

**FOREIGN
INVESTMENT
STATUTE**

DECREE LAW N° 600

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DECREE-LAW Nº 600 (*)
FOREIGN INVESTMENT STATUTE

TITLE I

FOREIGN INVESTMENT AND THE INVESTMENT CONTRACT

Article 1.— Foreign natural and juristic persons and Chilean natural and juristic persons with residence and domicile abroad, who transfer foreign capital to Chile and enter into a foreign investment contract, will be bound by the regulations of this Statute.

Article 2.— The aforementioned capitals can be brought into the country and may take the following forms:

a) Freely convertible foreign currency, cleared through the Central Bank of Chile or any other authorized entity, at the highest rate of exchange prevailing in the banking market.

b) Tangible assets, in any form or condition, which will be brought into the country under the general regulations applicable to imports not subject to exchange coverage. These assets will be valued in accordance with the regular procedures applicable to imports.

(*) Official text published in Official Gazette dated March 18th, 1977.

c) Technology in its various forms, provided it can qualify as capital, which will be appraised by the Foreign Investment Committee within a period of 120 days, taking into account its real price in international markets; should this deadline not be met, the value assigned will be that estimated by the investor by means of an affidavit.

Under no circumstances shall ownership, use or possession of technology forming part of a foreign investment be transferred separately from the entity to which it was originally contributed, nor will it be subject to amortization or depreciation.

d) Credits associated to foreign investment. The general rules, repayment periods, rates of interest and other aspects involved in the negotiation of foreign loans, as well as the surcharges in the total cost for the use of foreign credits, chargeable to the borrower, including commissions, taxes and sundry expenses, will be those currently authorized or to be authorized by the Central Bank of Chile.

e) Capitalization of foreign loans and debts in freely convertible currencies, provided such contracts have been duly authorized, and

f) Capitalization of profits qualifying for remittance abroad.

Article 3.— The authorizations of foreign investment will be formalized by a contract evidenced by public deed executed by the President of the Foreign Investment Committee on behalf of the Chilean State, should the investment require the agreement of said Committee or, should this not be applicable, by the Executive Secretary, and, on the other part, by the persons contributing the foreign capital investment, hereinafter called “foreign investors” for all effects of this Decree Law.

The contracts will state the period within which the foreign investor must bring in the capital. This term will not exceed 8 years for mining investments and 3 years for all others. The Foreign Investment Committee, however, by unanimous agreement of its members may extend this limit up to twelve years in the case of mining investments, when previous exploration is required, depending on their nature and estimated duration.

TITLE II**RIGHTS AND RESPONSIBILITIES OF FOREIGN INVESTMENT**

Article 4.— Foreign investors may transfer their capital and the net profits arising therefrom to other countries. There will be no time limit for the exercise of this right. However, the capital may not be remitted before 3 years have elapsed, counted from the date on which it was brought in.

The conditions applicable to remittances of capital and net profits to other countries shall not be less favorable than those applicable to the coverage of imports in general.

The rate of exchange applicable to the transfer of capital and profits to other countries will be the highest rate in the banking market.

Article 5.— The foreign currency required to remit the capital or part thereof, may only be purchased with the proceeds of the sale of the shares or rights representing the foreign investment, or the sale or liquidation of the enterprises bought or created with such investment.

Article 6.— The net proceeds of the sales or liquidations referred to in the preceding article will be free from any tax, impost or charge up to the sum authorized by the Committee for the investment. Any excess thereof will be subject to the general rules of the tax legislation.

Article 7.— Holders of foreign investments made under the terms of this Decree Law are entitled to include in their respective contracts a clause to the effect that, for a period of 10 years as from the start-up of the company's operations they will be subject to a fixed over-all tax rate of 49.50/o on taxable income, including taxes applicable under the Income Tax and Housing Tax laws valid at the time the contract is executed. Even if the foreign investor has opted for this fixed rate, he may, once only, waive this right and ask for the application of ordinary tax laws, in which case he will be under the general taxation scheme with the same rights, options and obligations pertaining to national investors and, consequently, forfeiting assessment at the agreed fixed rate.

Article 8.— Foreign investment and enterprises of which it forms part will be subject to the general indirect taxation and customs regulations applicable to national investment.

Notwithstanding the subsection above, holders of foreign investment brought into the country under the terms of this Decree Law will be entitled to include a clause in their contracts, stating that for the duration of the period authorized to effect the agreed upon investment, there will be no changes in the taxes on sales and services and customs duties in force at the time of signing the contract applicable to the import of machinery and equipment not produced in the country and included in the list referred to under number 10, letter B of Article 12 of Decree-Law N^o 825 of 1974.

Article 9.— Similarly, foreign investment and enterprises in which it participates will also be subject to the general legislation applicable to domestic investment, and will not be discriminated against, either directly or indirectly, save for what is stated in article 11.

Legal or regulatory provisions affecting a specific productive activity will be deemed discriminatory should they become applicable to the whole or to the major part of said activity in the country, with the exclusion of foreign investment. Likewise, legal or regulatory provisions which create special regulations for certain sectors of the economy or geographical areas of the country will be deemed discriminatory if foreign investment is refused access thereto despite complying with the same conditions and requirements demanded from national investment.

For the purposes of this Article, a specific productive activity will be that performed by enterprises which come under the same definitions within internationally accepted classifications and which produce goods located in the same tariff bracket in accordance with the Chilean Customs Tariff Scheme, the same tariff bracket being understood to be one in which goods do not differ by more than one unit in the last digit of the tariff applied to them.

Article 10.— Should juridical norms be issued, which holders of foreign investment or enterprises with foreign investment participation deem to be discriminatory, they will be entitled to request the removal of the discrimination within one year from the date of issue of such regulations. The Foreign Investment Committee will rule on the petition within 60 days, counted from the date on which the application

is filed, either rejecting it or taking the appropriate administrative measures to remove the discrimination or requiring the proper authorities to do so in the event that such measures should go beyond the Committee's authority.

In the absence of a timely ruling from the Committee, or if an adverse ruling is passed, or if it should not be possible to remove the discrimination administratively, the foreign investors or the enterprises in which they participate may resort to the ordinary courts of justice in order to obtain a ruling as to whether or not discrimination exists and, if so, that the general rule of law must be applied.

Article 11.— Notwithstanding Article 9 above, justified regulations may be issued limiting access to internal credit by foreign investments covered by this Decree Law.

TITLE III

FOREIGN INVESTMENT COMMITTEE

Article 12.— The Foreign Investment Committee will be the only institution authorized, on behalf of the Chilean State, to accept the inflow of the foreign capital under this Decree Law.

The Committee will be represented by its Chairman in those cases in which the investments require Committee approval, as set forth in Article 16; should this not be the case, it will be represented by its Executive Secretary.

Article 13.— The Foreign Investment Committee will be formed by the following members:

- a) Minister of Economy, Development and Reconstruction
- b) Minister of Finance
- c) Minister of Foreign Affairs
- d) Minister of the appropriate portfolio in the case of investment applications concerning Ministries not represented on this Committee, and

e) The Director of the National Planning Office.
The Ministers may only be substituted by their legal deputies.

Article 14.— The Committee meetings will be chaired by the Minister of Economy, Development and Reconstruction or, in his absence, by the Minister of Finance, provided at least three of its members attend. Decisions will be adopted by a majority of the members of the Committee and in the event of a tie, the President will have the casting vote; decisions taken shall be recorded in the Minutes. Deputies may attend the Committee meetings regularly with the right to speak, but may cast their vote only in the absence of the member whom they subrogate.

Article 15.— To exercise its authority and fulfill its obligations, the Foreign Investment Committee will have an Executive Secretariat, attached to the Ministry of Economy, Development and Reconstruction, and will be empowered to:

- a) Receive, study and report on foreign investment applications and other petitions submitted to the Committee;
- b) Act as the administrative body of the Committee, preparing such background documents and studies as may be required;
- c) Perform information, registration, statistical and coordination functions with respect to foreign investments;
- d) Centralize the information and the results of the supervision which public institutions must exercise with respect to the obligations of foreign investors, or the enterprises in which they participate, and report the irregularities or transgressions that have come to its attention to the appropriate authorities and public institutions, when so instructed by the Foreign Investment Committee.
- e) Carry out and expedite the procedures required by the different public institutions that must report or grant its prior authorization for the approval of the applications that the Committee must resolve and for the prompt execution of the corresponding contracts and resolutions, and
- f) Make enquiries in Chile and abroad regarding the qualification and reliability of the applicants or interested parties.

The Executive Secretariat may request from all the services and enterprises of the public and private sectors whatever reports and information it may require for the fulfillment of its purposes.

An Executive Secretary designated by the President of the Republic, will head the Executive Secretariat.

It will be the Executive Secretary's special duty to promote foreign investment in Chile, carry out the duties assigned to him by the Committee, perform the functions expressly delegated to him by the Committee and act as Secretary at the Committee meetings in which capacity he will bear witness to the motions.

Article 16.— The following foreign investments will require the approval of the Foreign Investment Committee:

- a) Those with a total value exceeding US\$ 5,000,000 (five million US dollars) or its equivalent in other currencies;
- b) Those relating to sectors or activities normally performed by the State and those carried out in public utility services.
- c) Those made in communication media, and
- d) Those made by a foreign State or a foreign juristic person of public law.

Article 17.— The foreign investments not covered by the preceding article will be authorized by the Executive Secretary of the Foreign Investment Committee, with the previous approval of the Chairman, without requiring the agreement of the Committee. In any event, he will report on the investments approved, at the following meeting. Should the Chairman of the Committee deem it necessary, he may defer granting his approval and submit these investments for the Committee's decision.

GENERAL PROVISION

Article 18.— The references to D.F.L. N° 258 of 1960 or to its provisions, contained in the laws currently in force, will be understood to be made to this Statute or its pertinent provisions.

For further details please
contact:

Executive Secretariat
Foreign Investment
Committee

or

any Chilean Embassy

