Appendix I: Investment facilitation – menu of actions and measures (Voluntary submission by member economies: Chile)

IFAP Principle 1: Promote accessibility and transparency in the formulation and administration of investment-related policies			
Specific Actions	**Time Table**	**Details of implementation**	**Expected outcomes**
▪ Publish laws, regulations, judicial decisions and administrative rulings of general application, including revisions and up-dates. ▪ Adopt centralised registry of laws and regulations and make this available electronically. ▪ Establish a single window or special enquiry point for all enquiries concerning investment policies and applications to invest ▪ Make available all investment-related regulations in clear simple language, preferably in languages commonly used by business ▪ Following establishment of an Investment Promotion Agency (IPA), or similar body, and make its existence widely known ▪ Make available to investors all rules and other information relating to investment promotion and incentive schemes ▪ Allow investors to choose their form of establishment within legislative and legal frameworks. ▪ Ensure transparency and clarity in investment-related laws ▪ Improve upon the APEC-wide website (e-portal) to replacing the hard copy publication of the APEC Investment Guidebook (IEG) ▪ Encourage on-line enquiries and on-line information on all foreign investment issues ▪ Maintain a mechanism to provide timely and relevant advice of changes in procedures, applicable standards, technical regulations and conformance requirements ▪ To the extent possible, provide advance notice of proposed changes to laws and regulations and provide an opportunity for public comment ▪ Explore the possibility of using the international benchmarks on a voluntary basis as a reference point for peer dialogue and	In force In force In Force In Force In Force In Force In Force In Force - In Force Not in place Not in place In Force	**Law N°20.285, Access to Information**, of the Ministry Secretary General of the Presidency, published in Official Gazette on august 20, 2008. Law N°20.285 regulates the principle of public transparency, the right of access to information of State Administration organisms, the procedures for the exercise of the right and thereunder, and the exceptions to the disclosure of information. **Decree Law N°211, 1973, Competition Law,** Ministry of Economy, Development and Reconstruction, published in the Official Gazette on march 7, 2005, as amended by Law No. 20361/2009 This law objective is to promote and defend free market competition. Restraints to free competition in economic activities will be corrected, prohibited and/or punished in the manner and with the penalties provided in this regulation. The National Economic Prosecutor Office (Fiscalía Nacional Económica or FNE) is the national agency responsible for ensuring free competition. As such, it must defend and promote competition in all markets or productive sectors of the Chilean economy.	Publish laws, regulations, judicial decisions and administrative rulings of general application, including revisions and up-dates. Ensure transparency and clarity in investment-related laws Establishment of an Agency responsible for ensuring free competition, and make its existence widely known Ensure transparency and clarity in investment-related laws Maintain a mechanism to provide timely and relevant advice of changes in procedures, applicable standards, technical regulations and conformance requirements.

measuring progress		The law of competition (DL 211) states that the National Economic Prosecutor Office is a decentralized public service, with legal personality and independent from any agency or service. It is subject to the supervision of the President of the Republic through the Ministry of Economy, Development and Tourism. The National Economic Prosecutor is the head of the agency and practices both senior leadership as well as judicial and extrajudicial representation of National Economic Prosecutor Office. The President of the Republic, after a public and open contest, nominates the lawyer who serves a 4 years term as National Economic Prosecutor. Its removal, however, is not under the discretion of the President of the Republic, since it requires the approval of the Supreme Court and should be grounded on specific legal causes. The Competition Tribunal (TDLC) is a judicial body in charge of adjudicating and solving disputes regarding competition law and issuing decisions in non-adversarial proceedings in competition matters.Competition Advocacy refers to the activities performed by the National Economic Prosecutor Office and the Competition Tribunal not directly implying law enforcement; Competition authorities in Chile conduct activities to advocate competition, in the strict sense, through three approaches: the FNE can persuade in favor of regulatory reform	

		directly before the regulator; the FNE can, indirectly through its complaints or reports, request the TDLC measures such as recommendations to regulators or propose regulatory modifications; lastly, the TDLC can formulate recommendations or propose regulatory reforms. As to the task of creating a culture of competition, i.e., to expand support from the community in general to market competition,, the FNE diffuses through various activities the benefits of competition and collaboration with other government agencies in the development of public policies affecting the economic order. Some competition advocacy initiatives include:: -Market Studies: The FNE performs or outsources market researches in order to increase its knowledge and understanding of markets and economic activities in particular to assess the conditions of competition in a particular sector or industry. -Promotional Materials: Contains materials prepared by the FNE on various issues related to competition. -National Cooperation Agreements: Contains the framework agreements concluded by the FNE with other government agencies and universities to develop joint activities aimed at promoting the benefits of competition.	-Make available to investors all rules and other information relating to investment promotion and incentive schemes -Allow investors to choose their form of establishment within legislative and legal frameworks. -Encourage on-line enquiries and on-line information on all foreign investment issues

		The **Foreign investment Committee** is the Chilean Investment Promotion Agency since March 2012. The Foreign Investment Committee (FIC) is the body representing the State of Chile in their dealings with foreign investors and supports Chile's positioning as a highly attractive destination for foreign investment and international business role in matters related to the administration and dissemination of relevant legal regulations, development of promotional activities of various kinds and the development of relevant information on foreign investment for foreign investors and potential investors. In this regard the **Foreign investment Committee**: -Develop all kinds of initiatives to communicate, promote, coordinate and implement activities designed to foster the entry of Foreign Direct Investment to the country. -Provides general information about Chile, its social and economic environment, the legal framework and policies on foreign investment, providing specific information on starting a business as well as the procedures and regulations for every investor should adhere to enter direct foreign investment to the country. -Ensures proper implementation of the Foreign Investment Statute (Decree Law 600) in order to safeguard the rights of the State, as foreign investors through the dissemination of its content and administration of legal procedures linked to it: analysis	-Maintain a mechanism to provide timely and relevant advice of changes in procedures, applicable standards, technical regulations and conformance requirements -provide advance notice of changes to laws and regulations.

		applications, contracts, authorization of consignments. -Post a record date and accurate statistical welcome foreign investment to Foreign Investment Statute, by systematizing the information on contracts as capital flows that are incurred against them, in order to safeguard the interests investors as well as statistical reporting for public use. Regularly publishes reports on the business climate and Chile and specific investment opportunities in both public and private projects and coordinates business meetings, conferences and seminars. -Coordinates the defense and representation of the Republic of Chile in arbitration court which is demanded by foreign investors, through the Defense Program in Foreign Investment Arbitration.	
IFAP Principle 2 Enhance stability of investment environments, security of property and protection of investments			
Specific Actions	**Time Table**	**Details of implementation**	**Expected outcomes**
• Establish timely, secure and effective systems of ownership registration and / or property use rights for land and other forms of property • Create and maintain an effective register of public or state owned property. • Ensure costs associated with land transactions are kept to a minimum including by fostering competition. • Foster the dissemination of accurate market reputation information including creditworthiness and reliability • Explore the possibility of using the World Bank *Doing Business* indicator "Enforcing Contracts" as the basis for peer dialogue and benchmarking and measuring progress across APEC • Encourage or establish effective formal mechanisms for	In Force In Force Not in place Not in place In Force In Force	The **Chapter XIV of the Central Bank's Compendium of Foreign Exchange Regulations** establishes rules for investment, capital contributions, and foreign credit. Under Chapter XIV, the Central Bank is not allowed to reject foreign investments, although it may impose conditions based on its monetary policy on the transfer of funds into and out of Chile, such as a one-year retention requirement. Once the investments are materialized, investors should provide information to the Central Bank	Invariability of Income Tax Regime Invariability of Indirect Taxes

resolving disputes between investors and host authorities and for enforcing solutions, such as judicial, arbitral or administrative tribunals or procedures • Encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes between private parties • Facilitate commercial dispute resolution for foreign investors by providing reasonable cost complaint-handling facilities, such as complaint service centres, and effective problem-solving mechanisms • Take steps to accede to an arbitral convention	In Force - In Force	under Chapter XIV On the other hand, **Decree Law 600**, Foreign Investment Statute, of the Ministry of Economy, Development and Reconstruction, published in the Official Gazette on December 16, 1993. Any foreign individual or legal entity, as well as Chileans with residence abroad, can invest through D.L. 600. Under this mechanism, investors enter into a legally binding contract with the Chilean State, which cannot be modified unilaterally by the State or by subsequent changes in the law. However, investors may, at any time, request the amendment of the contract to increase the amount of the investment, change its purpose or assign its rights to another foreign investor. In regard to this principle Decree Law N°600, established: **Special Advantages for Foreign Investors:** Although Chile's Constitution is based on the principle of non-discrimination, D.L. 600 offers some tax advantages for foreign investors. These are not "tax breaks" or "tax holidays", but are intended to provide a **stable tax horizon**, acting as a form of "tax insurance". D.L. 600 offers several different tax options, but basically allows the investor to lock into the tax regime prevailing at the time an investment is	Special Regime for Large Project

		made. **Invariability of Income Tax Regime:** All Chilean companies have to pay a First-Category Tax (or Corporate tax) equivalent to 17% Under Chile's Common Tax Regime, a 35% tax is currently levied on distributed or remitted profits. Interest paid to non-residents is also subject to a 35% additional withholding tax, however, interest on loans granted by foreign banking or other financial institutions is subject to a 4% tax, provided that excess indebtedness provisions do not apply. Under DL 600, a foreign investor can opt to lock into an effective fixed overall tax rate of 42% on taxable income for up to ten years, or -under article 11 bis- for up to twenty years in the case of industrial and extractive investments of US$ 50 million or more. The investor, thereby, acquires immunity from any tax increases in the Common Tax Regime that may occur during that period. The lock-in can be waived at any time, but an investor cannot subsequently revert to the guaranteed 42% rate. The First-Category payment of 17% can be set against tax returns under both the Common Tax and Invariable Tax Regimes. **Invariability of Indirect Taxes:** D.L. 600 states that foreign investments brought into the country in the form of tangible assets are subject to the general	

		VAT taxation regime and customs regulations. However, foreign investors are entitled to include a clause in their contracts giving them access to a regime that freezes Value Added Tax (currently at 19%), as well as import tariffs on capital goods for the project, at their rate at the date of the investment. This special regime applies throughout the period authorized for carrying out the investment. Additionally, imports of some of these capital goods such as machinery or equipment are exempt from VAT in the case they are not produced in Chile and are on a list compiled, prepared and published by the Ministry of Economy's Foreign Trade Department. The current list was approved by Decree 204 of the Ministry of Economy, published in the Official Gazette ("Diario Oficial") on December 12, 2002, and is available at the Ministry of Economy's website. Foreign investors who sign a D.L. 600 contract are exempted from VAT on other technology imports, providing they appear on this list compiled by the Foreign Trade Department. The products currently listed include accounting and data processing machines, TV cameras, lasers and magnetic resonance imaging diagnostic equipment (MRI), among several others. **Special Regime for Large**	

		Projects: Under article 11 bis of D.L. 600, investments in new industrial or extractive activities, including mining, are entitled to additional tax benefits, providing they have a value of at least US$ 50 million. Currently, the Foreign Investment Committee is revising its policy regarding article 11 bis, and new contracts under this regime are not being approved at this time. This policy is subject to change in the future. Expropriation is not defined directly under Chilean law. The **Chilean Constitution** makes reference to expropriation in article 19.24, which states: "In no case may anyone be deprived of his property, of the assets affected or any of the essential faculties or powers of ownership, except by virtue of a general or a special law which authorizes expropriation for the public benefit or the national interest, duly qualified by the legislator. The expropriated party may protest the legality of the expropriation action before the ordinary courts of justice and shall, at all times, have the right to indemnification for patrimonial harm actually caused, to be fixed by mutual agreement or by a sentence pronounced by said courts in accordance with the law". National jurisprudence has established that expropriation is	Protect Property

		an administrative act undertaken by virtue of the powers given directly by the legislation to the competent authorities, which must comply with a series of conditions, as set out in the Constitution. Further, Article 19, Nº 24, paragraph 1 of the Constitution guarantees to all persons: "The right of ownership in its diverse aspects over all classes of corporeal and incorporeal property. Only the law may establish the manner to acquire property and to use, enjoy and dispose of it, and the limitations and obligations derived from its social function. Said function includes all the requirements of the Nation's general interests, the national security, public use and health, and the conservation of the environmental patrimony." Therefore, limitations to property that can be established by means of an expropriation act can only be carried out by virtue of their social function. The Constitution has not defined this social function, but has rather described in detail its components: the Nation's general interests, national security, public welfare and health, and the conservation of the environment.	
IFAP Principle 3 Enhance predictability and consistency in investment-related policies			
Specific Actions	**Time Table**	**Details of**	**Expected outcomes**

		implementation	
• Increase use of legislative simplification and restatement of laws to enhance clarity and identify and eliminate inconsistency. • Provide equal treatment for all investors in the operation and application of domestic laws and principles on investment • Reduce the scope for discriminatory bureaucratic discretion in interpreting investment-related regulations • Maintain clear demarcation of agency responsibilities where an economy has more than one agency screening or authorising investment proposals or where an agency has regulatory and commercial functions • Establish and disseminate widely clear definitions of criteria for the assessment of investment proposals • Establish accessible and effective administrative decision appeal mechanisms including where appropriate impartial "fast-track" review procedures	- In Force - In Force In Force In Force		
IFAP Principle 4: Improve the efficiency and effectiveness of investment procedures			
Specific Actions	**Time Table**	**Details of implementation**	**Expected outcomes**
• Simplify and streamline application and, registration, licensing and taxation procedures and establish a one-stop authority, where appropriate, for the lodgement of papers • Simplify and reduce the number of forms relating to foreign investment and encourage electronic lodgement • Shorten the processing time and procedures for investment applications. • Promote use of "silence is consent" rules or no objections within defined time limits to speed up processing times, where appropriate • Ensure the issuing of licences, permits and concessions is done at least cost to the investor • Simplify the process for connecting to essential services	Not in place Not in place Not in place In Force Not in place		

infrastructure • Implement strategies to improve administrative performance at lower levels of government. • Facilitate availability of high standard business services supporting investment	- Not in place In force		
IFAP Principle 5: Build constructive stakeholder relationships			
Specific Actions	**Time Table**	**Details of implementation**	**Expected outcomes**
• To the extent possible, establish a mechanism to provide interested parties (including business community) with opportunity to comment on proposed new laws, regulations and policies or changes to existing ones prior to their implementation • Continue to share APEC member economies' experiences of successful stakeholder consultative mechanisms • Promote the role of policy advocacy within IPAs as a means of addressing the specific investment problems raised by investors including those faced by SMEs • Continue to share APEC member economies' experiences of successful public private dialogue to take advantage of the information on successes and problems encountered by established investors • Promote backward investment linkages between businesses, especially between foreign affiliates and local enterprises including through the promotion of industry clusters • Encourage high standards of corporate governance through cooperation aimed at promoting international concepts and principles for business conduct, such as APEC's programs on corporate governance and anti-corruption. • Examine and share APEC member economies' experience with responsible business conduct instruments	Not in place Not in place Not in place In Force In force - Not in place		
IFAP Principle 6: Utilise new technology to improve investment environments			
Specific Actions	**Time Table**	**Details of**	**Expected outcomes**

		implementation	
• Promote the introduction and use of new technologies aimed at making the investment process simpler and faster • Maintain adequate and effective protection of technology and related intellectual property rights • Where possible, give effect to international norms for property protection	In force In force -	The **Foreign investment Committee** is the Chilean Investment Promotion Agency since March 2012. The Committee established an easy and fast mechanism to apply to investment process through internet, on line processes, and on line information for the public.	- use of technologies aimed at making the investment process simpler and faster. - Make information available to the public.
IFAP Principle 7: Establish monitoring and review mechanisms for investment policies			
Specific Actions	**Time Table**	**Details of implementation**	**Expected outcomes**
• Conduct periodic reviews of investment procedures ensuring they are simple, transparent and at lowest possible cost	In force	The **Foreign investment Committee** is the Chilean Investment Promotion Agency since March 2012. In this regard the **Foreign investment Committee**: -Provides general information about Chile, its social and economic environment, the legal framework and policies on foreign investment, providing specific information on starting a business as well as the procedures and regulations for every investor should adhere to enter direct foreign investment to the country. -Ensures proper implementation of the Foreign Investment Statute (Decree Law 600) in order to safeguard the rights of the State, as foreign investors through the dissemination of its content and administration of legal procedures linked to it: analysis applications, contracts, authorization of consignments.	-periodic reviews of investment procedures available to the public on internet. - information on starting a business, general information about Chile and the legal framework and policies on foreign investment. -Ensures proper implementation of the Foreign Investment Statute.

		-Post a record date and accurate statistical welcome foreign investment to Foreign Investment Statute, by systematizing the information on contracts as capital flows that are incurred against them, in order to safeguard the interests investors as well as statistical reporting for public use. -Regularly publishes reports on the business climate and Chile and specific investment opportunities in both public and private projects and coordinates business meetings, conferences and seminars. **The National Economic Prosecutor Office (Fiscalía Nacional Económica or FNE**) is the national agency responsible for ensuring free competition. Competition Advocacy refers to the activities performed by the National Economic Prosecutor Office and the Competition Tribunal not directly implying law enforcement; Competition authorities in Chile conduct activities to advocate competition, in the strict sense, through three approaches: the FNE can persuade in favor of regulatory reform directly before the regulator; the FNE can, indirectly through its complaints or reports, request the TDLC measures such as recommendations to regulators	- information on starting a business, general information about Chile and the legal framework and policies on foreign investment.

		or propose regulatory modifications; lastly, the TDLC can formulate recommendations or propose regulatory reforms. The FNE diffuses through Promotional Materials, materials prepared by the FNE on various issues related to competition and has signed National Cooperation Agreements which contains the framework agreements concluded by the FNE with other government agencies and universities to develop joint activities aimed at promoting the benefits of competition.	
IFAP Principle 8: Enhance international cooperation			
Specific Actions	**Time Table**	**Details of implementation**	**Expected outcomes**
• To the best extent possible, accede to, or observe, multilateral and/or regional investment promotion and facilitation conventions • Make use, where appropriate, of international and regional initiatives aimed at building investment facilitation and promotion expertise, such as those offered by the World Bank, UNCTAD and OECD • Ensure measures exist to ensure effective compliance with commitments under international investment agreements • Review existing international agreements and treaties to ensure their provisions continue to create a more attractive environment for investment.	In force Not in place In Force	**The National Economic Prosecutor Office (Fiscalía Nacional Económica or FNE**) is the national agency responsible for ensuring free competition. The Competition Tribunal (TDLC) is a judicial body in charge of adjudicating and solving disputes regarding competition law and issuing decisions in non-adversarial proceedings in competition matters. The FNE and the TDLC participate in international forums and activities that address competition policy issues, in order to develop mutual	-develop mutual cooperation actions with other agencies in their procedures and collect the best international practices. -Review existing international agreements and treaties to ensure their provisions continue to create a more attractive environment for investment

		cooperation actions with other agencies in their procedures and implement the best international practices. The FNE includes among its activities in the international field, the following: - Participation in international forums, such as the OECD's Competition Committee and the International Competition Network;. -Chapters of FTAs-Competition: Contains the texts of the competition chapters included in various free trade agreements signed by the country. -Cooperation Agreements: Contains the texts of cooperation agreements between the FNE and competition agencies in other countries. The **Foreign investment Committee** is the Chilean Investment Promotion Agency since March 2012, and in this function it participates in international multilateral and/ or regional investment activities that address matters within legislation and competition policy.	-develop mutual cooperation actions with other agencies in their procedures and collect the best international practices. -Review existing international agreements and treaties to ensure their provisions continue to create a more attractive environment for investment