, telephone number, and email of the issuer
- Identification number of the person/firm who issues the invoice
- Unique Taxpayer Identification Number (RUT) of the issuer and receiver of the invoice. In the event that the issuer is foreign, a default number is assigned
- Invoice number in sequential order
- Invoice issuance date expressed in “day/month/year” format
- Description of the service or good purchased, detailing the quantity per unit
- Price and value of the service or good acquired, indicating the amount of value-added tax (VAT) to be applied

Note that as established by invoicing requirements for a foreign company in Chile, any invoice issued to a foreign person or organization must always VAT. This tax applies to all products sold in the country, regardless of whether the purchase is made in Chile or abroad.

In 2020, Chile implemented a new law (No. 21,210) which established that remote remunerated services provided by non-residents not domiciled in Chile, must pay VAT as of July 1st, 2020. More information can be found here: <https://www.sii.cl/vat/index.html>

In 2021, a new law came into force shortening the time of payment of invoices for sales and services of private companies to 30 days. Exceptions must be agreed between both parties in writing and registered with the Ministry of Economy, Development and Tourism.

ENFORCING COMMERCIAL CONTRACTS AND RESOLVING DISPUTES

In the World Bank’s Ease of Doing Business, Chile ranks 54 of 190 countries in the category “Enforcing Contracts”, being the leader in South America. This measures the time and cost for resolving a commercial dispute through a local first-instance court and the quality of judicial processes index,

evaluating whether each economy has adopted a series of good practices that promote quality and efficiency in the court system.

Civil and commercial procedures are mainly carried out in writing, and the judges have almost no personal interaction with the parties to the dispute. The proceeding moves forward based upon the parties' written presentations, and the courts' jurisdiction is limited by the petitions, arguments and evidence provided by them. In such regard, civil and commercial courts have minimal ex officio powers.

OVERVIEW OF PUBLIC PROCUREMENT SYSTEM

At the beginning of the 1990s, Chile opened its doors to international markets and to opportunities for investment in public infrastructure through the Concession System, generating a partnership between the State and the private sector that has allowed the development of important transformations. Historically, the development and conservation of public infrastructure in Chile was carried out as a fiscal investment by the Ministry of Public Works (MOP), through its different departments and divisions. With this new partnership, for the first time the private sector was involved in the investment process, operation and maintenance of infrastructure with specific standards, in exchange for direct charging of user fees or activation of subsidies. In the following the list of most public procurement platforms:

Ministry of Public Works www.registro.mop.cl

ChileCompra www.mercadopublico.cl

Santiago Metro www.metro.cl/licitaciones

State Railways www.efe.cl/licitaciones

Copper Corporation www.codelco.com

National Mining Company www.enami.cl

National Oil Company www.enap.cl

Aguas Andinas www.aguasandinas.cl

SOURCES OF INFORMATION AND REFERENCES

Switzerland Global Enterprise's Factsheet on Customs in Chile: <https://www.sge.com/en/overview/customs-regimes-chile>

www.inapi.cl

www.extranerjeria.gob.cl

www.sag.cl

www.doingbusiness.org/en/

<https://thelawreviews.co.uk/>

The Embassy's lawyer of confidence is (Please note that the Embassy cannot provide guarantees as to the correctness of information provided by third parties):

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