

ANNEX X

REFERRED TO IN ARTICLE 35

RESERVATIONS

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APPENDIX 1 TO ANNEX X

REFERRED TO IN ARTICLE 35

RESERVATIONS BY CHILE

CHILE

Sector:	All sectors
Subsector:	
Level of Government:	National
Legal source or authority of the measures:	<i>Decreto Ley 1939</i> , Diario Oficial, noviembre 10, 1977, <i>Normas sobre Adquisición, Administración y Disposición de Bienes del Estado</i> , Título I <i>Decreto con Fuerza de Ley 4 del Ministerio de Relaciones Exteriores</i> , Diario Oficial, noviembre 10, 1967
Succinct description of the measure:	Chile may only dispose of the ownership or other rights over "State land" to Chilean natural or juridical persons, unless the applicable legal exceptions, such as in <i>Decreto Ley 1939</i> , apply. "State land" for these purposes refers to State-owned land up to a distance of 10 kilometers from the border and up to a distance of 5 kilometers from the coastline. Corporeal immovable property situated in areas declared the borderland zone by virtue of <i>Decreto con Fuerza de Ley 4, 1967, of the Ministerio de Relaciones Exteriores</i> may not be acquired, either as property or in any other title, by (1) natural persons with nationality in a neighboring country; (2) juridical persons with their principal seat in a neighboring country; (3) juridical persons with 40 percent or more of capital owned by natural persons with nationality in a neighboring country; or (4) juridical persons effectively controlled by such natural persons. Notwithstanding the foregoing, this limitation may not apply if an exemption is granted by a <i>Decreto Supremo</i> of the President of the Republic based on considerations of national interest.

CHILE

Sector:	All sectors
Subsector:	
Level of Government:	National
Legal source or authority of the measure:	Any existing or future measure as described below
Description:	Chile reserves the right to adopt or maintain any measure relating to the ownership or control of land within five kilometers of the coastline that is used for agricultural activities. Such measures could include a requirement that the majority of each class of stock of a Chilean juridical person that seeks to own or control such land be held by Chilean persons or by persons residing in Chile for 183 days or more per year.

CHILE

Sector:	All sectors
Subsector:	
Level of Government:	National
Legal source or authority of the measure:	Any existing or future measure as described below
Succinct description of the measure:	<p>In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset, and also on the right of foreign investors or their investment to control any state company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and members of the Board of Directors.</p> <p>A "State owned company" shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the effective date of this Treaty for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise or governmental entity.</p>

CHILE

Sector:	Energy
Subsector:	
Level of Government:	National
Legal source or authority of the measures:	<p><i>Constitución Política de la República de Chile, Capítulo III</i></p> <p><i>Ley 18097, Diario Oficial, enero 21, 1982, Ley Orgánica Constitucional sobre Concesiones Mineras, Títulos I, II y III.</i></p> <p><i>Ley 18248, Diario Oficial, octubre 14, 1983, Código de Minería, Títulos I y II.</i></p> <p><i>Ley 16319, Diario Oficial octubre 23, 1965, Crea la Comisión Chilena de Energía Nuclear, Títulos I, II y III.</i></p>
Succinct description of the measure:	<p>The exploration, exploitation and treatment (<i>beneficio</i>) of liquid or gaseous hydrocarbons, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined, in each case by a supreme decree of the President of the Republic. For greater certainty, it is understood that the term <i>beneficio</i> shall not include the storage, transportation or refining of the energy material referred to in this paragraph.</p> <p>The production of nuclear energy for peaceful purposes may only be carried out by the <i>Comisión Chilena de Energía Nuclear</i> or, with its authorization, jointly with third persons. Should the <i>Comisión</i> grant such an authorization, it may determine the terms and conditions thereof.</p>

CHILE

Sector:	Issues involving minorities and indigenous peoples
Subsector:	
Level of Government:	National
Legal source or authority of the measure:	Any existing or future measure as described below
Succinct description of the measure:	<p>Chile reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.</p> <p>Chile reserves the right to adopt or maintain any measure denying investors of the EFTA States and their investments or service providers of the EFTA States, any rights or preferences provided to indigenous peoples.</p>

CHILE

Sector:	Fisheries
Subsector:	Aquaculture
Level of Government:	National
Legal source or authority of the measures:	<i>Ley 18892</i> , Diario Oficial enero 21, 1992, <i>Ley General de Pesca y Acuicultura</i> , Títulos I y VI.
Succinct description of the measure:	<p>A concession or authorization is required for the use of beaches, land adjacent to beaches (<i>terrenos de playas</i>), water-column (<i>porciones de agua</i>) and sea-bed lots (<i>fondos marinos</i>) to engage in aquaculture activities.</p> <p>Only Chilean natural or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may be holders of an authorisation or concession to carry out aquaculture activities.</p>

CHILE

Sector:	Fisheries
Subsector:	
Level of Government:	National
Legal source or authority of the measures:	<p><i>Ley 18892</i>, Diario Oficial, enero 21, 1992, <i>Ley General de Pesca y Acuicultura</i>, Títulos I, III, IV y IX</p> <p><i>Decreto Ley 2.222</i>, Diario Oficial, mayo 31, 1978, <i>Ley de Navegación</i>, Títulos I y II</p>
Succinct description of the measure:	<p>In order to harvest and to catch hydrobiological species in interior waters, in the territorial sea and Exclusive Economic Zone of Chile, a permit issued by the <i>Subsecretaría de Pesca</i> is required.</p> <p>Only Chilean natural persons or juridical persons constituted in accordance with Chilean law and foreigners with permanent residency may be holders of permits to harvest and to catch hydrobiological species.</p> <p>Only Chilean vessels are permitted to fish in interior waters, in the Territorial seas and Chile's Exclusive Economic Zone. Chilean vessels are those defined in the <i>Ley de Navegación</i>. Access to industrial extractive fishing activities shall be subject to prior registration of the vessel in Chile.</p> <p>Only a Chilean natural or juridical person may register a vessel in Chile. A juridical person must be constituted in Chile with principal domicile and real and effective seat in Chile with its president, manager and the majority of the directors or administrators being Chilean natural persons. In addition, more than 50 percent of its equity capital must be held by Chilean natural or juridical persons. For these purposes, a juridical person with ownership participation in another juridical person that owns a vessel has to comply with all the aforementioned requisites.</p> <p>A joint ownership (<i>comunidad</i>) may register a vessel if the majority of the joint owners are Chilean with domicile and residency in Chile. The administrators must be Chilean natural persons and the majority of the rights of the joint ownership (<i>comunidad</i>) must belong to a Chilean natural or juridical person. For these purposes a juridical person with ownership participation in a joint ownership</p>

	<p><i>(comunidad)</i> that owns a vessel, has to comply with all the aforementioned requisites.</p> <p>An owner (natural or juridical person) of a fishing vessel registered in Chile prior to June 30, 1991, shall not be subject to the nationality requirement above mentioned.</p> <p>Fishing vessels specifically authorized by the maritime authorities, pursuant to powers conferred by law in cases of reciprocity granted to Chilean vessels by other States may be exempted from the above mentioned requisites on equivalent terms provided to Chilean vessels by that State.</p> <p>Access to small scale fishing activities (<i>pesca artesanal</i>) shall be subject to registration in the <i>Registro de Pesca Artesanal</i>. Registration for small scale fishing (<i>pesca artesanal</i>) is only granted to Chilean natural persons and foreign natural persons with permanent residency, or a Chilean juridical person constituted by the aforementioned persons.</p>
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CHILE

Sector:	Fisheries
Subsector:	Fishing-related activities
Level of Government:	National
Legal source or authority of the measure:	Any existing or future measure as described below
Succinct description of the measure:	<p>Chile retains the right to control the activities of foreign fishing, including fish landing, first landing of fish processed at sea, and access to Chilean ports (port privileges).</p> <p>Chile reserves the right to control the use of beaches, land adjacent to beaches (<i>terenos de playas</i>), water-columns (<i>porciones de agua</i>) and sea-bed lots (<i>fondos marinos</i>) for the issuance of maritime concessions. For greater certainty, “maritime concessions” does not include aquaculture.</p>

CHILE

Sector:	Government finance
Subsector:	Securities
Level of Government:	National
Legal source or authority of the measure:	Any existing or future measure as described below
Succinct description of the measure:	Chile reserves the right to adopt or maintain any measure related to the acquisition, sale or disposal by EFTA States' nationals of bonds, treasury securities or any other type of debt instruments issued by the Central Bank or the Government of Chile. This is not intended to affect the rights of EFTA States' financial institutions (banks) established in Chile to acquire, sale or dispose such instruments when required for purposes of regulatory capital.

CHILE

Sector:	Mining
Subsector:	
Level of Government:	National
Legal source or authority of the measures:	<p>Constitución Política de la República de Chile, Capítulo III.</p> <p><i>Ley 18097</i>, Diario Oficial, enero 12, 1982, <i>Ley Orgánica Constitucional sobre Concesiones Mineras</i>, Títulos I, II y III</p> <p><i>Ley 18248</i>, Diario Oficial, octubre 14, 1983, <i>Código de Minería</i>, Títulos I y III.</p> <p><i>Ley 16319</i>, Diario Oficial, octubre 23, 1965, <i>crea la Comisión Chilena de Energía Nuclear</i>, Títulos I, II y III</p>
Succinct description of the measure:	<p>The exploration, exploitation and treatment (<i>beneficio</i>) of lithium, deposits of any kind existing in sea waters subject to national jurisdiction, and deposits of any kind wholly or partially located in areas classified as important to national security with mining effects, which qualification shall be made by law only, can be the object of administrative concessions or special operating contracts, subject to the requirements and the conditions to be determined, in each case by a supreme decree of the President of the Republic. For greater certainty, Chile has the right of first refusal, at the customary market prices and terms, for the purchase of mineral products from mining operations in the country, when thorium or uranium are contained in significant amounts therein.</p> <p>For greater certainty, Chile may demand that producers separate from mining products, the portion of substances which may not be granted in mining concessions which exist, in significant amounts, in said products, and which can be economically and technically separated, for delivery to or for sale on behalf of the State. For these purposes, economically and technically separated requires that the costs incurred to recover the substances concerned through a sound technical procedure, and to commercialize and deliver the same shall be lower than its commercial value.</p>

	<p>Natural atomic materials and lithium extracted, and concentrates, derivatives and compounds of both of them, cannot be subject to any kind of juridical acts, unless executed or entered into by the <i>Comisión Chilena de Energía Nuclear</i>, or with its prior authorization. Should the <i>Comisión</i> grant an authorization, it shall determine, in turn, the conditions granted therein.</p>
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CHILE

Sector:	Printing, publishing and other related industries
Subsector:	
Level of Government:	National
Legal source or authority of the measures:	<i>Ley 19733</i> , Diario Oficial junio 4, 2001, <i>Ley sobre las Libertades de Opinión e Información y Ejercicio del Periodismo</i> , Títulos I y III
Succinct description of the measure:	The owner of a social communication medium such as newspapers, magazine or regularly published texts whose publishing address is located in Chile or a national news agency, shall in the case of a natural person have a duly established domicile in Chile and in the case of a juridical persons shall be constituted with domicile in Chile or have an agency authorized to operate within the national territory. Only Chilean nationals may be president, administrators or legal representatives of the juridical person. The director legally responsible and the person who replaces him or her must be Chilean with domicile and residence in Chile.
