



Analysis of Information Transparency in the Chilean Lithium Industry

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Table of Contents

| | | | |
|---|----|---|----|
| Acronyms and abbreviations | 4 | 2.3 Payments and taxes | 31 |
| Introduction | 5 | 2.3.1 Scope | 31 |
| 1. Methodology | 6 | 2.3.2 Main findings | 33 |
| 1.1 Stages of the lithium industry value chain .. | 7 | 2.4 Accountability | 36 |
| 1.2 Criteria for assessing the quality of information for the general public | 8 | 2.4.1 Scope | 36 |
| 1.2.1 Scoring of the assessment criteria | 9 | 2.4.2 Main findings | 38 |
| 1.3 Unit of study | 11 | 3. Voluntary reporting | 44 |
| 2. Analysis of the transparency of information on lithium in Chile | 14 | 3.1 Scope | 44 |
| 2.1 Contracts | 15 | 3.2 SQM | 46 |
| 2.1.1 Scope | 15 | 3.2.1 Main findings | 47 |
| 2.1.2 Main findings | 16 | 3.3 Albemarle | 51 |
| 2.2 Operations | 22 | 3.3.1 Main findings | 52 |
| 2.2.1 Scope | 22 | 4. Synthesis and final recommendations | 56 |
| 2.2.2 Main findings | 25 | 5. References | 59 |
| | | Cited Legislation | 61 |

Acronyms and abbreviations

| | | | |
|-----------------|---|--------------------|--|
| ASP | : Wilderness Protected Areas | IRMA | : Initiative for Responsible Mining Assurance |
| BCN | : Library of the National Congress of Chile | MINSAL | : Sociedad Minera Salar de Atacama S.A. |
| CCHEN | : Chilean Nuclear Energy Commission | MMA | : Ministry of the Environment |
| CEOL | : Special Lithium Operating Contract | NRGI | : Natural Resource Governance Institute |
| CFA | : Autonomous Fiscal Council | PCPI | : Indigenous Peoples Consultation Process |
| CGR | : Comptroller General of the Republic of Chile | PDC | : Compliance Plan |
| CIPER | : Center for Investigative Reporting of Chile | PPDA | : Prevention and/or Atmospheric Decontamination Plan |
| COCHILCO | : Chilean Copper Commission | ppm | : Parts per million |
| CODELCO | : National Copper Corporation | PSAH | : Environmental Water Monitoring Plan |
| CONADI | : National Corporation for Indigenous Development | RCA | : Environmental Qualification Resolution |
| CONAF | : National Forest Corporation | RUT | : Taxpayer Identification Number |
| CORFO | : Production Development Corporation | S.D. | : Supreme Decree |
| CPA | : Council of Atacameño Peoples | SCL | : Chilean Lithium Corporation |
| CPR | : Political Constitution of the Republic | SEA | : Environmental Assessment Service |
| DGA | : General Water Directorate | SEIA | : Environmental Impact Assessment System |
| DIPRES | : Budget Directorate of Chile | SERNAGEOMIN | : National Geology and Mining Service |
| EI | : Extractive Industries | SII | : Internal Revenue Service |
| EIA | : Environmental Impact Assessment | SMA | : Superintendency of the Environment |
| EIS | : Environmental Impact Statement | SNASPE | : National System of State Protected Areas |
| EITI | : Extractive Industries Transparency Initiative | SNIFA | : National Environmental Control Information System |
| ENL | : National Lithium Strategy | SQM | : Sociedad Química y Minera de Chile S.A. |
| FNDR | : National Regional Development Fund | TGR | : General Treasury of the Republic |
| GORE | : Regional Government | USGS | : United States Geological Survey |
| IA | : Additional Tax | VAT | : Value-Added Tax |
| IDPC | : First-Category Income Tax | | |
| IEAM | : Specific Mining Tax | | |
| ILO | : International Labor Organization | | |

Introduction

Lithium extraction is currently one of the primary mining policy debates in Chile. The country is home to the largest reserves of this white metal and is the second largest producer in the world (USGS, 2022), with the Salar de Atacama being the main and only deposit being mined. With the aim of properly managing lithium extraction, President Gabriel Boric announced the **"National Lithium Strategy"** (ENL) in 2023. The strategy includes the creation of a National Lithium Company, government participation in this activity through a public-private mining enterprise, and modernization of the institutional framework, among other aspects (Ministry of Mining, 2023)¹.

The sector undoubtedly displays a number of gaps in terms of environmental, social, and economic governance. Among other issues, the subject of transparency has taken over the sector's public agenda. Several different studies have underscored the need to strive for more reporting and transparency in contractual, operational, and especially fiscal matters (Jorrat, 2022; Yurisch & Martinez, 2022; CFA, 2023). The current administration has committed to this in the ENL to ensure greater integrity and transparency for the lithium industry by making the country part of the Extractive Industries Transparency Initiative (EITI) (Ministry of Mining, 2023). Chile committed its intention to join this initiative in June 2023 through a formal letter to the EITI International Secretariat.

Given this context, this report provides an assessment of the information on the lithium industry that has been made available by public institutions with regulatory competence in this area as well as companies currently operating in the sector. Our analysis included reviewing information related to contractual and operational processes, payments and taxes, and accountability, and we also evaluated voluntary reporting by SQM and Albemarle. Within this framework, we conducted a qualitative review along with a general quantitative assessment that aims to determine the level of transparency and quality of the information provided by the sector, and also to identify actions for improvement.

In light of the above, we first describe the methodological strategy that was used to establish the level of transparency and quality of information made available by the Chilean lithium industry, detailing definitions, approaches, areas of analysis, and assessment rubrics. Secondly, we analyze and assess the findings from each stage of the sector's value chain applied to the reporting from public institutions and lithium companies in operation. Lastly, the document ends with some general conclusions that include proposals for increasing the transparency of information about lithium for the general public.

¹ For more information, see the press release "Chile confirms intention to join the EITI", posted on the EITI website on June 9, 2023. Available at: <https://eiti.org/es/news/chile-confirma-intencion-de-adherir-al-eiti>

1. Methodology

For the purposes of this report, transparency of information is understood as the right to know and to be informed, a process that must combine the free flow of information and ideas as part of the greater framework of freedom of expression. Access to public information also has a qualitative aspect that does not only depend on availability and response, but also on how citizens are able to access this information (Chile Transparente, 2012).

Based on the above, the primary aim of this research is to *analyze the current status and transparency of publicly available information on*

lithium mining in Chile. The research involved a mixed analysis of the information that quantitatively and qualitatively evaluated secondary sources available in information centers or web portals (Hernández, Fernández, & Baptista, 2014). For this analysis, the availability of information on the websites of mining companies and governmental institutions directly related to or with regulatory powers or involvement in the operation of the lithium industry in Chile was categorized based on national and international standards concerning the transparency of extractive companies.

Evaporation ponds for lithium extraction in the Salar de Atacama.
Photo: Terram Foundation | Cristóbal Moreno S.



1.1 Stages of the lithium industry value chain

The main areas of the Extractive Industries (EI) decision chain, as identified primarily by the Natural Resource Governance Institute (NRGI) and EITI, were reviewed to define the lithium industry value chain. Based on the criteria established in these sources, the following analysis categories were established to assess the level of transparency in lithium mining:

- Contracts:** This refers to the public accessibility of information regarding contracts, concessions, tenders, and licenses (EITI, 2019) by which the government awards mining rights to the private sector (Gillies, Sahla, Salomon, & Shipley, 2021), as well as contracts or agreements stemming from these rights between the government, companies, and civil society (indigenous communities, universities, etc.) and information on their terms and conditions (EITI, 2019).
- Operations:** This refers to information available on the different factors that affect the extraction and trading stages of a mining project (Gillies, Sahla, Salomon, & Shipley, 2021). This includes information related to permits, levels of production and trade (EITI, 2019), the impacts that these operations have on the landscape, labor conditions of workers in the sector, and the regulatory or oversight mechanisms of government institutions in these matters.
- Payments and taxes:** This category focuses on the analysis of revenue collection by public institutions from tax payments from extractive companies through taxes, royalties, and fees; public participation in production and sales (Gillies, Sahla, & Shipley, 2021); and the availability of information on transfers from companies and public institutions to relevant local stakeholders. This category includes the analysis of the transparent disclosure of these payments (EITI, 2019) coming from lithium mining.
- Accountability:** In this category, we analyze transparency in terms of revenue management and expenditures, the disclosure of information, and financial statements (EITI, 2019) regarding the destination of revenues from lithium mining in national and local public institutions and local communities.

Table 1: Stage of the lithium industry value chain

| N° | Value chain stage |
|----|--------------------|
| 1 | Contracts |
| 2 | Operations |
| 3 | Payments and taxes |
| 4 | Accountability |

1.2 Criteria for assessing the quality of information for the general public

The second step involves assessing the quality of the transparency of information on lithium mining, also using criteria from national and international standards (Chile Transparente, 2012; EITI, 2019). This includes the degree of accessibility, user-friendliness, and comprehensibility, up-to-dateness, reliability, and completeness of the information available. The assessment criteria are described below:

- **Accessibility:** Assess whether the information is available for free or subject to charges (Fundación Jubileo, 2023).
- **User-friendliness and comprehensibility:** This refers to how user-friendly and understandable the information formats are, and how “users evaluate this aspect both in active transparency and the right to access information” (Chile Transparente, 2012), taking into account that the information provided is readable and interoperable (EITI, 2019).
- **Up-to-dateness:** How up-to-date the information is, based on the transparency criterion a maximum period of 1 year to make public information available, i.e., the official information published may be no older than 12 months.
- **Completeness:** This criterion evaluates whether the information is as complete as possible, depending on whether it corresponds to the stages of the production chain or the entire operation (Fundación Jubileo, 2023). It also assesses the number of discrepancies and information gaps (EITI, 2019), the availability of data series that are as long and complete as possible, and with detailed and disaggregated information (Fundación Jubileo, 2023).
- **Reliability:** Degree of veracity of the information, meaning that the information is verifiable, with legitimate sources and methodologies, as applicable for each case (Fundación Jubileo, 2023).

1.2.1 Scoring of the assessment criteria

The level of transparency is established according to the findings identified for each of the 5 criteria described, which receive the following scores according to the rubric that will be applied to all the information presented by each stage of the industry value chain: with a scale of 0 to 2, where 0 is “not transparent”, 1 is “normal” or “moderately transparent”, and 2 is “fully transparent”.

To determine the level of transparency presented by each “assessed dimension”, the sum of the score obtained in each of the 5 evaluation criteria will be considered considering the ranges and levels shown in the following table:



Mining exploration in Laguna Negro Francisco, Nevado Tres Cruces National Park, Atacama Region.

Photo: Terram Foundation | Cristóbal Moreno S.

Table 2: Scoring of level of transparency

| Range | Level of transparency |
|------------------|---|
| 0 points | Information is not transparent. |
| 0,1 - 3,9 points | Information is not very transparent. |
| 4 - 7,9 points | Information presented is partially or insufficiently compliant with the requirements of each category; therefore, it is assessed as relatively or moderately transparent. |
| 8 - 10 points | Information is transparent. |

Table 3: Assessment criteria rubric for transparency in lithium mining

| Score | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Accessibility |
|----------|---|--|---|--|---|
| 2 points | The information is presented in simple, user-friendly, systematized, and inter-operable formats that are understandable to civil society. | The available information is up-to-date and is made available to civil society within a year after its official preparation. | The information presented is complete, disaggregated, with long data series. | The information presented is reliable, with information verifiable through legitimate sources and methodologies, as appropriate. | The information is easy and free to access, without any charge. |
| 1 points | The information is presented in partially user-friendly, relatively systematized formats, which makes it difficult for civil society to fully understand. | Information is relatively up-to-date, or it is made available to users more than a year after its official preparation. | The information presented is partially complete, has gaps, short data series, or important details are missing. | The information presented is relatively reliable. | The information is moderately accessible, without any charge, but hard to find. |
| 0 points | The information is presented in formats that are not systematized, user-friendly, or understandable to civil society. | The information is old and outdated. | The information does not exist or is not published. | The information presented is not reliable or lacks validated methodologies and sources of verification, as the case may be. | The information is not accessible or is subject to charges. |

Source: Prepared by the authors with assessment criteria from Chile Transparente (2012), EITI (2019) and Fundación Jubileo (2023).

In addition, this report includes an annex document in Excel format titled “Lithium Industry Transparency Assessment Criteria”, which presents

the score obtained in terms of access and quality of information for each of the dimensions assessed in the lithium industry value chain.

1.3 Unit of study

The object of study is the information issued by public agencies and lithium mining companies in Chile, and the unit of analysis is the information available on the web portals of governmental institutions and lithium mining companies that have been authorized to operate by means of Environmental Qualification Resolutions (RCA) issued by the Environmental Assessment Service (SEA) of the Ministry of Environment, i.e., the following companies:

Table 4: Table of companies and salt flat in operation

| Company | Salt flat being mined |
|-----------|-----------------------|
| SQM | Salar de Atacama |
| Albemarle | Salar de Atacama |
| CODELCO | Salar de Maricunga |

Regarding services and institutions, the information available on the web portals of government agencies with regulatory powers in the sector will be analyzed according to the dimension assessed in each of the following stages of the lithium value chain:

Mining site in the Salar de Atacama.

Photo: Terram Foundation | Cristóbal Moreno S.



Table 5: Public information to be assessed in each stage

| Value chain stage | Type or object of information being assessed | Partner institutions | Competencies |
|--------------------|--|---|---|
| Contracts | Information on leasing contracts, public tenders, lithium value-added projects. | Ministry of Mining, Ministry of Economy (CORFO). | Implementation of lithium mining policies, management of leases, CEOLs, and value-added tenders. |
| Operations | Information on operating permits, production, and trade data, as well as environmental oversight and legal compliance processes. | SEA, DGA, CONAF, MMA, SERNAGEOMIN, CCHEN, Customs Service, SMA, and Environmental Courts. | Agencies with oversight competencies in mining, water, and environmental; care for wilderness protected areas (ASP); and monitoring of lithium production and trade. |
| Payments and taxes | Information on market indicators, payment of taxes, royalties, mining licenses, and contributions to R&D and local communities. | COCHILCO, DIPRES, SERNAGEOMIN, TGR, SII, Ministry of Economy (CORFO). | Agencies with fiscal competencies in the registration, management, and monitoring of transfers of economic resources from lithium mining to central, regional, and local government as well as local communities. |
| Accountability | Information on revenues and budget allocation of fiscal contributions from the lithium industry by local governments, public institutions, and indigenous communities. | Regional Government of Antofagasta and Atacama; Municipalities of San Pedro de Atacama, María Elena, Antofagasta; and CORFO. CPA and Atacameño communities. | Agencies responsible for managing the expenditure and allocation of lithium mining revenues in local governments. Also, communities receiving contributions from lithium companies. |

In addition, we will assess the voluntary reporting of the mining companies SQM and Albemarle, specifically the information reviewed in the analysis categories described above, which is published on their web portals. This includes information available in yearly reports, sustainability reports, and technical reports, etc.

General procedure to search for information:

this procedure presents a sequence of three types of searches:

- 1) Search for the “keyword” on the website of the competent agency and/or organization.
- 2) If there is no satisfactory result, a search is done on the Internet for the “assessed dimension” with the following search criteria: “keyword + name of the competent agency and/or organization”.
- 3) If there is no satisfactory answer, lastly, a search is done on the Internet for the “assessed dimension” with the following search criteria: “keyword”.

2. Analysis of information transparency in the Chilean lithium industry

A review of the public information made available by government agencies with regulatory powers or influence in the Chilean lithium industry, based on the methodological strategy described above, shows a low level of transparency (see the score of 4 in Table 6) and, particularly, a poor level of reporting in fiscal matters.

Within the industry's value chain, the "Contracts" stage displays a low level of transparency (score of 3.3), which is explained by the very low level of reporting and incomplete access to the lease and project contracts signed by CORFO with the lithium companies, as well as a lack of information and documentation from the Ministry of Mining regarding the CEOLs signed to date. Likewise, the tenders for adding value to lithium production, and their results, show a similar lack of information transparency.

The "Operations" stage is noteworthy due to its high level of accessibility and quality of information, with a score of 8.7. Specifically, information regarding environmental oversight and legal compliance, as well as the production and trade of lithium compounds, is made available by the competent institutions and is easily accessible to the public.

Lastly, the main public reporting challenge for the industry has to do with the fiscal dimension. In the stages of "Payments and taxes" and especially the "Accountability" stage, it is very difficult to access public information specific to the lithium industry and, in general, the scarce information available from the competent institutions is low quality and written in a way that is difficult for the general public to understand.

A detailed analysis of each stage of the industry's value chain, the dimensions assessed, and the scores obtained for access to and quality of information, are shown in the following sections of this chapter.

Table 6: Overall assessment rubric for transparency in lithium mining

| Types of information to be assessed | Accessibility | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Score |
|-------------------------------------|---------------|---|----------------|--------------|-------------|------------|
| Contracts | 0,5 | 0,5 | 0,8 | 0,6 | 1,0 | 3,3 |
| Operations | 1,9 | 1,5 | 1,9 | 1,5 | 1,9 | 8,7 |
| Payments and taxes | 0,7 | 0,7 | 0,7 | 0,3 | 0,3 | 2,7 |
| Accountability | 0,2 | 0,3 | 0,2 | 0,2 | 0,3 | 1,1 |
| Total | 0,8 | 0,7 | 0,9 | 0,7 | 0,9 | 4,0 |

2.1 Contracts

2.1.1 Scope

In Chile, the exploration, extraction, and processing of lithium deposits is regulated by Decree Law No. 2,886² of 1979 of the Ministry of Mining, the Mining Code of 1983 (Act No. 18,248)³, the Constitutional Organic Act on Mining Concessions of 1982 (Act No. 18,097)⁴, and the Political Constitution of the Republic (CPR) of 1980 (amended in 2005)⁵ (Poveda, 2020). As a whole, these constitute the legal framework that determines the non-leasability and the strategic and reserved nature of this mineral for the government. Particularly, regarding this last point, Article 19 of

the Political Constitution of the Republic stipulates that “*the exploration, mining, or processing of deposits containing substances not subject to concession may be carried out directly by the State or its enterprises, or by means of administrative concessions or special operating contracts, following the requirements and the conditions determined by the President of the Republic, for each case, by supreme decree*”, which establishes the legal basis for the subsequent Special Lithium Operating Contracts (CEOLs). The above, in addition to Article 5 of Decree Law No. 2,886, establishes means of mining lithium in Chile: i) through project and/or lease contracts on CORFO’s

² For further information, see: <https://bcn.cl/2ho83>

³ For further information, see: <https://bcn.cl/2fcpf>

⁴ For further information, see: <https://bcn.cl/2j4vv>

⁵ For further information, see: <https://bcn.cl/2ff4c>

mineral holdings, which, as of January 2024, Sociedad Química y Minera de Chile S.A. (SQM) and Albemarle are the only companies with contracts, and ii) through CEOLs awarded by the state (CORFO, 2016).

Set against this backdrop, this first stage of the value chain has three assessment subcategories: i) Lease Contracts and/or Projects, ii) Value-Added Tenders, and iii) CEOLs. The first subcategory therefore seeks to determine the availability of and access to the contracts, amendments, and annexes CORFO has signed with SQM and Albemarle. The second subcategory focuses on the transparency

of the terms and results of the tender process for lithium value-added projects, in particular regarding the contract modifications of Albemarle (2016) and SQM (2018). Finally, the last subcategory aims to assess the transparency of information from the Ministry of Mining regarding the CEOLs that have been tendered and/or awarded to date, regardless of their outcome.

The competent institutions and/or agencies in the matter, as well as the type of information assessed and its scope, are detailed in the following table:

Table 7: Scope of information to be assessed in the contract stage

| Value chain stage | Subcategory | Partner institutions | Type of information to be assessed | Scope |
|-------------------|--------------------------------|-----------------------------|--|--|
| Contracts | Project and/or lease contracts | CORFO (Ministry of Economy) | 1) Project and/or lease contracts. | • CORFO - SQM / Albemarle Contract Documents |
| | Value-added tenders | | 2) Tenders for lithium value-added projects. | • Terms of the tender • Ex. Res. with award of the tender |
| | CEOL | Ministry of Mining | 3) CEOL | • Terms of the tender. • S.D. CEOL Ex. Res. CEOL |

2.1.2 Main findings

Generally speaking, and according to the results shown in Table 8, the “Contracts” stage displays a low level of transparency with a score of 3.3 (see the scoring scale in Table 2). Out of the three subcategories assessed, the subcategory related to “CEOLs” is the murkiest (score of 3.0) due to the lack of access to information on the processes held in

2012 and 2018. The subcategories “Lease contracts and/or projects” and “Value-added tender” display a low level of reporting but with a score of 3.5.

Regarding the contracts or agreements undersigned by CORFO with lithium companies, the Corporation does not provide information on the agreements entered into with SQM and Albemarle’s

documentation is moderately transparent. Furthermore, for the lithium production value addition tender held in 2012, no public information is displayed; however, the 2019-2020 call for tenders shows a higher level of transparency in the respective documentation.

The analysis of each subcategory and the score obtained for access to and quality of information is presented below:

Table 8: Assessment rubric for transparency in the contract stage

| Types of information to be assessed | Accessibility | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Score |
|-------------------------------------|---------------|---|----------------|--------------|-------------|------------|
| Lease contracts and/or projects | 0,5 | 0,5 | 1,0 | 0,5 | 1,0 | 3,5 |
| Value-added tender | 0,5 | 0,5 | 1,0 | 0,5 | 1,0 | 3,5 |
| CEOLs | 0,4 | 0,4 | 0,4 | 0,8 | 0,9 | 3,0 |
| Total | 0,5 | 0,5 | 0,8 | 0,6 | 1,0 | 3,3 |

Lease contracts and/or projects

As outlined above, Decree Law No. 2,886 marks a turning point (before and after January 1, 1979) in the sector's legal framework and the conditions for lithium extraction. By and large, these holdings were in the hands of the government, with the National Copper Corporation (CODELCO) owning 100% of the Salar de Pedernales and 18% of the Salar de Maricunga, and CORFO owning the mineral holdings of 55% of the Salar de Atacama (CORFO, 2016; Poveda, 2020). Salar de Atacama is the only salt flat that is currently being mined, and SQM's and Albemarle's operations have been authorized by lease contracts and projects undersigned with CORFO.

SQM's contractual basis dates back to 1986 when Sociedad Minera Salar de Atacama S.A. (MINSAL) was incorporated as a joint venture between Amax (63.75%), CORFO (25%), and Molybdenum (11.25%). That same year, the first lease and contract project was signed, authorizing MINSAL to operate. Later on, in 1993, the contracts were modified to allow the entry of SQM Potasio into the company, among other aspects, and another modification was made in 1995 to formalize CORFO's exit from the company, leaving the SQM group with 100% control of the company. Finally, as part of the settlement that ended the arbitration proceedings between SQM and CORFO, a substantive modification was made to both contracts in 2018 (CORFO, 2016; CORFO, 2018).

Albemarle’s baseline agreement goes back to 1980 with the creation of Sociedad Chilena del Litio Ltda. (SCL), which was established with a 55% share of Foote Minerals and 45% of CORFO. This agreement underwent minor modifications during 1987 and then 1989, wherein CORFO’s departure from the company was formalized. Finally, during 2016, a substantive change was made to the baseline agreement and its validity was extended to 2043 (CORFO, 2016; CORFO, 2018).

This subcategory reviews the availability and access to contracts and their modifications for both companies. Therefore, CORFO, as owner of the holdings, is the institution responsible for reporting and disclosing the agreements it enters into with different private stakeholders.

By conducting an exhaustive search of the Corporation’s website, using the search engine available on the *main site* and the link to *“Active Transparency”*, the project and/or lease contracts could not be found for the company SQM, nor the

modifications. Likewise, an open-ended search was carried out on the Internet, as established in the methodology, without favorable results available on CORFO.

During this open-ended search, a presentation was found from the Corporation before the Chamber of Deputies with a summary of the *Terms of Settlement of the agreements signed between CORFO and SQM in 2018*, where the main changes made to the contracts are detailed. This information was not assessed, because it is not representative of formal and systematic reporting behavior for an institution.

The same type of search was carried out for Albemarle on their institutional website, and only the *“Annex to the 2016 Baseline Agreement”* signed before a notary was found, but not the original contract nor its subsequent changes. This shows partial access to information, with incomplete and poorly understandable documentation for the public.



SQM lithium chemical plant in Antofagasta, Antofagasta Region.

Photo: Terram Foundation | Cristóbal Moreno S.

Value-added tender

Within the framework of the Albemarle and SQM contract modifications, CORFO incorporated an innovative clause for the country's industrial policy, wherein it established the obligation for the companies to sell, at preferential prices, up to a quarter of their theoretical annual production capacity (starting at 15% with annual increases of 2.5% until reaching 25%) to specialized companies seeking to establish an industrial hub in the country. Expectations were to attract world leading companies in the electromobility chain to develop an energy storage and battery industry (Poveda, 2020).

To date, this policy of adding value to lithium production has played out in three international calls for tender. The first lithium call made by CORFO was in 2017, where a part of Albemarle's quota was tendered and where 12 projects participated, of which, in March 2018, the three awarded consortia were chosen: Posco-Samsung (South Korea), Sichuan Fulin Transportation Group (China), and Molymet (Chile). However, due to controversies between CORFO and Albemarle over the formula for calculating the "preferential price" and changes in market conditions, the process failed, and all three companies withdrew (Poveda, 2020).

Then, in 2019, CORFO made a second call, but this time for a portion of the 25% of the production

corresponding to SQM (lithium carbonate and hydroxide), with a preferential price until 2030, and around the middle of 2020, the Chilean company NANOTEC⁶ was awarded the quota of specialized producer. Lastly, between August 2022 and August 2023, President Boric's administration opened up a third international call for proposals⁷ to grant value addition quotas to SQM's lithium production. This process is not yet completed and will not be evaluated in this report.

With this information in mind, a search was conducted on the Corporation's website using the search bar available on its *main site* and in the "*Active Transparency*" section, where no information could be found regarding the criteria for awarding tenders and quotas for the first call from 2018. An open-ended search on the Internet did not yield any favorable results either.

Using the same type of search, under the "Active Transparency" access banner and in the search engine of the section "*Acts and resolutions with effects on third parties*", one can access a document that modifies the terms of the tender, but not access the terms themselves, as well as the document awarding the quota to NANOTEC. This information is difficult to access, not user-friendly in its format, and incomplete, but it is up-to-date and reliable.

⁶ For more information, see the article "CORFO awarded Nanotech Chile preferential lithium production for nanoparticle development" published by Soy Chile on June 10, 2020. Available at: <https://www.soychile.cl/Antofagasta/Norte-Minero/2020/06/10/658600/Corfo-adjudico-a-Nanotech-Chile-produccion-preferencial-de-litio-para-desarrollo-de-nanoparticulas.aspx>

⁷ For more information, see the press release "CORFO opens up call for tender to advance the lithium value chain in Chile" published by CORFO on September 1, 2022. Available at: https://www.corfo.cl/sites/cpp/sala_de_prensa/nacional/31_08_2022_litio_convocatoria;jsessionid=y3ACedhz9AKkFtJZo6I_Or2iHlFPxVvQl1Kz1n67DTvdz18bnyak!1781355554!-1980626026#:~:text=La%20convocatoria%20est%C3%A1%20disponible%20en,de%20litio%20a%20precio%20preferente.

Special Lithium Operating Contract (CEOL)

CEOLs, legally based on the CPR of 1980, were not implemented until more than 30 years later, with two failed processes (2012 and 2021) and a direct assignment to CODELCO in 2018. Under the administration of former President Sebastián Piñera, the first CEOL was tendered in 2012 and awarded to SQM. This process was subsequently invalidated because the company violated the terms of tender by having pending litigation with the state, in addition to the fact that it irregularly financed the then Undersecretary of Mining, Pablo Wagner, who intervened in its favor in the awarding process⁸.

The second CEOL awarded by the Ministry of Mining was awarded directly to a CODELCO subsidiary in 2018 to explore and extract lithium in the Salar de Maricunga⁹. Lastly, the third CEOL was awarded by BYD and the company Servicios y Operaciones Mineras del Norte S.A. after a tender process held in 2021. This tender also had several critiques and legal actions to prevent it from being executed, where the Supreme Court ruled favorably on the appeals for protection filed by the Atacameño communities of Coyo and Camar against the tender process due to the lack of indigenous consultation¹⁰, which led the Ministry of Mining to process the administrative closure of this failed process in 2022.

Within this framework, this subcategory reviews the availability of information presented by the Ministry of Mining for each of these processes, considering assessment of access to the technical terms that supported each tender; the Supreme Decrees (S.D.) with the conditions and requirements that constitute the regulatory administrative act, and finally, the exempt resolutions that inform the award and/or approval of the respective CEOLs.

However, by performing an exhaustive search on the website of the Ministry of Mining, preferably by accessing the *link to the ENL* and the *"Historical Transparent Government"*, no information could be found regarding the 2012 CEOL tender. In addition, an open-ended search was conducted on the Internet for key concepts, and a *new Ministry site dedicated to lithium* was found that does not have a direct link from the official website, and where the lithium bidding processes are detailed; however, no favorable results were obtained.

An unevaluated finding in this open-ended search is the documentation published by the investigative journalistic outlet CIPER, which includes *Exempt Resolution No. 2,659* awarding the CEOL in 2012 and *Exempt Resolution No. 3,115*, which nullifies it. In addition, the website of the Library of the National Congress of Chile (BCN)

⁸ For more information, see the article "CDE requests for the National Prosecutor to lead investigation against Wagner for failed lithium tender" published by CIPER on May 26, 2015. Available at: <https://www.ciperchile.cl/2015/05/26/cde-pide-al-fiscal-nacional-que-dirija-la-investigacion-contra-wagner-por-fallida-licitacion-del-litio/>

⁹ For more information, see the press release "CODELCO obtains a permit with a broad scope for lithium mining" published by CODELCO on March 9, 2018. Available at: <https://www.codelco.com/prensa/2018/codelco-obtiene-permiso-de-amplio-alcance-para-la-explotacion-de-litio>

¹⁰ For more information, see the article "Supreme Court rules in favor of indigenous communities and annuls the lithium tender criteria in Atacama" published by El Mostrador on June 1, 2022. Available at: <https://www.elmostrador.cl/cultura/2022/06/01/corte-suprema-falla-en-favor-de-comunidades-indigenas-y-deja-sin-efecto-bases-de-licitacion-del-litio-en-atacama/>

provided access to *S.D. No. 16*, which establishes the conditions and requirements of the aforementioned CEOL. This information was not assessed, since it does not represent formal and systematic reporting behavior from the competent institution.

On the other hand, when performing the same search on the Ministry’s website, under the “Historical Transparent Government” link and, specifically, in the “search engine” available under “Acts and documents published in the Official Gazette”, we could only find *S.D. No. 64*, which establishes the conditions and requirements of the 2018 CEOL entered into with CODELCO for the exploration, extraction, and processing of lithium deposits in the Salar de Maricunga. The

documentation is difficult to access, with unfriendly technical language and incomplete but reliable information.

Lastly, the reporting regarding the 2021 CEOL tender is the most complete. This can be found on the Ministry of Mining’s site dedicated to *lithium tender processes*, where it is possible to access the technical terms, *S.D. No. 23*, and its exempt resolutions, both regarding *BYD Chile SpA* as well as *Servicios y Operaciones Mineras del Norte S.A.* However, this information cannot be accessed directly from the Ministry’s official site, and the documentation is not very user-friendly, but it is complete and reliable.

Lithium mining in the Salar de Atacama, Antofagasta Region.
Photo: Terram Foundation | Cristóbal Moreno S.



2.2 Operations

2.2.1 Scope

Chile's current geological potential for lithium mining includes 45 salt flats and 18 salt lakes. The Salar de Atacama alone contains 90% of the country's lithium reserves and also the best conditions in the world for mining this mineral, due to its high concentration (average of approximately 2,000 ppm), the low lithium/magnesium ratio, and high evaporation rates from radiation and low rainfall (Ministry of Mining, 2023).

This high Andean wetland located in the driest desert on the planet, from which it receives its name, is a highly biodiverse and extremely fragile ecosystem inhabited by several endemic and emblematic species that depend on its complex hydrological network¹¹.

Various indigenous communities live in the basin and have practiced their traditional and economic activities there for centuries, including the Atacameño or Lickanantay people, whose communities have come together as the *Council of Atacameño Peoples (CPA)* (Gundermann & Göbel, 2018), an organization that brings together eighteen indigenous communities whose objective has been to preserve and promote the culture and values of the Atacameño people. This has led them to become a relevant stakeholder in the resistance to and

visibility of the mining impacts the lithium industry has had in this area.

As a result of the mining contracts CORFO has signed with private companies (reviewed in the "Contracts" section above), at present only two companies extract lithium in Chile, jointly with potassium salts: SQM S.A., owned by Chilean and Chinese capital, which operates in the eastern part of the Salar de Atacama, and the U.S. mining company Albemarle, which has its operations in the southeastern part of the same salt flat. Likewise, the "Blanco" Project is being developed in the Salar de Maricunga, which has an approved RCA but is not in the operation phase. This project was recently entirely acquired by the state-owned copper company CODELCO¹².

Given this scenario, our analysis of the operations stage assesses information available in four different subcategories: permits, production, trade, and environmental oversight and legal compliance. The scope of the information assessed for each of these is as follows:

- a) **Permits:** this includes information available on the authorizations required to begin the process of lithium production/mining in Chile's salt

¹¹ For more information, see the article "Salt flats and lithium in fragile ecosystems", published by CIPER on July 10, 2023. Available at: <https://www.ciperchile.cl/2023/07/10/salares-y-litio-en-ecosistemas-fragiles/>

¹² For more information, see the article "CODELCO acquires 100% of Australian company Lithium Power International (LPI) for \$244 million USD" published by El Mostrador on October 18, 2023. Available at: <https://www.elmostrador.cl/mercados/2023/10/18/codelco-adquiere-100-de-australiana-lithium-power-international-lpi-por-us-244-millones/>

flats, including environmental permits granted by the SEA, water rights that companies apply for and use in mining operations, biodiversity management plans in existing protected areas in the salt flats, and indigenous consultations associated with lithium projects.

b) Production: this includes information on mining property for companies to explore and extract lithium, production levels of lithium elements or compounds and their derivatives (lithium carbonate, lithium chloride, lithium hydroxide), and their authorized trade quotas.

c) Trade: this considers the amount of ore exported, sales prices, and destination markets.

d) Environmental oversight and legal compliance:

this reviews the information available on environmental oversight files and sanctioning processes of lithium mining operations in the salt flats handled by the Superintendency of the Environment (SMA), and any legal proceedings filed against lithium companies in the Environmental Courts.

Details regarding the institutions and/or organizations with competence in this area, as well as the type of information assessed, and its scope are shown in the following table:

Table 9: Scope of information to be assessed in the operations stage

| Value chain stage | Subcategory | Partner institutions | Type of information to be assessed | Scope |
|-------------------|--|----------------------|--|---|
| Operations | 1) Permits | SEA | 1) Environmental Impact Assessments (EIA) and Environmental Impact Statements (DIA) | • EIA File - SQM / Albemarle / CODELCO (Blanco Project) |
| | | DGA | 2) Water use permits | • Water rights - SQM / Albemarle / CODELCO (Blanco Project) |
| | | CONAF | 3) Management plans for protected areas constituted in salt flats with lithium operations | • Management Plan for Los Flamencos National Reserve (Salar de Atacama) • Management Plan for Nevado de Tres Cruces National Park (Salar de Maricunga) |
| | | MMA | 4) Indigenous Consultation | • Indigenous Consultation File - SQM / Albemarle / CODELCO (Blanco Project) |
| | 2) Production | SERNAGEOMIN | 5) Exploration and mining concessions for lithium companies | • Statistics on exploration concessions for lithium companies (SQM / Albemarle). |
| | | | 6) Production levels of lithium compounds (lithium chloride, carbonate, and hydroxide, among others) | • Statistics on mining concessions of lithium companies (SQM / Albemarle) • Statistics on production statistics by lithium compounds. |
| | | CCHEN | 7) Trade quotas for lithium compounds | • Statistics on trade quotas of lithium compounds |
| | 3) Trade | CUSTOMS | 8) Amount of ore exported | • Statistics on lithium compound exports |
| | | | 9) Sales prices | • Statistics on lithium compound sales prices |
| | | | 10) Destination markets | • Statistics on destination markets |
| | 4) Environmental oversight and legal compliance | SMA (SNIFA) | 11) Environmental oversight of lithium operations | • Oversight file - SQM / Albemarle • Sanctioning file - SQM / Albemarle |
| | | Environmental Courts | 12) Judicialization of lithium operations | • Legal file - SQM /Albemarle |

2.2.2 Main findings

Overall, as shown in Table 10, the “Operations” stage displays a high level of transparency with a total score of 8.7. Of the four subcategories assessed, “Environmental oversight and legal compliance” has the best reporting (score of 9.5), under the SMA and the Environmental Courts. Likewise, the “Trade” dimension overseen by the National Customs Service (ADUANA) displays a high level of reporting and access to information on the lithium trade (score of 9).

Regarding the “Production” subcategory, the Chilean Nuclear Energy Commission (CCHEN) displays a high level of reporting (score of 10) for documentation authorizing lithium mining quotas. SERNAGEOMIN has accessible and quality

information on mining concessions (score of 7) and lithium production (score of 9).

Lastly, in the “Permits” dimension, the National Forest Corporation (CONAF) stands out regarding protected wilderness area management plans related to salt flats undergoing lithium exploration and/or extraction (score of 10), followed by the SEA with information regarding environmental permits (score of 8) and indigenous consultation processes (score of 6), and, finally, the General Water Directorate’s (DGA) reporting on the water rights held by the lithium industry (score of 6).

The analysis of each subcategory and the score obtained for access to and quality of information is presented below:

Table 10: Assessment rubric for transparency in the operations stage

| Types of information to be assessed | Accessibility | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Score |
|--|---------------|---|----------------|--------------|-------------|------------|
| Permits | 1,4 | 1,1 | 1,7 | 1,7 | 1,7 | 7,5 |
| Production | 2 | 1,3 | 2 | 1,3 | 2 | 8,7 |
| Trade | 2 | 2 | 2 | 1 | 2 | 9 |
| Environmental oversight and legal compliance | 2 | 1,5 | 2 | 2 | 2 | 9,5 |
| Total | 1,9 | 1,5 | 1,9 | 1,5 | 1,9 | 8,7 |

Permits

As mentioned above, one of the dimensions assessed in this subcategory is environmental permits. The SEA is in charge of the Environmental Impact Assessment System (SEIA), a management instrument regulated by Act No. 19,300 on the General Bases of the Environment and its amendments as well as the regulations of the SEIA, Supreme Decree No. 40 of 2012. The SEIA has two instruments for the environmental assessment of projects: the Environmental Impact Statement (DIA), which is used for minor projects or project modifications, and the Environmental Impact Assessment (EIA), which is used to assess the more significant impacts of larger projects, considering that the latter include mandatory citizen participation. Both instruments (DIA and EIA) determine whether the environmental impact of an activity or project complies with current regulations and grant an RCA allowing the activity to be carried out. Environmental assessment processes have been regulated in Chile since April 3, 1997, and, at present, the procedure is processed electronically through the *e-SEIA*.

Regarding the analysis of the **Indigenous Peoples Consultation Processes** (PCPI), the scope assessed will be limited to the environmental processing of projects related to lithium operations. Regarding this point, it is important to bear in mind that “indigenous consultation” in Chile has been regulated since 2013 by S.D. No. 66¹³ which approves the regulations governing the indigenous consultation process defined in Article No. 6 of Convention 169 of the International Labor

Organization (ILO). Broadly speaking, the decree does not designate a public body to be responsible for the consultation process. Thus, responsibility for consulting indigenous peoples will depend on the public body that implements administrative or legislative measures that may directly affect them (policies, laws and regulations, administrative acts, etc.). Therefore, given the wide range of actions subject to consultation, the analysis will only focus on the environmental processing of projects and the information provided by SEA will be reviewed.

Furthermore, the **DGA** is the government agency in charge of overseeing balance and harmony in the use of land waters, while promoting and strengthening governance of water and safeguarding its preservation and availability for people in terms of quantity. Since 1969, the DGA has been responsible for managing and registering constituted and reported water rights, as well as any transfers of the exercise of this right, changes in catchment and supply points, and the transfers or transmissions reported by right holders. Under this authority, this institution is responsible for registering the water rights reported by the mining industry in general and other productive sectors as well.

Lastly, **CONAF** is a private law entity under the Ministry of Agriculture that was created in 1973. It is responsible for Chile’s forestry policy and the productive development of the sector, as well as the administration of the National System of State Protected Areas (SNASPE). In this role, CONAF is in charge of the design and implementation of

¹³ For more information, see Decree No. 66 of 2013 that “Approves the regulations governing the indigenous consultation procedure under Article 6, No. 1, letter a) and No. 2 of Convention 169 of the International Labour Organization. Available at: <https://www.bcn.cl/leychile/navegar?idNorma=1059961>

management plans for each of the protected areas that are part of SNASPE.

Thus, with this in mind, information was reviewed that was available in the aforementioned institutions and related to “permits” authorizing lithium operation. In terms of environmental permits, the SEA’s website has a direct *search engine for projects* undergoing environmental assessment, which presents different search criteria and provides a clear documentary record of the states of assessment. Available information for the projects that have environmentally been assessed or are under assessment for the operations of SQM, Albemarle, and the “Blanco Project”, is difficult to access, mainly due to the use of filters and that there is access to all lithium projects related to each company, with extensive and technical documentation that is not very understandable for the public. Nevertheless, it is up-to-date, complete, and reliable.

Regarding PCPI information, the SEA website also has a banner to access the *“Portal for Citizen Participation and Indigenous Consultation”*. This provides a direct link to the consultation processes with indigenous peoples with a record of the projects with PCPI in process or that have been completed. For SQM, it has been identified that there is an ongoing PCPI process, and the “Blanco Project” has been completed. The file for both is easy to access, with complete, up-to-date, and reliable information; however, the format of the PCPI record is only moderately user-friendly. For Albemarle, no indigenous consultation processes have been identified, despite the fact that it has several projects with approved RCAs.

Regarding the water rights reported by lithium companies, the DGA website provides a direct link to *“Water Rights Consultations”*, where there is a registry by region of each of the rights granted and/or voluntarily reported by third parties. An Excel file needs to be downloaded to review this regional information, where a database is shown with relevant information on rights holders and their characteristics. For SQM and Albemarle, their water rights registry is easy to access, with complete, up-to-date, and reliable information; however, the registry format is moderately user-friendly, with technical information that is not very understandable. The Blanco Project has no water rights records for the Atacama Region.

CONAF has a link on its website titled *“National Parks”*, where different relevant information on the management of protected wilderness areas is displayed. Reference is made to the *“Rules and Regulations”*, with access to the “Management Plans” of the protected areas grouped according to their protection category (national parks, national reserves, natural monuments, and natural monuments). The *Los Flamencos National Reserve*, which is located in the Salar de Atacama, as well as the *Nevado de Tres Cruces National Park*, which lies on part of the Salar de Maricunga, have their respective management plans with easy access and high-quality information.

Production

The *National Service of Geology and Mining (SERNAGEOMIN)* is a technical agency responsible for generating, maintaining, and disseminating information on basic geology and geological

resources and hazards in Chile. Its authority over mining pertains to the regulation and/or oversight of compliance with regulations on safety, mining property, and closure plans, as well as producing and disseminating information on the mining industry, including the recording of mining production statistics for the country. For the purposes of the study, mining property registries and production statistics for metallic and non-metallic mining are available on its website.

The *Chilean Nuclear Energy Commission (CCHEN)* is also a technical public agency responsible for regulating, authorizing, and supervising nuclear and radioactive sources and their operators throughout the country. With the declaration of lithium as a substance of nuclear interest in 1975, the institution is responsible for authorizing its extraction, and has the authority to issue quotas for the extraction and trade of lithium and its compounds to interested parties (Poveda, 2019).

Regarding **mining concessions**, it should be noted that in 2022, SQM had an area of 2,687,630 hectares of mining concessions, 16.2% of the total national area under concession, making it the company with the largest surface area under concession in Chile. This surpasses even the state-owned CODELCO and Escondida Mine, the largest copper producers in Chile, which follow it with a much smaller share of 6% and 3% (SERNAGEOMIN, 2023). In fact, despite its non-metallic mining business model, SQM is the primary owner of the total number of mineral holdings granted under a legal framework that mainly regulates mining rights for metallic mining.

Given the importance of this, the SERNAGEOMIN website was reviewed to examine the information available on the exploration and mining concessions of SQM and Albemarle. There is a clearly accessible banner titled *"Mining"*, where information on mining property is available through the *"Online Mining Concession Registry"*. This virtual resource presents a geo-referenced map with a search engine to identify the mining concessions granted by the Mining Code of 1932 and 1983, and the exploration concessions corresponding to the Mining Code of 1983. Even though it was possible to access the number of exploration and mining concessions for both companies via the described search path and with a filter for "name of the title holder", and which was up-to-date and reliable, the platform was not very user-friendly and does not feature complete information (such as the leased surface area).

Regarding the availability of information on the production of lithium compounds, SERNAGEOMIN displays a section on "Mining Statistics" under its "Mining" access banner, where it is possible to review the *"Yearly Reports on Mining in Chile"* created by this institution. These are available from 2007 to the present date, and there is a chapter on "mining production" that describes the different lithium compounds produced in Chile, with time series and at the regional level as well. This information is easy to access, user-friendly, up-to-date, and reliable, but incomplete because it does not present a breakdown at the company level. Terram Fundación¹⁴ asked SERNAGEOMIN for information by company through the Public Information Access Act (Act No. 20,285);¹⁵ however,

¹⁴ For more information, please see requests No. AS004T0004420 and No. AS004T0004421 dated September 08, 2021, addressed to SERNAGEOMIN.

¹⁵ For more information, see Act No. 20,285 of 2008, "On access to public information". Available at: <https://www.bcn.cl/leychile/navegar?idNorma=276363>

the institution denied the request since it is subject to “statistical secrecy”, a fundamental principle governing public statistics that makes it possible to generate trust in informants, according to the provisions of Article 29 of Organic Act No. 17,374¹⁶ that creates the National Institute of Statistics.

Lastly, the CCHEN has a section on its website titled “*Board of Directors*”. This site contains a historical document record from 2009 to date of each of the agreements entered into on lithium matters and identifies the records that authorize the mining quotas for SQM and Albemarle. This information is easily accessible and of high quality.

Planta de procesamiento de litio de Albemarle, Región de Antofagasta.

Photo: Terram Foundation | Cristóbal Moreno S.



¹⁶ For more information, see Act No. 17,374 of 1970. Available at: <https://bcn.cl/2nlkk>

Trade

The *National Customs Service* is an agency with competence in foreign trade matters, facilitating import and export operations, along with customs processing and procedures. Regarding oversight of these operations, this agency ensures compliance with related rights and taxes and supervises the entry of goods that may be considered hazardous. For lithium, this is the competent institution for supervising lithium compound exports along with keeping a statistical record of exported values and volumes.

In this regard, the Customs web site has a link titled “*Comex Statistics*”, where the “Statistics by subject” section can be reviewed under the section “*Exports*”, a record since 2018 of lithium exports specifying exported values (USD amount FOB), volumes (tons), and destination markets. The information is easy to access (different tools are used to report the same information), understandable, up-to-date, and reliable; however, it is incomplete because the data is not disaggregated by type of lithium compound and company.

Environmental oversight and legal compliance

Superintendency of the Environment (SMA) was approved to be created in the 2010 reform of environmental institutions and began operating in 2013. The SMA is the agency in charge of monitoring and overseeing RCAs, measures of the Environmental Prevention and/or Decontamination Plans (PPDA), the content of the Environmental Quality Standards and Emission Standards, when applicable, as well as all other instruments established by environmental law. The SMA has carried out intense work in the oversight (with the respective sanctions, as the case may be) of compliance with the environmental commitments of the companies operating in the Salar de Atacama and has opened up cases against both SQM¹⁷ and Albemarle¹⁸.

With this in mind, the SMA’s website was reviewed, where there is a “Search Engine for Auditable Units” that redirects to the “*National Environmental Auditing Information System (SNIFA)*”, which displays a section “*Oversight*” and “*Sanctioning Procedures*”. In both sections there is a search engine that allows for filtering by “Headlines” (SQM and Albemarle were filtered); in this way, it is possible to access the file of the inspection and sanctioning processes filed by both companies. This information is accessible and of high quality.

¹⁷ SMA approves compliance program that requires SQM Salar to take measures for over 46 billion Chilean pesos. (August 30, 2022). SMA Portal. Available at <https://portal.sma.gob.cl/index.php/2022/08/30/sma-aprueba-programa-de-cumplimiento-que-exige-a-sqm-salar-medidas-por-mas-de-46-000-millones-de-pesos/>

¹⁸ After Brine Overextraction: SMA Files Sanctioning Procedure Against Minera Albemarle. (March 11, 2022). SMA Portal. Available at: <https://portal.sma.gob.cl/index.php/2022/03/11/tras-sobreextraccion-de-salmuera-sma-abre-procedimiento-sancionatorio-contra-minera-albemarle/>

On the other hand, the **Environmental Courts** are jurisdictional public entities whose purpose is to exercise justice in the resolution of controversies related to the environment. There are currently three courts covering the jurisdictional areas of the northern, central, and southern regions of the country, with the First Environmental Court based in Antofagasta, the 2nd in Santiago, and the 3rd in the city of Valdivia. The *First Environmental Court* has been responsible for reviewing environmental controversies displayed by the lithium industry, such as those presented by the CPA as part of the preparation of the Environmental Compliance Plan

(PDC) that was required of SQM by the SMA due to their environmental violations¹⁹.

The *Environmental Court's website* has a section titled "Case Management" which contains the "*electronic file*" of each judicial proceeding in process. It has a filter entitled "search by", which makes it possible to search for a company by its legal corporate name. In fact, when searching for "SQM" files, it was possible to quickly access the file of *case R-155-2017*, which contained high quality information.

2.3 Payments and taxes

2.3.1 Scope

In general terms, the state has a wide range of tax and non-tax instruments that allows it to capture and appropriate a substantial part of the income generated by mining activities. Thus, the **primary fiscal contributions that lithium mining currently makes to the central and local governments, as well as local communities**, can be classified into three greater channels of collection: (i) the first, related to the different tax instruments levied on the mining activity, considering among these the First-Category Income Tax (IDPC), which in general applies to any type of company, the Additional Tax (IA) that applies to companies that send their profits abroad, and the Specific Mining

Tax (IEAM), among other levies such as the Value-Added Tax (VAT) (SII, 2018; Cerda, 2019); (ii) as a second channel of collection, there are the non-tax instruments specified in the mining legal framework, as is the case of the payment of mining licenses for concession rights, and royalties or sales commissions specified in the contracts signed by CORFO with SQM and Albemarle; (iii) finally, in the most recent amendments to the contracts signed with the companies, direct contributions from the companies are established for local communities and for research and development (R&D) processes (Poveda, 2020).

¹⁹ For further information, see: SQM evaluates legal action after adverse ruling by the First Environmental Court. (December 30, 2019). Soy Chile. Available at: <https://www.soychile.cl/Calama/Sociedad/2019/12/28/632142/Calama-SQM-evalua-acciones-judiciales-tras-fallo-adverso-del-Primer-Tribunal-Ambiental.aspx>

Within this framework, the “Payments and taxes” stage presents three subcategories of information analysis. The first, “Prices and costs of lithium compounds”, aims to reveal the availability of information on relevant market indicators to determine the fiscal contributions of the industry. The second, “Taxes”, reviews the information on the payments made by the lithium mining companies

for IEAM, IDPC, IA, as well as the VAT export credit benefit. Finally, the “payments” subcategory focuses on the sector’s non-tax contributions related to the payment of mining licenses and direct contributions established in CORFO contracts with the companies.

The competent institutions and/or agencies in the matter, as well as the type of information assessed and its scope, are detailed in the following table:

Table 11: Scope of information to be assessed in the payments and taxes stage

| Value chain stage | Subcategory | Partner institutions | Type of information to be assessed | Scope |
|--------------------|---|---|---|--|
| Payments and Taxes | 1) Prices and costs of lithium compounds | COCHILCO | 1) Production costs | • Statistics on production costs of lithium compounds. |
| | | | 2) Lithium compound prices | • Statistics on prices in international lithium compound markets. |
| | 2) Taxes | General Treasury of the Republic (TGR) / Internal Revenue Service (SII) / Budget Directorate (DIPRES) | 3) IEAM | • Statistics on IEAM of lithium companies. |
| | | | 4) First-category tax (IDPC) | • Statistics on first-category tax of lithium companies. |
| | | | 5) IA | • Statistics on IA of lithium-producing companies. |
| | | | 6) VAT Export Credit Benefit | • Statistics on the VAT Export Credit Benefit for lithium companies. |
| | 3) Payments | TGR / SII | 7) Payment of licenses for mining concessions | • Statistics on mining license payments by lithium companies. |
| | | CORFO | 8) Contributions from sales commissions | • Statistics on contributions from sales commissions by lithium companies. |
| | | | 9) Contributions to communities | • Statistics on contributions to communities by lithium companies. |
| | | | 10) R&D Contributions | • Statistics on R&D contributions from lithium companies. |

2.3.2 Main findings

In general terms, as shown in Table 12, the “Payments and taxes” stage presents a low level of transparency with a total score of 2.7. Of the three subcategories evaluated, the only one that reports information (score of 8) is “Prices and costs of lithium compounds”, where the Chilean Copper Commission (COCHILCO) has “reference” information on the market price of lithium compounds and, in general, on the industry’s operating costs.

Regarding the “Taxes” and “Payments” subcategories, the TGR, the Internal Revenue Service (SII), the General Budget Directorate (DIPRES), and CORFO do not report information on tax contributions made by lithium companies.

The analysis of each subcategory and the score obtained for access to and quality of information is presented below:

Table 12: Assessment rubric for transparency in the payments and taxes stage

| Types of information to be assessed | Accessibility | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Score |
|---------------------------------------|---------------|---|----------------|--------------|-------------|------------|
| Prices and costs of lithium compounds | 2 | 2 | 2 | 1 | 1 | 8 |
| Taxes | 0 | 0 | 0 | 0 | 0 | 0 |
| Payments | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 0,7 | 0,7 | 0,7 | 0,3 | 0,3 | 2,7 |

Prices and costs of lithium compounds

As mentioned above, the behavior of market prices and production costs provide a reference of the operating margin of lithium mining. In this regard, it is important to bear in mind that the lithium market shows a lack of transparency in its prices, since it is mostly not traded on the stock exchange. Thus, setting of its prices is the result of negotiations between producers and consumers,

which has led to differences between the market prices of lithium carbonate and the prices implicit in the FOB value of lithium exports, which average 58% in Argentina and 21% in Chile for the 2010-2020 period (Jorrat, 2022). On the other hand, companies (lithium mining companies, in this case) do not regularly publish their production costs because this involves confidential trade information.

With these considerations in mind, COCHILCO has been making an effort to publish *market information on the lithium industry* since 2013 and, was doing so on and off until 2023. In its “Lithium Market” studies, which are easily accessible, comprehensive, and up-to-date, it presents information on the behavior of benchmark lithium carbonate and hydroxide prices (thousands of USD/ton, CIF), and shows comparative production cost ranges for both carbonate and hydroxide production from brines and from rock ore. For both prices and costs, there is no information with identifiable time series. Additionally, in its *“Yearly Report of Copper and Other Minerals Statistics”*, it presents information on technical grade lithium carbonate reference prices, which is easily accessible and of high quality.



Albemarle facilities in the Salar de Atacama, Antofagasta Region.

Photo: Terram Foundation | Cristóbal Moreno S.

Taxes

The tax framework for the lithium industry is mainly composed of the first-category tax (IDPC), IEAM, IA, and refunds due to “Export VAT refund”, among others (SII, 2018). However, the information related to the payment or benefit thereof by the companies SQM and Albemarle is subject to tax secrecy, which prevents the institutions with tax authority (TGR and SII) from disclosing the amount or source of income, losses, expenses, or any data related thereto; this is expressly prohibited due to the duty of tax secrecy established in the second

paragraph of Article 35 of the Tax Code²⁰, which is a qualified quorum regulation. In view of this general restriction, several studies on the subject have already highlighted the large reporting and fiscal transparency gaps of the lithium industry in Chile (Jorrat, 2022; Yurisch & Martínez, 2022; CFA, 2023).

A review of the information provided by the institutions with tax jurisdiction, including the TGR, the SII, and DIPRES, revealed that there is no public information on the taxation of the lithium sector.

²⁰ For further information, please see Decree Law No. 830 of 1974, Tax Code, and its amendments available at: <https://www.bcn.cl/leychile/navegar?idNorma=6374>

The TGR's website and yearly reports (available starting in 2001) on the "*Public Treasury*" were reviewed. These reports feature a technical format that is not very understandable nor easy to use. This is the same situation for the information provided by the SII in its statistics on "*Annual Tax Revenues*" and DIPRES in its "*Public Finance Statistics*". In the aforementioned statistics, these institutions generally present the total taxation of the IDPC, IA, and VAT without disaggregating it at the sectoral level; regarding the IEAM, this is reported for the mining sector in general without specifying the origin of the extractive activity (copper, lithium, or other).

A fortuitous finding not evaluated, is the presentation made by the former director of the SII, Fernando Barraza, in the "*Special Commission investigating the Government's actions relating to the origin and adoption of the agreement between CORFO and SQM, on the mining of lithium in the Salar de Atacama, and its implementation*" of the Chamber of Deputies in December 2018, where he exposed the tax behavior of companies mining lithium in Chile for the years 2015, 2016, and 2017. This information was not assessed, since it does not represent formal and systematic reporting behavior by the competent institutions.

Payments

According to the above, there is a second channel of tax collection related to non-tax instruments applied to the sector, including the payment of licenses for the protection of exploration and mining concessions, and the contributions specified in the renewal of CORFO contracts with the mining companies. In the latter, CORFO, with Albemarle (year 2016) and SQM (year 2018), established a staggered, progressive, and marginal sales commission, or royalty, ranging from 6.8% to 40%, depending on the FOB price of lithium carbonate and lithium hydroxide sales, as well as contributions for the communities of 3.5% of sales in the case of Albemarle and between \$10 and 15 billion USD for SQM; finally, research and development (R&D) contributions are also specified, ranging between \$6 and 12 billion USD and \$10 and 18.9 billion USD, respectively (Poveda, 2020).

Regarding the payment of mining licenses, the TGR's websites and yearly reports on the "Public Treasury" were reviewed, as well as the SII report with its statistics on "Annual Tax Revenues", and only general information could be found on the payment of mining licenses, without describing the origin of the extractive activity (copper, lithium, or other). In addition, the TGR has a specific site about *mining licenses*; however, to access information on payment of licenses, a company's taxpayer ID is asked for. Therefore, it was not possible to identify information on the payment of mining licenses corresponding to lithium mining.

Regarding the information on the contributions specified in CORFO's contracts with the companies, the institutional website was reviewed, its link to its public reports, and specifically access to the "*Financial Reports*". In these, only from the 2018 financial statement report onwards, the total revenues for lithium companies from contracts with the companies begin to be reported under the concept of "Leases of Mineral Holdings". As a result, it was not possible to access detailed information on income from sales commissions, contributions to communities, and R&D made by both companies to CORFO.

Additionally, in an open-ended search done on the Internet, it was possible to access a document sent by CORFO²¹ to the Chamber of Deputies in response to an official letter from the Communist Party congressman, Boris Barrera, where he generates a breakdown of the amounts of money the institution has transferred directly or indirectly to indigenous communities during 2018-2022 as part of the CORFO-SQM contract²². This information was not assessed, since it does not represent formal and systematic reporting behavior from the competent institution.

2.4 Accountability

2.4.1 Scope

As mentioned earlier, DIPRES reports on government operations in its *public finance statistics*, indicating the annualized budgetary and extra-budgetary components that reference central government revenues and expenditures. This report provides a general indication of the sources of income that make up the common public treasury, and reports on the expenditures that are defined year by year in the congressional discussion on the Budget Act. Therefore, at the central level, revenues from lithium mining and trade are not identified, and even less so are any expenses related to this.

Taking this into account, below the accountability will be reviewed that is displayed by regional (GORE) and local (municipal) governments regarding revenues from lithium mining, as well as related expenses, within the framework of the contracts entered into by CORFO with SQM. Likewise, regional revenues from mining licenses from lithium companies will be identified.

In addition, CORFO's reporting of R&D revenues and expenses established in the contracts with both lithium companies will be examined. Lastly,

²¹ For more information, please see Electronic Newsletter No. 288 dated August 8, 2023. Available at: https://www.camara.cl/verdoc.aspx?prmTIPO=OFICIO_FISCALIZACION_RESPUESTA&prmID=125729

²² For more information, see the article "Confidential numbers on SQM's contributions to indigenous communities of the Salar de Atacama" published by La Tercera on August 25, 2023. Available at: <https://www.latercera.com/pulso/noticia/las-cifras-reservadas-de-los-aportes-de-sqm-a-las-comunidades-indigenas-del-salar-de-atacama/704DZR6ZWBFQPLPXPAAX5PG554/>

availability of information will be reviewed that is presented by the Atacameño indigenous communities on the direct contributions made by SQM and Albemarle as part of CORFO's contracts with the lithium companies.

The competent institutions and/or agencies in the matter, as well as the type of information assessed and its scope, are detailed in the following table:

Table 13: Scope of the information to be assessed in the accountability stage

| Value chain stage | Subcategory | Partner institutions | Type of information to be assessed | Scope |
|-------------------|------------------------|---|--|---|
| Accountability | 1) Local governments | GORE of Antofagasta / National Fund for Regional Development (FNDR) | 1) Revenues and budget execution for "contributions to communities" | • Statistics on Revenues and Budget Execution for "contributions to communities" - CORFO / SQM. |
| | | Municipality of San Pedro de Atacama | | |
| | | Municipality of Antofagasta | | |
| | | Municipality of María Elena | | |
| | 2) Public institutions | GORE of Antofagasta | 2) Revenues and Budgetary Execution for "Mining License Payments" | • Statistics on Revenues and Budget Execution for "Mining License Payments". |
| | | GORE of Atacama | | |
| | 2) Public institutions | CORFO | 3) Budget execution of "contributions for research and development" | • Statistics on budget execution of "contributions for research and development" • Statistics of budget execution of "contributions for research and development" - CORFO / Albemarle. |
| 3) Communities | CPA | 4) Revenues and budget execution for "contributions to communities" | • Statistics on Revenues and Budget Execution for "contributions to communities" - CORFO / Albemarle. • Statistics on Revenues and Budget Execution for "contributions to communities" - CORFO / SQM. | |
| | Atacameño Communities | | | |

2.4.2 Main findings

In general terms, as shown in Table 14, the “Accountability” stage displays a low level of transparency with a total score of 1.1. Of the three subcategories assessed, only “Local Governments” reports information (with a score of 3.4), where SQM’s contributions, within the framework of its contracts with CORFO, are only reported by the municipalities of Antofagasta (score of 7) and María Elena (score of 10), considering that the GORE of Antofagasta has partially transparent information on these contributions and their related expenses

(score of 3.5). The GOREs of Antofagasta and Atacama do not report information on mining license payments for concessions from lithium companies.

Regarding the subcategories of “Public Institutions” and “Communities”, CORFO and local indigenous communities do not have information related to the contributions from lithium companies.

The analysis of each subcategory and the score obtained for access to and quality of information is presented below:

Table 14: Assessment rubric for transparency in the accountability stage

| Types of information to be assessed | Accessibility | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Score |
|-------------------------------------|---------------|---|----------------|--------------|-------------|------------|
| Local governments | 0,6 | 0,8 | 0,6 | 0,6 | 0,8 | 3,4 |
| Public institutions | 0 | 0 | 0 | 0 | 0 | 0 |
| Communities | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 0,2 | 0,3 | 0,2 | 0,2 | 0,3 | 1,1 |

Local governments

Within the framework of the modification to the lease contracts and CORFO-SQM project from 2018, annual contributions are established in its new clauses for communities and local governments, according to the following distribution: i) 1% of sales to GORE of Antofagasta to fund public investment projects that additionally present resources from the GORE and/or FNDR; ii) 0.3% of sales to the GORE for productive development projects and programs; iii)

0.2% of sales as a contribution to the Municipality of San Pedro de Atacama, 0.1% to the Municipality of Antofagasta to benefit the area of influence of Salar del Carmen, and 0.1% to the Municipality of María Elena (Poveda, 2020).

This subcategory of analysis also reviews revenues generated by the payment of mining licenses. Although Article 163 of the Mining Code stipulates that the value of mining licenses shall be

of exclusive fiscal benefit, through Act No. 19,143 of the Ministry of Mining, published in 1992²³, its sole article mentions that revenues from the payment of mining concession do not constitute taxes; these, in turn, must be paid at the TGR and not in the respective Municipalities (Cavada, 2018).

Act 19,143 establishes that revenue from licenses will be distributed among the country's regions and municipalities as follows:

- That 50% shall be incorporated into the corresponding annual FNDR quota in the National Budget, to the region where the Mining Conservator has its offices and in whose records the certificate of parameters or the ruling on mining concessions giving rise to the respective licenses are registered.
- The remaining 50% shall correspond to the Municipalities where the mining concessions are located²⁴, to be invested in development works in the corresponding municipality.

Considering the above, when reviewing SQM's contributions to regional and local governments, a similar reporting pattern can be observed, with common transparency problems, considering that the Municipality of María Elena represents a model to follow in terms of the treatment of revenues and expenses from lithium mining.

As for the GORE of Antofagasta, its website was reviewed, and, given the nature of the search -revenues and expenses of SQM's contributions-, its annual "Financial Statements", available from 2018 to date were examined, and the "Management Control Reports", which present a quarterly reporting available only for the 1st and 2nd quarters of 2023, where it was not possible to find information on revenue and expenses related to SQM's direct contributions under the contract with CORFO. However, upon reviewing the institutional website, specifically under its "Active Transparency" link, under the search "contributions to CORFO and SQM communities". Resolution No. 41 dated April 29, 2020 was found, which approves the "contribution agreement between SQM Salar S.A. and GORE of Antofagasta", specifying the amounts contributed by the company to the regional public entity only for the years 2018 and 2019, also mentioning that future contributions will be subject to one or more successive agreements (which were not found under the same search criteria). This information is moderately accessible, not up-to-date, and incomplete for the years reviewed, considering that it is user-friendly and reliable, and that it only shows revenue - contributions - without being able to find information on related expenses.

Regarding the municipalities, when reviewing the **Municipality of San Pedro de Atacama's** information on its "Public Accounts" on its website, available from 2007 to date, specifically in relation to its budget execution and financial statements,

²³ For more information, see Act 19,143 of the Ministry of Mining published in 1992, which "Establishes the distribution of revenue from licenses for mining concessions, referred to in paragraphs 1 and 2 of Title X of the Mining Code". Available at: <https://www.bcn.cl/leychile/navegar?idLey=19143>

²⁴ In the event that an exploration concession or a mining concession is located in the territory of two or more municipalities, the respective municipalities must determine, among them, the proportion in which they will receive the amount equal to the license corresponding to the exploration concession or mining concession in question, thus prorating the amount according to the surface area covered by one or the other concession, in each municipality (sole article of Act No. 19,143 of the Ministry of Mining).

as well as the “Active Transparency” link where a chapter of budgetary information is presented that has “allocated budgets and their modifications” for each year and quarterly “budget execution balances”, in its descriptions of revenue and expenses there is no reference to the contributions of SQM established by the contract with CORFO, despite the latter notifying that the parties signed an agreement at the end of 2019 for the delivery of these resources²⁵.

The **Municipality of Antofagasta** shows the same financial reporting pattern by displaying its “*Public Accounts*” on its website, as well as access to the allocated budget and its execution under the “*Active Transparency*” link. Here, there is no reference made to revenues and expenses linked

to contributions from SQM except in the public account from 2022 where the public investment project “Plaza El Salar” is related to CORFO - SQM financing. Coincidentally, when performing an open search in its “Active Transparency” link, under “SQM agreement”. Decree No. 1032 dated September 10, 2020 was found, approving the “*Contribution Agreement*” between SQM Salar S.A. and the municipality, where the framework for delivery of these resources is defined and only the contribution corresponding to the year 2019 is indicated, specifying its use in the item “Construction Plaza El Salar”. For subsequent years, no information or new agreements on the matter were found. Therefore, the information evaluated is moderately accessible, not up-to-date, and incomplete for the years reviewed, although it is user-friendly and reliable.

Municipality of San Pedro de Atacama, Antofagasta Region.

Photo: Terram Foundation | Cristóbal Moreno



²⁵ For more information, please review the press release “CORFO, SQM, and Municipalities sign agreements to finalize first delivery of resources agreed to in Salar de Atacama contract” published by CORFO on November 30, 2019. Available at: https://www.corfo.cl/sites/cpp/sala_de_prensa/nacional/convenio_recurso_atacama

Finally, the **Municipality of María Elena** represents a model to follow in terms of reporting revenues and expenses from lithium mining. By accessing the “Active Transparency” link, a historical record of its **“Public Accounts”** can be reviewed, and of its **“Allocated Budgets and their Execution”**, where, starting with the 2020 public account and the 2021 budget, revenue and expenses related to lithium mining are recorded under the concept of “Lithium Funds”. As stated in its 2020 public account, that same year a “Contribution Agreement between SQM SALAR S.A. and the Municipality of María Elena” was approved in the presence of CORFO (which is not available), and within this framework, the concept of “Lithium Funds” was created. This considers the investments made with revenues from lithium mining in the region, which would be intended for investment in areas that entail development for the municipality. In this sense, the information provided is accessible and of high quality.

Moreover, regarding payment of mining licenses for lithium concessions, both the GORE of **Antofagasta** and GORE of **Atacama** (regional governments with lithium projects with approved RCAs) display an “Active Transparency” link on their websites where their “Allocated budget and its execution” can be reviewed. In both cases, this link redirects site visitors to the **lone DIPRES website**, which shows the budgetary execution for all regions of the country. General revenues from “Mining Licenses” (under the aforementioned Act. 19,143) are indicated in the budgetary execution reports from each GORE provided by DIPRES, but the origin of the extractive activity is not described (copper, lithium, or other). As a result, it was not possible to access information on the payment of mining licenses corresponding to lithium mining or related expenses.

Public Institutions

As already mentioned throughout this document, and as part of the renewal of CORFO contracts with SQM and Albemarle, a clause was established to fund technological research and development entities geared towards innovation in solar energy, lithium salt flats or products from the Salar de Atacama, and in metallic or non-metallic mining in general. In the case of Albemarle, annual contributions are established starting at \$6 billion USD in 2017 and reaching \$12.4 billion USD in 2043 (end of the contract); on the other hand, SQM presents annual contributions starting at \$10.7 billion USD in 2018 and reaching \$18.9 billion USD in 2030, considering that 10% of these amounts will remain in CORFO for research purposes (Poveda, 2020).

According to Poveda (2020), SQM’s R&D contributions are intended to co-finance the implementation of the **“Clean Technologies Institute”**, which will promote the development of solar energy, low-emission mining, and advanced lithium and other mineral materials, with funding of \$193.5 billion USD for the 2020-2030 period. As for the resources generated by Albemarle, part of them will be used to finance the “Technology Center for Circular Economy”, which will have a budget of \$21 billion USD for the next 10 years, of which \$10 billion USD will come from the fulfillment of the R&D clause of the CORFO - Albemarle contract.

That said, when reviewing CORFO’s website, especially its **“Financial Reports”**, there is no information to be found on revenue related to the R&D clauses established in the contracts with the lithium companies. Regarding related expenses, part of the revenue generated would co-finance

the implementation of the aforementioned centers; however, there is no annual information on the actual contributions to R&D made due to these contracts. Lastly, reference is only made in the financial statements from 2018 and 2022 refer to the amount available for the future payments to the available amount for future payments for R&D projects, according to what is stipulated in the SQM contract (10% contribution for specific R&D use), which does not constitute formal and systematic reporting under the presented assessment criteria.

Communities

At the national level, the lithium industry has incorporated a “new model” of collaboration and relations with local communities that is demonstrated through the direct transfers of money to these communities. In the case of Albemarle, as part of its modification of its lease agreement with CORFO, in 2016 it signed an agreement with the CPA establishing an annual contribution of 3.5% of its lithium carbonate and potassium chloride sales for the Atacameño communities. This is based on the “collaboration” model established by the company with the Peine Community (the closest to operations) in 2012 and the dialogue protocol established with the Atacameño communities in 2014 (Poveda, 2020).

The availability of these resources is subject to the preparation of “Development Plans” by the communities, given that the CPA distributes the 3% into equal parts among the 18 communities that make up the Council, and the remaining 0.5% is allocated to the organization for laboratories, monitoring instruments, and administrative expenses. Likewise, the agreement stipulates that

each community must hand over a record of their respective assemblies approving the investment budget and project portfolio to the CPA in January of every year, so that then the company can move forward with the delivery of these contributions. Finally, during the month of December, both the communities and the CPA prepare an audited technical report detailing the activities and projects financed (Poveda, 2020).

SQM and CORFO also take this new “collaboration model” as a reference. In their 2018 contract renewal, they incorporate a clause with annual contributions ranging from \$10 to 15 billion USD. These funds are to be used for the execution of investment and development projects that promote the sustainable development of the Atacameño communities inhabiting the Salar de Atacama basin and is channeled through foundations or organizations that encourage investments in the indigenous development of Atacama La Grande (Poveda, 2020). For this purpose, CORFO determined that 21 indigenous communities (registered with CONADI) were eligible to receive the contributions, considering that only 19 of them signed an agreement with the public entity establishing the purposes and goals for their use (CORFO, 2023).

The distribution of these contributions is based on three criteria: i) 50% of the contributions are distributed equally among the communities that sign the agreement with CORFO; ii) 40% of these contributions are distributed in proportion to the number of members in each community; and iii) the remaining 10% is distributed according to the distance of the community from SQM’s operations (CORFO, 2023).

However, when reviewing the availability of information on company contributions to Atacameño communities, at the beginning of 2024, the *CPA on its website* does not report information on the agreements and direct contributions made by the company Albemarle under the contract with CORFO. As for the communities eligible for SQM contributions, in general they do not have a website that reports on the organization of the community, which is to be expected. Thus, an open-ended search on the Internet was conducted on the reporting of the contributions received by each of the 19 communities (CORFO, 2023) and no information was found. As already reported in the analysis of the

“Payments and taxes” section, a document²⁶ issued by CORFO can be accessed on the Internet where the amounts transferred by SQM to the communities for the years 2018-2022 are indicated. However, this is not a reporting exercise by the communities.

Lastly, it is important to bear in mind that the analysis from this section (communities) does not aim to assess the communities’ behavior nor impact their total right to self-determination and autonomy in establishing mechanisms for their relations with companies. Rather, it aims to identify how information is handled, and, thus, the transparency displayed by the Chilean lithium industry.

Headquarters of the Council of Atacameño Peoples (CPA) in San Pedro de Atacama, Antofagasta Region.

Photo: Terram Foundation | Cristóbal Moreno S.



²⁶ For more information, please see Electronic Memorandum No. 288 dated August 8, 2023. Available at: https://www.camara.cl/verdoc.aspx?prmTIPO=OFICIO_FISCALIZACION_RESPUESTA&prmID=125729

3. Voluntary reporting

3.1 Scope

This category will assess the degree of transparency of information displayed publicly by the lithium mining companies SQM and Albemarle, which are currently operating in the Salar de Atacama. In fact, their websites, Yearly Reports, Sustainability Reports, Financial Reports, and other documents will be reviewed that contain information related to contracts, operations, and payments and taxes. In addition, the IRMA (Initiative for Responsible Mining Assurance) standard was reviewed for **SQM** and **Albemarle**. However, because the companies themselves decide whether to subject themselves to this and report to external entities, it was decided not to include this review, since the audit reports only make a diagnosis of what was found but do not provide the information assessed.

This category will evaluate the degree of transparency of information that is made publicly available by the companies SQM and Albemarle, which is grouped into the following stages:

- a) Contracts:** This includes information on the contracts between the companies and CORFO and on the CEOs in the case of SQM.
- b) Operations:** This includes information on permits, including EIAs, water use permits, and indigenous consultation. It also includes production information such as exploration and mining concessions, as well as production levels of lithium compounds (lithium chloride, carbonate, and hydroxide). In the case of trade, it includes information on the amount of ore exported and its destination markets. Finally, environmental oversight and legal compliance includes information on environmental oversight and prosecution of lithium operations.
- c) Payments and Taxes:** It includes information on prices and costs of lithium compounds, as well as taxes, including IEAM, IDPC, IA, and the VAT Export Credit Benefit. Payments include the payment of mining licenses, contributions from sales commissions (royalty), contributions to communities, and R&D contributions.

Table 15: Scope of information to be assessed for lithium companies

| Value chain stage | Subcategory | Type of information to be assessed | Scope |
|---------------------------------|--|--|---|
| Contracts | 1) Contracts | 1) Project and/or lease contracts | • Contract and lease document. |
| | | 2) CEOL | • SQM CEOL document. |
| Operations | 2) Permits | 3) EIA and DIA | • Environmental Qualification Resolution (RCA). |
| | | 4) Water use permits | • Water rights. |
| | | 5) Indigenous Consultation | • Indigenous consultation file. |
| | 3) Production | 6) Exploration and mining concessions | • Exploration concessions for lithium companies. • Mining concessions for lithium companies. |
| | | 7) Production levels of lithium compounds (lithium chloride, carbonate, and hydroxide) | • Statistics on production of lithium compounds. |
| | 4) Trade | 8) Quantity of ore exported | • Statistics on exports of lithium compounds. |
| | | 9) Destination market | • Statistics on destination markets. |
| | 5) Environmental oversight and legal compliance | 10) Environmental oversight of lithium operations | • Record of environmental oversight. • Record of environmental sanctions. |
| | | 11) Judicial process of lithium operations | • Record of legal proceedings and their outcome (SQM). |
| | Payments and Taxes | 6) Prices and costs of lithium compounds | 12) Production costs |
| 13) Prices of lithium compounds | | | • Statistics on prices of lithium compound sales. |
| 7) Taxes | | 14) IEAM | • Statistics on IEAM payments from lithium companies. |
| | | 15) First-category tax (IDPC) | • Statistics on first-category tax payments from lithium companies. |
| | | 16) IA | • Statistics on IA payments from lithium companies. |
| | | 17) VAT Export Credit Benefit | • Statistics on VAT Export Credit Benefits for lithium companies. |

| Value chain stage | Subcategory | Type of information to be assessed | Scope |
|--------------------|-------------|--|---|
| Payments and Taxes | 8) Payments | 18) Payment of mining licenses | <ul style="list-style-type: none"> Statistics on mining license payments by lithium companies. |
| | | 19) Contributions from sales commissions (royalty) | <ul style="list-style-type: none"> Statistics on contributions from sales commissions (royalty) by lithium companies. |
| | | 20) Contributions to communities | <ul style="list-style-type: none"> Statistics on contributions to the GORE of Antofagasta (SQM). Statistics on contributions to the Municipality of San Pedro de Atacama (SQM). Statistics on contributions to the Municipality of Antofagasta (SQM). Statistics on contributions to the Municipality of María Elena (SQM). Statistics on contributions to communities by lithium companies. |
| | | 21) R&D Contributions | <ul style="list-style-type: none"> Statistics on R&D contributions by lithium companies. |

3.2 SQM

Sociedad Química y Minera de Chile (SQM) is a global mining company created in 1968, whose main business is the production and trade of specialty plant nutrients, such as iodine, lithium, potassium fertilizers, and industrial chemicals. These products are obtained from the mining and subsequent processing of mineral resources from caliche and brine deposits. The company operates through subsidiaries, both nationally –for its extractive activities– and internationally, for its trade activities, maintaining a specialized trade network with sales in over 110 countries. SQM has a strategic position in the extraction of non-metallic mining resources in Chile, as it controls a large part of the mining rights in the Salar de Atacama through a lease agreement with CORFO, which is valid until 2030.

It is important to note that the company has a *main institutional website* that provides general information about the company, as well as the different products and lines of business, along with sections dedicated to sustainability, community, and investors. By performing a simple exercise of using the key words “SQM lithium” in a web search engine, it was possible to access a second *website dedicated entirely to lithium*, which has practically the same sections as the main site, except for the section for investors. Additionally, both platforms provide access to a third site that aims to share *SQM’s environmental information on the Salar de Atacama*.

Additionally, when entering the “investors” section from the main website, website visitors are redirected to a fourth website designated for institutional *financial information*, which, just like the other platforms, is in Spanish. It is very likely that SQM has more related websites, but for the purposes of this research, only these four websites were used.

Regarding reporting mechanisms, from *SQM's main website* its *Yearly Reports* and *Sustainability Reports* can be accessed by going into “Investors” and then “Financial Information” and “Yearly Reports”. The Yearly Reports have been available since 2001 and other Reports since 2010. Another way to access the Reports is from *SQM's second page*, by going into the “Sustainability” section and then “Sustainability Reports” on the tab that opens. It is worth mentioning that on SQM’s main page, under the heading “Quick Access”, there is a banner titled Sustainability Reports where the documents can also be found more easily.

On the third website that provides environmental information on the SQM company on the Salar de Atacama, it is possible to find a variety of specific documents, such as: the RCAs, hydrological documentation, etc. Finally, it should be noted that the main website provides access to the *Financial Statements* available since 2009, by accessing the “Investors” section under “Quarterly Results”.

3.2.1 Main findings

Table 16 shows that when assessing SQM’s voluntary reporting in general, the company has a low level of transparency with a final score of 2.7, considering that there is no information available on contracts and the information related to taxes and payments is not highly transparent.

However, upon analyzing the details of each subcategory, it can be observed that SQM does not have information on its “Leasings” and/or project **contracts** with CORFO (except for some general mentions in its yearly reports), and nor on the disputed CEOL awarded in 2012. Furthermore, the information contained on its platforms in relation to its Operations ended up being the most complete, with a score of 5.9, which, according to the scale used, would classify it as moderately transparent. For this topic, it was possible to find aggregated information on its valid RCAs, water rights, volumes of lithium production and exports and derivatives, where the scores are largely due to how user-friendly and up-to-date the information is.

Finally, the **Payments and Taxes** stage was evaluated as not very transparent (score of 2.3) due to the fact that the findings are presented in aggregate and not differentiated for lithium mining, despite the fact that the company extracts other mineral substances from the salt flats, including potassium and boron. Thus, for SQM, only the provision of information on contributions to communities and to fund R&D activities could be considered in this assessment.

Table 16: Assessment rubric for SQM’s transparency in each stage

| Types of information to be assessed | Accessibility | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Score |
|-------------------------------------|---------------|---|----------------|--------------|-------------|------------|
| Contracts | 0,0 | 0,0 | 0,0 | 0,0 | 0,0 | 0,0 |
| Operations | 1,3 | 1,3 | 1,3 | 0,8 | 1,0 | 5,7 |
| Payments and taxes | 0,5 | 0,5 | 0,5 | 0,3 | 0,5 | 2,3 |
| Total | 0,6 | 0,6 | 0,6 | 0,3 | 0,5 | 2,7 |

Contracts

As previously mentioned, in this section a search was conducted for the contract signed between SQM and CORFO for the lease and/or project of the Corporation’s “OMA” holdings in the Salar de Atacama, as well as the subsequent amendments thereto. Likewise, information was sought on the 2012 CEOL tender process that SQM participated in and was awarded the contract.

The search for the aforementioned contracts was performed by using the search engines available on *SQM* and *SQM Lithium’s* main webpages and entering the keywords “CORFO Contract” and “CEOL 2012”, but no results were obtained. Additionally, in both pages, unsuccessful searches were made for a mention of or pathway to this information in the section “About” and “About Us”, respectively, but no satisfactory results were obtained.

Operations

In this section, information was sought on the environmental and social permits required by the company to carry out its operations, including RCAs, water rights, and indigenous consultations.

Production information was also reviewed regarding the reporting of its exploration and mining concessions, as well as its production levels of each lithium compound. Regarding trade, volumes were searched for by compound and destination market to then look into oversight to see the availability on sites of inspection records, sanctioning, and legal proceedings due to environmental violations, offenses, or infringement of environmental regulations or commitments.

For the review of the documentation related to the **environmental permits (RCA)** described above, a search was initially done on the web site that features *environmental information*, as it was presumed from the focus of the page that it could contain information on the permits authorizing operation. . The “Documentation” section was accessed on this platform, where a banner titled “Environmental Qualification Resolution (RCA)” was found as well as all of SQM’s current RCAs (as provided on the SEA’s page on the company) in an organized fashion and with hyperlinks to the company’s signatures but not necessarily to the formal documentation (RCA). For this reason, the available information was rated as moderately

transparent, since it is partially accessible, incomplete, and unreliable given that does not provide the same information as what appears on the SEA's page.

Regarding **water rights**, on the same website, under the heading "Documentation" and the "Hydrological Environmental Monitoring Plan" banner, it is possible to find biannual monitoring reports from 2007 to 2023, wherein the volumes approved in the RCAs are mentioned. In addition, it is worth mentioning that on the same website, in the "Hydrogeological Monitoring" section, it is possible to find summarized information on brine extraction and water rights, as well as interactive graphs and information for each of the wells. However, nowhere on the page was a hyperlink found to the official DGA documents granting said rights, as was the case with the RCAs. Therefore, this information was categorized as moderately reliable. Nevertheless, in general terms, SQM displays highly transparent reporting of its water rights, with easily accessible information and different formats that facilitate understanding, in addition to being quite complete and up-to-date until 2023.

Particularly regarding the information search on PCPIs, it is known thanks to the information found on the SEA website that SQM is currently undergoing a Process of Indigenous Peoples Consultation, and this is the only process of its kind that has been linked to the company in all its decades in operation. The check was performed by using the search engine operating on all platforms associated with SQM by entering the keyword "indigenous consultation", but no results were obtained.

However, regarding **production**, in its *Yearly Reports* SQM reports information on the company's exploration and mining concessions without specifying which have an interest in lithium or non-metallic mining. This information is accessible, user-friendly, up-to-date, but incomplete and it is hard to comparatively assess its reliability due to the absence of information from competent public agencies. The production levels of lithium compounds such as lithium chloride, carbonate, and hydroxide are also specified in these reports, but in an aggregated fashion and not by product.

Regarding **trade**, SQM's main website also provides access to its *2022 Sustainability Report* (the pathway was described previously), which presents the volume of ore exported, although in percentages and not in a disaggregated manner. Although the same report also indicates the main destination markets, it does not provide details on how much is exported to each one, which is why this information is considered moderately complete. On the other hand, it should be noted that the reports are easy to access, written in a friendly and understandable language, and up-to-date up until the previous year.

Lastly, in the search for information on environmental oversight and legal compliance, the company's four websites were reviewed by using the embedded search engines on each, entering the keywords of "oversight", "sanctioning processes", and "court record", respectively, and it was not possible to find information on inspection records, sanctions, or legal proceedings. Additionally, keywords were used on the Internet search engine without obtaining any new results.

Payments and taxes

It is important to point out that, although the financial statements from 2009 can be found on the investors' website, which are easily accessible, understandable, and up-to-date, it must be taken into consideration that, due to the nature of this information, the language is technical. However, at the beginning of each financial statement it is stated that the information presented corresponds to Sociedad Química y Minera de Chile S.A. and Subsidiaries on a consolidated basis, but it does not detail who its subsidiaries are, and definitely does not provide information that is broken down by subsidiary. Although it is also not possible to find information on who SQM's subsidiaries are, when entering the *Financial Market Commission's (CMF) website*, it is possible to access the yearly report of the subsidiary *SQM Salar S.A.*, which, as indicated by its name, works in mining the Salar de Atacama and shows lines of business in potassium, boron, and lithium, or any other mineral substance present in the salt flat. It is also possible to find the yearly report of another subsidiary, *SQM Nitratos S.A.* However, its main purpose is to produce, transform, and/or trade fertilizers and non-metallic or fossil mineral substances. Although in both yearly reports the information is provided in an order and visual presentation similar to that obtained from the investors' website, in neither of them is it possible to find the information disaggregated by the lithium line of business.

For the review of the documentation related to Prices and Costs, a search was initially performed on the website for *investors*, as it was presumed from the focus of the page that it would contain the most complete economic information. Thus, a search was done by entering the heading "Financial

Information", where, in the section Results" the most current financial statement for the *third quarter of the year 2023* could be downloaded, as well as the *2022 Yearly Report*. However, this document only reports sales costs but not production costs. Also, in the same financial statement, as well as in its 2022 Yearly Report, the revenues from sales of lithium carbonate and derivatives are reported, but not their sales prices. This is evidence of the lack of transparency with which SQM manages and reports on the transactional aspects of the mineral.

Regarding the tax framework of the lithium industry, upon reviewing SQM's financial statements again, it is possible to identify the respective payments for the IDPC, IEAM, and the refunds for "Export VAT Refund", but they were not disaggregated by line of business, meaning it does not specify the payments related to lithium mining. For the IA, only the mention of the payments of "additional taxes" was found in the financial statement, and there was no description on what taxes these were, which demonstrates the total absence of transparency in their reporting.

For non-tax instruments applied to the sector, including the payment of licenses for exploration and mining concessions, only general information on the payment of mining licenses" was found in the financial statements that the company hosts on the investors' webpage, without any description about the related lithium line of business. In the case of contributions from "sales commissions" established in the contracts with CORFO, the financial statement only refers to how the royalty is calculated in Chile but does not provide the amount that the company pays.

Finally, regarding the information on direct contributions established in CORFO's contracts with the companies, only in its *2022 Sustainability Report* does it indicate the total amount contributed by the CORFO-SQM Agreement for the year 2021 to the communities, as well as for research and development (R&D). Although the specific amount given to the 19 communities is not provided, nor the details for the GORE of Antofagasta, the Municipality of San Pedro de Atacama, the Municipality of Antofagasta, and the Municipality of María Elena, it is possible to calculate this since the sales percentages are indicated for SQM Salar corresponding to each regional government (GORE) and municipality. Since it is only lacking information to be able to

determine the amounts directly, this information is considered to be moderately complete. However, in general terms, the information reported on these payments continues to be transparent, since it is not only easily accessible, but also, since it is contained in the yearly reports delivered by the company, it is very up-to-date and, as mentioned in previous sections, it is presented in a user-friendly and reliable manner.

Regarding R&D contributions, these present the same characteristics mentioned in the previous paragraph, except that the amounts are also delivered directly, which makes it the most complete information on this item.

3.3 Albemarle

Albemarle is one of the world's leading lithium producers, with more than 40 years of experience in the extraction and processing of brines, and the trade of lithium salts and their derivatives. Although Albemarle arrived in Chile fairly recently, the lithium operations it controls today in the country date back many years, given that in 1981, CORFO partnered with the U.S.-based Foote Mineral Company to form SCL and develop the technology to produce lithium carbonate from brine in the Antofagasta Region. In 2012, SCL, then 100% private, was renamed Rockwood Lithium. Three years later, this financial holding company was acquired by Albemarle

Corporation, marking the formal arrival of this conglomerate to Chile.

While **Albemarle Corporation** is based in North Carolina, USA, in Chile, the company is located in the Antofagasta Region, where lithium is produced from brine in the Salar de Atacama. In 2016, an agreement was signed with CORFO to extend the mining contract and increase the authorized quota for lithium production until 2043.

For the development of this research, it is important to point out that the company has a

Chilean website that provides information on Albemarle's operations in the country, as well as the different plants it owns, the products it sells, and a section dedicated to sustainability. Although this website is in Spanish, on the same page there is a link to access the *company's global website*, which is in English.

It is not possible to access its *Yearly Reports* from Albemarle's national website, so these reports must be accessed through the global website, and have been available since 2014. From the same global web site, its *Sustainability Report* can be accessed, but only the most recent one for the year 2022 is available.

Regarding the *Financial Statements*, they are available on the global website as of 2010, but logically they are based on the company's worldwide figures and not broken down by country. However, on the national website, when selecting the Sustainability section and then the Economic section, information can be found related to the "*Transparency of Revenues and Payments*", where there are links to the *2021 Financial Statements* and for *2022*, along with presentations on *Revenues and Payments for the same years of 2021 and 2022*, which are in Spanish.

3.3.1 Main findings

As in the case of SQM, Albemarle's overall assessment of the company demonstrates a low level of transparency with a score of 2.2, which in reality only reflects the murkiness of the information presented by the company throughout the value chain assessed in this report. The "Contracts" dimension is the area displaying the greatest transparency challenge for both companies.

Regarding the **Operations** stage, this stage was the second best assessed with a final score of 3.0 and was classified as not very transparent. This was justified by the scores obtained in the reporting of its RCAs (10), Water Rights (9), and production levels by compound (7), and its lack of reporting on exploration (0) and mining (0) concessions, volumes of mineral exported (0), and destination markets (0), as well as a total lack of transparency regarding its environmental inspection records (0).

Lastly, the **Payments and Taxes** stage can be considered as moderately transparent, since information was obtained on payments for IEAM (9), IA (9), first-category tax (IDPC), (9) for mining concessions and to CORFO for commissions. This had a high score for being user-friendly, up-to-date, and reliable information, with completeness being its lowest point as it only presented information for the last two years.

Table 17: Assessment rubric for Albemarle’s transparency in each stage

| Types of information to be assessed | Accessibility | User-friendliness and comprehensibility | Up-to-dateness | Completeness | Reliability | Score |
|-------------------------------------|---------------|---|----------------|--------------|-------------|------------|
| Contracts | 0,0 | 0,0 | 0,0 | 0,0 | 0,0 | 0,0 |
| Operations | 0,7 | 0,7 | 0,7 | 0,5 | 0,5 | 3,0 |
| Payments and taxes | 0,8 | 0,8 | 0,8 | 0,4 | 0,8 | 3,8 |
| Total | 0,5 | 0,5 | 0,5 | 0,3 | 0,4 | 2,2 |

Contracts

For the contracts section, the *Albemarle Chile website* was reviewed. Although it is very easy to navigate, it was not possible to find information on the agreement or contract with CORFO, nor on its subsequent amendments. Additionally, keywords such as “CORFO contract” were used in the web search engine, but no new results were obtained. It is important to note that, unlike SQM, Albemarle has not been awarded any CEOL; therefore, this aspect was not assessed in the qualification.

Operations

In **Operations**, Albemarle’s national website was reviewed for the *yearly reports of the Environmental Water Monitoring Plan (PSAH)*, which have been reported since 2016. To reach them, it is only necessary to scroll down the page until finding the “Sustainability” banner and then clicking on “Water Management”. Likewise, it is possible to find information on the company’s current RCAs under the heading “Environmental Assessment”. In the case of the RCAs, these are easily accessible, with a hyperlink to each document, which coincide with those reported in the SEA and support their

reliability, completeness, and up-to-dateness. While, for water rights, there is no specific link to the original DGA documents, which decreases their reliability. However, it should be noted that they are easily accessible, complete, and up-to-date.

Regarding the **“Production”** subcategory, the Chile website was reviewed along with the *2022 Financial Statements Report* and the *2022 Revenue and Payments* presentation through the “Sustainability” banner under “Economic” to search for information on exploration and mining concessions and their production levels by compound. As for concessions, it was not possible to find any related information, which classifies this information as non-transparent. However, the presentation of 2022 Revenues and Payments provides information on lithium carbonate production volumes, although in a general manner and not disaggregated, so it is categorized as moderately complete and reliable. In terms of accessibility, user-friendliness, understandability, and up-to-dateness, it is noted that the report format is simple and easy to find, with up-to-date information.

Regarding the **Trade** section, related information was reviewed in the search engine embedded on the institutional web site as well as the data provided in the *2022 Revenues and Payments presentation*, but information was not found on the volume of ore compounds exported nor the destination markets. In addition, key words were used in an Internet search engine, without obtaining new results, which demonstrates its lack of transparency.

Finally, in the search for information on **Environmental Oversight and Legal Compliance**, information regarding the environmental inspection and sanction processes carried out by SMA was reviewed on the institutional website, because according to the SNIFA registry, the company has two inspection processes and one sanction procedure. However, when browsing the website and using the keywords “inspection” and “sanction” in the built-in search engine, it was not possible to find any such information. Likewise, there is no information on legal proceedings in environmental courts.

Payments and taxes

It is important to note that for the **Payments and Taxes** section of the national website, it is only possible to find the financial statements corresponding to the lithium business for **2021** and **2022**. The previous years are presented only in the company’s global reporting, without disaggregating the information by line of business or countries where the company is present.

For the review of documentation related to Prices and Costs, when reviewing the main website, under the section “Sustainability” and then the section *“Economic”*, the financial statements could be downloaded from **2021** and **2022**, as well as presentation documents on Revenues

and Payments for **2021** and **2022**. However, after reviewing the documentation, it was not possible to obtain information on the sales prices of the lithium compounds, where the company does not publish its production costs on the understanding that this is confidential trade information. In the financial statements, only sales costs are reported, but not production costs, while in the 2021 and 2022 presentations on revenues and payments, revenues from sales of lithium carbonate as well as its derivatives (Potassium, Halite, Bischofite, & Silvinite) are reported, but not their sales prices.

Regarding the tax framework for the lithium industry, when reviewing Albemarle’s 2021 and 2022 revenue and payment presentations, it is possible to identify the respective payments for the IEAM and the additional tax (IA), while in the 2021 and 2022 financial statements the payment of first-category tax (IDPC) is reported. Since the information is only partial for two years, it is considered moderately complete. However, it is presented in a user-friendly, reliable, accessible and up-to-date manner, and is generally considered to be very transparent. On the other hand, since it was not possible to find information regarding the VAT export credit benefit, this aspect in particular is classified as non-transparent due to its lack of accessibility.

In the non-tax instruments applied to the sector, the same presentations on revenues and payments report the payment to the State for mining concessions, as well as the payment to CORFO for the concept of sales commissions (royalties) for the years 2021 and 2022. Again, this information is incomplete as it is only partially reported for the last two years, although in a user-friendly, up-to-date, reliable, and understandable manner.

Finally, regarding the information on direct contributions to local communities and research specified in the CORFO contracts, when reviewing the provisions of the presentations on revenues and payments for 2021 and 2022, specifically the section on “Social Contributions”, no information related to the dimensions assessed is found. Furthermore, the report points out the existence of confidentiality clauses on the contributions made by the company to the Atacameño people.

Working in evaporation ponds in the Salar de Atacama, Antofagasta Region.

Photo: Terram Foundation | Cristóbal Moreno S.



4. Synthesis and final recommendations

As seen in the text, the public information available to government agencies with regulatory competence or influence in the Chilean lithium industry has a low level of transparency (score of 4) and insufficient reporting in matters of contracts, payments, and accountability. However, in “operational” terms, this institutional framework displays a higher level of reporting regarding the “enabling permits” for lithium operations, its production and trade, and the environmental oversight and legal compliance that the industry has presented. In general, in the assessed stages of the industry’s value chain, there is an emerging handling of and availability of disaggregated information at the level of lithium companies and/or operations.

The different tax aspects assessed are identified as the area with the lowest level of transparency of information for the industry. In both the “Payments and taxes” (score of 2.7) and “Accountability” (score of 1.1) stages, no formal and systematic information is reported on lithium contributions to the Public Treasury at the central, regional, and local levels, nor on the direct contributions established in the CORFO contracts with the companies operating in the Salar de Atacama. Of the few fiscal transparency practices identified, the Municipality of María Elena stands out for its reporting, which at the budgetary level created an item entitled “Lithium Funds” to handle and distribute the related revenues and expenses from lithium mining in its jurisdiction.

Among the main causes of this low tax reporting is the application of the tax confidentiality or secrecy established in the Tax Code, which does not allow for disclosure to the public or third parties of the amount or sources of revenue, losses, expenses, or any data related thereto, since this would supposedly affect the companies’ business activity. Under this secrecy, information can be found on the payment behavior of taxes imposed on the lithium sector. There is no historical record of public data that reveals the tax behavior of lithium mining companies in Chile.

In this same vein, other confidential information seen in the public sector is the implementation of “statistical secrecy”, SERNAGEOMIN does not have information on the production of lithium compounds at the company level. In this regard, an interesting proposal to resolve this lack of transparency would be to apply an exception to these regulations to productive sectors that extract strategic mineral resources, such as lithium (based on comments from Jorrat, 2021).

However, both the Ministry of Mining and CORFO have direct regulatory powers over lithium operations and, therefore, a relevant role in matters of sector transparency. Indeed, CORFO is partly responsible for the level of lack of transparency or the limited availability of information on contracts (responsible for lease and project contracts, as well

as value-adding tenders) and on the payments made by the companies established by contract (sales or royalty commissions, direct R&D, and community contributions). Thus, it is important for the Ministry to work together with CORFO to make progress in developing a joint platform that systematizes and makes information available on the lithium industry in an accessible, understandable, up-to-date, and complete manner.

In terms of voluntary reporting by companies, this demonstrates the same problem areas as the information identified in the reviewed public institutions, and in general, display a low level of transparency for both companies, explained by a total lack of access to the “Contracts” documents and reporting of partial information for “Payments and taxes”. For “Payments and taxes”, it is important to highlight that Albemarle has shown emerging progress for 2021 and 2022 regarding fiscal transparency by reporting specific documents (entitled “Documents on revenues and payments”) with information on revenues from lithium mining, as well as on payments of taxes and local contributions.

In line with the above, in order to contribute to the public debate and to the construction of a transparency agenda for the lithium industry, the following policy recommendations are proposed:

- To push forward in the development of a pro-transparency institutional culture, it is recommended for CORFO to implement a digital platform (hosted on its main website) specialized for the lithium industry, where it provides the sectoral information contained in

the lease and project contracts entered into with the mining companies operating in the Salar de Atacama in an accessible, understandable, up-to-date, and complete manner.

- Along the same lines of advancing in the development of transparent institutions, it is important for the Ministry of Mining, as the competent body in this matter, to have a specialized web platform for the lithium industry, where information on contracts, operations, payments and taxes, and accountability is reported periodically and in an accessible, understandable, up-to-date and complete fashion. Based on the information reviewed in this study.
- Regarding the industry’s fiscal transparency, it is recommended for the Comptroller General of the Republic to make a statement on the competencies and responsibilities of the SII and the TGR regarding the systematization and/or codification, handling and sharing of fiscal contributions made by mining taxpayers, and, in particular, contributions from companies that extract and process lithium (using what was presented by Yurisch & Martínez, 2022 as a foundation).
- It is also important to open up a public and congressional discussion on the level of lack of transparency displayed by the lithium industry. Within this framework, it would be relevant to review the applicability of the “statistical secrecy” and “tax secrecy” in sectors or IE and to recommend for a legal review to be conducted that would make it possible to exclude

productive sectors from the regulation that extract mineral resources of a strategic nature, such as lithium.

- In terms of the economic contributions made by lithium companies to central, regional, and local governments, it is recommended for there to be different budgetary treatment for revenues and expenses that come from lithium mining. A good reporting practice to consider is how the Municipality of María Elena handles fiscal information, which created a specific item for “Lithium Funds” at the budgetary level.
- Overall, it is essential to ensure that all related revenues and expenses be subject to general rules for allocation and accountability defined in

the Budget Act in future contracts that CORFO or another public entity may enter into with private entities, thereby guaranteeing appropriate transparency in management and subsequent use of lithium (using what was presented by the CFA as a foundation, 2023).

- Lastly, our recommendation is for the country to adhere to EITI’s international transparency initiative, in light of the fact that this standard will make it possible to systematize all sector information understandably and neatly into one single instrument. This mechanism will be reviewed by third parties and will make it possible to share relevant sectoral information with the general public and decision-makers.

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