

Legal Newsletter

March 2024

This newsletter contains the laws published and the bills introduced during the month, as well as the decrees, resolutions and regulations issued during the period that may have an impact on different aspects of foreign investment in Chile. The information provided herein is strictly for guidance purposes only, and under no circumstance should be regarded as replacing an official interpretation by the competent authorities regarding the matters presented.

Noteworthy Laws

MARCH 2024

Law No. 21,648	Establishes that persons operating in foreign trade are required to initiate business activities.
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CATEGORY	Taxes
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PUBLICATION DATE	February 5, 2024
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Modifies the Tax Code, establishing the duty to initiate business activities of persons who, within a rolling twelve-month period, complete one or more imports with a transaction value – as defined in Article 1 of the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade of 1994 and in Article 12 of Finance Ministry Decree No. 1,134 issued in 2001 – of at least US\$ 3,000 or its equivalent for each import or in aggregate unless, in either case, they reliably prove that the goods are intended for personal consumption or use.

Law No. 21,659	On Private Security
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CATEGORY	Security
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PUBLICATION DATE	March 21, 2024
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The law establishes that public or private entities whose activities may pose a risk to public safety shall be required to maintain the private security measures set forth the law.

It describes the procedure for determining whether an entity is required to comply with this law, the means for challenging said determination, and the security measures that these entities must have in place. For its application, the law mandates the regulation of the risk level of these entities on a scale of low, medium and high based on certain criteria set forth in the law.

It also defines the figure of the private security guard and establishes the requirements that must be met. It states that they must carry firearms and non-lethal weapons in the performance of their duties, but exclusively during their workday and only within the premises or area for which they were authorized.

Furthermore, private security companies are regulated and must be authorized by the Undersecretariat for Crime Prevention and comply with a series of obligations.

This law also establishes that the ministry responsible for public safety through the Undersecretariat for Crime Prevention will be responsible for maintaining a private security registry and for overseeing private security. The foregoing is without prejudice to the other oversight powers of Carabineros de Chile (the Chilean police force) and the respective institutional authority in port facilities, airports or other areas subject to military authority.

The law also contains regulations for large events, for the transportation of valuables, electronic security companies, security guards, and individuals performing private security work.

It describes actions that will be considered infractions, which may be minor, serious or very serious, and their respective penalties and regulates the corresponding procedure for local police courts in this area.

The law will enter into force six months after the last of its regulations is published in the Official Gazette.

Decrees and Resolutions

MARCH 2024

Decree	Decree 30 of 2023 of the Ministry of the Environment approves the amendment to Decree No. 40 of 2012 of Ministry of the Environment which establishes the Regulations of the Environmental Impact Assessment System.
CATEGORY	Environment
PUBLICATION DATE	February 1, 2024

The purpose of this amendment is to incorporate climate change into the evaluation of projects or activities subject to environmental assessment, as well as into the review of the Environmental Qualification Resolution. It also seeks to ensure effective community participation, reducing information gaps and promoting timely, open and inclusive participation in the environmental assessment process.

The amendment follows the guidelines established in the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (the "Escazú Agreement").

The purpose of the agreement is to ensure the implementation of full, effective and informed public participation in environmental decision-making processes as appropriate.

The two axes incorporated into the legislation are reflected in measures such as the consideration of the relationship between projects and the sectorial climate change adaptation plans; the strengthening of the Contingency and Emergency Prevention Plans through the inclusion of disaster risk management instruments; the use of simple, direct and clear language for the public in project names and in their formulation; and measures such as the installation of posters at the project site in places visible to the community, among others.

In addition, the Environmental Impact Study or Statement should consider the adverse effects of climate change on various environmental components, especially ecosystems, human health and well-being, and the actions, measures or processes aimed at adaptation and resilience to them.

Additionally, if applicable, they must consider the mitigation of their greenhouse gas emissions and climate forcing in accordance with the definition of mitigation contained in Law No. 21,455 on the climate change framework and the respective emission standards.

Where appropriate, indicators for monitoring, reporting and verifying the actions or measures adopted throughout the life of the project should be considered in order to monitor the behavior of the climate change variable over time.

This amendment goes into effect the day it is published in the Official Gazette. Projects that have been submitted to the Environmental Impact Assessment System through January 31, 2024 will continue to be processed in accordance with the requirements of the unmodified regulation, including their admissibility review.

Decree	Decree 84 of 2023 of the Ministry of Foreign Affairs creating the Ministerial Committee on Technical Barriers to Trade.
CATEGORY	Security
PUBLICATION DATE	March 1, 2024

This regulation creates the Ministerial Advisory Committee on Technical Barriers to Trade.

Its role will be to advise the Undersecretariat for International Economic Relations in its role as coordinator of participation and positions on technical barriers to trade formulated by government agencies in the negotiations of international economic agreements and in the administration of the World Trade Organization Agreement on Technical Barriers to Trade, especially with respect to the notification of technical regulations and conformity assessment procedures.

The members of this committee will be: (1) the Ministry of National Defense; (2) Ministry General Secretariat of the Presidency; (3) Ministry of Public Works; (4) Ministry of Health; (5) Ministry of Housing and Urban Development; (6) Ministry of Agriculture; (7) Ministry of Mining; (8) Ministry of Energy; (9) Ministry of the Environment; (10) Ministry of Economy, Development and Tourism; (11) Undersecretariat of International Economic Relations; (12) Undersecretariat of Fisheries and Aquaculture; (13) Undersecretariat of Transportation; (14) Undersecretariat of Telecommunications; (15) the Agriculture and Livestock Service; (16) National Fishing and Aquaculture Service; (17) Superintendency of Electricity and Fuels; (18) Institute of Public Health; (19) National Consumer Service; (20) National Institute of Standardization; (21) Superintendence of Sanitary Services; (22) National Energy Commission; and (23) the General Directorate of Export Promotion.

Resolution	Exempt Resolution No. 506 dated February 2, 2024 of the National Customs Directorate modifying the updated text of the "Rules on the electronic submission of the cargo manifest for entry by sea" (Normas sobre la presentación electrónica del manifiesto de carga de ingreso por vía marítima).
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CATEGORY Trade

PUBLICATION DATE March 4, 2024

The updated text of the "Rules on the electronic submission of the cargo manifest for entry by sea" is amended, incorporating the obligation of the Transshipment segment whereby the ports where the containers were transshipped before arriving at the Chilean port of destination must be listed, indicating each of the ports where the cargo was transshipped and the date on which it arrived at each of them in accordance with the instructions set out in the regulation. This only applies to containers and only at the level of the mother Bill of Landing (BL).

Resolution	Exempt Resolution 369 of 2024 of the Undersecretary of Telecommunications, which defines groups of concessionaires for the purposes of local telephony rate setting processes.
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CATEGORY Trade

PUBLICATION DATE March 13, 2024

Pursuant to Article 30 I of General Telecommunications Law 18,168, the following groups of public telephone service concessionaires are defined for purposes of rate setting:

- Group 1: Telefónica Group and the VTR-Claro Joint Venture (hereinafter VTR-Claro JV).
- Group 2: GTD Group and Entel Group.
- Group 3: The rest of the concessionaires that are part of the local telephony market.

The above is established in accordance with the methodology presented in the annex to the resolution.

The regulation also determines that the cut-off criterion to be subject to a local rate setting process will be the equivalent of a 3% market share in the fixed or local telephone lines market.

Finally, it specifies that the dates of the rate setting processes for Groups 1 and 2 will be subject to the provisions of Article 25 of Supreme Decree 4 of 2003, which approved the Regulations on the Procedure, Publicity and Participation of the Rate Setting Process.

To this end, the Undersecretary of Telecommunications will notify Group 1 of the respective requirement during the second quarter of 2024, and Group 2 during the fourth quarter of the same year.

Circular	Circular No. 11 of 2024 of the Internal Revenue Service provides instructions on the taxation of certain non-alcoholic beverages.
CATEGORY	Trade
PUBLICATION DATE	March 15, 2024

Pursuant to the second paragraph of letter a) of Article 42 of Decree Law No. 825, the Law on Sales and Services Tax, the rate of 10% is increased to 18% if the items have high sugar content in accordance with Article 5 of Law No. 20,606.

This circular establishes a new criterion in the sense that the sale or importation of nectars, isotonic drinks and hypotonic drinks are subject to the additional tax of letter a) of article 42 of the Law on Sales and Services Tax at the rates established in said article, as these are classified as "non-alcoholic beverages."

This criterion will affect non-alcoholic beverages sold or imported beginning with the June 2024 tax period. Such taxes must be paid during July of the same year.

Resolution	Exempt Resolution No. 371 of 2024 dated February 19, 2024 amended Exempt Resolution DN No. 2,298 of 2023 of the National Fisheries and Aquaculture Service, which declares an aquaculture pre-alert and establishes the measures listed in the resolution.
CATEGORY	Aquaculture
PUBLICATION DATE	March 15, 2024

This legislation introduces changes to Exempt Resolution No. 2,298 of 2023 of the National Fisheries and Aquaculture Service by which the aquaculture pre-alert was declared for

salmonid farming centers in the Biobío, La Araucanía, Los Ríos, Los Lagos, Aysén del General Carlos Ibáñez del Campo and Magallanes and Chilean Antarctica Regions.

It clarifies and modifies the measures that the service may implement during the aquaculture pre-alert period with respect to instructing the application of environmental and/or oceanographic monitoring actions; instructing the coordinated withdrawal and disposal of deceased animals in farming and stocking centers and instructing and/or authorizing the transfer of live specimens to farming or stocking centers in order to avoid or reduce mortality.

Resolution	Exempt Decree 130 of 2024 of the Treasury Ministry establishes as a provisional anti-dumping duty the ad valorem tariff surcharge listed above for imports of forged steel grinding balls with a diameter of less than four inches originating in the People's Republic of China.
CATEGORY	Aquaculture
PUBLICATION DATE	March 27, 2024

As a provisional anti-dumping duty, the following ad valorem tariff surcharges are imposed on imports of forged steel grinding balls with a diameter of less than four inches originating in the People's Republic of China and classified under tariff code 7326.1111 of the Chilean Harmonized System: 9.2% for imports from Changshu Feifan Metalwork Co. Ltd.; of 22.5% for imports from Changshu Longte Grinding Ball Co. Ltd.; of 14.2% for imports from Jiangyin Xingcheng Magotteaux Steel Balls Co. Ltd.; and 22.5% for imports from other companies in the People's Republic of China.

This measure will be in force until the final resolution is issued, which must occur no more than four months after its publication in the Official Gazette.

The regulation provides exceptions for ad valorem tariff surcharges for imports from the companies Goldpro New Materials Co. Ltd. and Shandong Iraeta Heavy Industry Co. Ltd because they showed dumping margins of less than 2%.

Resolution	Exempt Resolution 23,900 of 2024 of the Superintendency of Electricity and Fuels approves the updated text of Normative Technical Specifications RIC 15, Electric Vehicle Charging Infrastructure. These specifications establish the safety requirements to be met by electric power consumption facilities for electric vehicle charging.
CATEGORY	Energy
PUBLICATION DATE	March 27, 2024

This regulation establishes the updated text of Normative Technical Specifications RIC No. 15 "Electric Vehicle Charging Infrastructure." Its purpose is to establish the comprehensive safety, efficiency and accessibility requirements to be met by the charging infrastructure for electric vehicles and plug-in hybrids whether light, medium or heavy in order to promote the sustainable development of electric mobility and ensure the protection of people and things.

This technical requirement applies to all electric vehicle charging infrastructure for both private and public use. It regulates charging modes and cases; splicing; feeder boards; conductors and conduits; the grounding system; sizing of circuits and protections; interconnection with consumer electrical installations; characteristics by facility type; assembly and placement of equipment; electric vehicle power supply systems; electric vehicle charging infrastructure (EVCI) with the capacity to inject energy into the grid (EVCI-V2G); and labeling.

These Technical Standards may be applied voluntarily as soon as they are published in the Official Gazette and will become mandatory six months after that date.

Noteworthy Bills

MARCH 2024

Newsletter 16.653-33 Bill amending the Water Code to expedite the entry into force of decrees declaring a water scarcity zone and to incorporate state resource development projects.

CATEGORY Natural Resources

SUBMISSION DATE March 12, 2024

This bill amends the Water Code in order to remedy some of the deficiencies identified in the application of the decrees declaring water scarcity zones.

First, it states that decrees declaring water scarcity shall go into effect immediately, notwithstanding subsequent acknowledgment by the Office of the Comptroller General of the Republic.

Secondly, it proposes including state water resource development projects among those that will be subject to the measures contained in water scarcity zone decrees. As such, the individuals who manage this type of project must also comply with the measures contained in the aforementioned decrees, granting the General Water Directorate the power to directly redistribute the water contained in them during duly declared situations of severe drought.