

LATEST DEVELOPMENTS OF THE MINING INDUSTRY IN LATIN AMERICA

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Legal Briefings - By **Juan-Jose Zentner and Tiago Salgado**

In view of the rise in commodity prices, especially metals, mining activity in South America has increased in 2017 compared to the last few years. Expectations are that 2018 will build on last year's positive trend. In this article we give a snapshot of the main Latin America mining markets, including their political environment, key recent legal changes, and investment opportunities.

ARGENTINA

Since being elected, President Mauricio Macri has urged for developments in Argentina's mining sector, which lags behind its neighbouring countries, such as Brazil and Chile, despite the rich resources the country boasts. The Government's intentions to implement new legislation to attract investments in the sector culminated with an agreement reached between the National Government and the Country's Provinces in June, 2017, the so called 'New Federal Mining Agreement'.

The Mining Agreement is designed to harmonize legislation between the different provinces, aiming to create a more transparent regime for investors. The New Federal Mining Agreement is still being ratified by the Congress. In another legislative battle, President Macri suggests possible modification of the 'Glaciers Law' which protects the country's glaciers thus preventing exploitation of mining projects in some parts of the territory.

However, the legal framework currently in place in Argentina provides for tax stability for mining projects, with no withholding taxes for exported utilities.

The Government has also stated that large scale exploitation of gold, silver, copper and, lithium would require investments between US\$300 and US\$500 million per year and that more than 65% of the territory is still not exploited, giving rise to several potential projects at early stages which are still to be developed in the country.

The policies put in place by President Mauricio Macri turned Argentina into one of the most active countries capturing investment in the lithium market in Latin America. Companies traditionally operating in Chile such as SQM and Albemarle are now exploring lithium opportunities in Argentina. Lithium projects in Argentina's pipeline include the US\$425 million Caucharí-Olaroz and the US\$220 million Salar del Rincón projects, currently under construction, as well as projects under development, including the US\$3 billion Taca Taca and El Pachón projects.

BRAZIL

Although the coming presidential elections in October represent some increased political risk, the current Government has recently implemented changes in regulations in the sector that are generally considered favourable to the industry.

The Government created the National Mining Agency, which is expected to act in a more transparent and efficient way, to ensure a more predictable regulatory framework, aiming to attract more investment. The Agency is expected to promote, regulate, and supervise the mining sector and will implement national policies to mining activities, establishing rules for the exploitation of mineral resources. The Agency will also determine the technical, legal, and financial requirements to be met for investors interested in obtaining mining concessions.

The creation of the national Agency was well received by the industry while the second major reform has drawn criticism from the sector's actors, as the Government established new rules regarding royalties. Royalties applied to iron ore, Brazil's most relevant mineral, will increase from 2% of net incomes to 3.5% of producers' gross revenues. Higher royalties will also apply to gold, niobium and diamonds.

Further, the Government created the Investment Partnership Program with the intention of boosting private partnerships in infrastructure projects, including foreign investment. Currently four concession projects are under technical and economical assessment phase, including phosphate, copper, and coal mines in different States of the country.

Other investment opportunities include Eurasian Resource's Group reactivation of a US\$2.4 billion integrated iron ore mining and logistics project as well as Anglo American's US\$3.3 expansion of its iron ore Minas Rio project.

CHILE

Mining activity in Chile is expected to increase from previous years, as the business-oriented President Sebastian Piñera stepped in for his second non-consecutive mandate in March, 2018. Although no concrete measures have been taken by the newly formed Government to date, investments opportunities will increase according to the Government's plans.

The President's mining advisors envisage the creation of a commission to detail a national mining policy for 2018-2050, including a proposal to create an investments management office to attract, coordinate, and expedite new investments in the sector. The Government also intends to increase the portion of mining royalties directed to regional governments, but without increasing overall mining royalties currently applicable in the country.

The newly appointed Minister of Mining has confirmed that one of the President's goals is to reactivate a large amount of mining projects, worth over US\$50 billion, which are currently delayed or on hold.

Chilean Copper Commission (Cochilco) projected investments of US\$7.2 billion in 2018.¹ Major copper mine projects that have commenced or are about to commence are owned by Codelco, BHP, Antofagasta Minerals, Teck, Goldcorp, and Mantos Copper, to name the primary ones.

In addition to copper, Chile is rich in lithium reserves. According to national development agency *Corfo*, Chile is not only the world's biggest copper producer but also possesses 52% of the world's lithium reserves. Recent agreements between the Government and lithium producers indicate signs of further exploitation in the country.

Early this year *Corfo* and SQM settled a dispute of lithium production in the Atacama salt flat. According to the deal, SQM may increase its lithium production up to 216,000 tonnes of lithium carbonate a year until 2025. In addition, SQM's royalties obligations will be similar to its competitor, American company Albemarle, which had also recently been authorized by *Corfo* to increase its production. Albemarle is now expected to develop the US\$300 million expansion of its Planta La Negra - Phase 3 project.

In parallel, the Government announced in March that it entered into a contract with Codelco for a 39 year concession for exploitation of lithium from the Maricunga salt flat, a new activity for the copper producer. According to the Contract, Codelco must hold a majority participation in the project and the company is now searching for minority partners in the exploitation of the salt flat. The contract also provides for a possible association between Codelco and SQM but Codelco is permitted to explore other opportunities for the project.

Investment banks have different views on the future of the lithium production in Chile. Investment bank Morgan Stanley foresees drops in lithium carbonate price due to world's excessive production, ultimately affecting Chilean exports of the commodity. On the other hand, JP Morgan advised clients to invest on shares of lithium producer SQM, as an opportunity for long term investments in the lithium market. SQM expects average lithium prices to be higher in 2018 compared to average prices in 2017.

Recently, three companies, Chile's Molymet, Korea's Samsung, and China's Sichuan Fulin Industrial Group have been selected by *Corfo* to develop lithium-based industry in Chile.

MEXICO

Mexico is the world's top silver producer and is expected that Mexico's mining industry will experience fast growth due to higher prices of its key commodities – gold, silver, copper, and zinc. Production is expected to increase in 2018, as investors undertake expansion plans and acquisition of production companies in the country.

Fresnillo, a subsidiary of Mexico's top silver producer Industrias Peñoles expects the biggest increase in output in 2018, driven by the US\$515 million San Julián silver and gold project. Fresnillo is also considering a US\$360 million expansion of its Centauro gold pit, in optimization with the US\$130 million Centauro Underground project. Furthermore, Fresnillo is scheduled to commission its US\$155 million pyrites plant in 2018 and its US\$360 million silver-gold-zinc Juanicipio project in 2020.

Canadian company Endeavour Silver expects its silver production to rise, following operational improvements in existing mines and start-up of the El Compás gold and silver project. In parallel, another Canadian investor, Pan American Silver plans expansions of its La Colorada and Dolores mines.

Canadian company First Majestic Silver expects higher production from its La Encantada, La Parrilla, La Guitarra, and Del Toro silver mines. The company also expects to increase production of the San Dimas mine, following acquisition of producer Primero Mining early this year.

Copper producers also expect to increase investments, as American company Southern Copper plans a US\$159 million expansion of its Pilares copper, as well as Industrias Peñoles' Rey de Plata US\$300 million lead-zinc-copper project.

PERU

In its Mineral Commodity Summaries 2018,² the United States Geological Survey (USGS) ranked Peru as the second largest copper, zinc, and silver producer in the world. According to the study, Peru accounts for 12% of the world's copper, which saw an increase in its production in 2017, contrary to other nation's negative numbers. Also according to the USGS, Peru's silver reserves are the largest in the planet.

According to the Fraser Institute.³ Peru is the 19th most attractive jurisdiction for mining investments in the World and second best in Latin America, behind Chile. In its assessment, the Fraser Institute's takes into consideration geological factors, combined with a favourable political environment and effective regulation.

The country's central bank announced that mining exports rose to US\$27.15 billion in 2017,⁴ led by copper and gold. The Government reported that investments in the country in 2017 amount to US\$4.9 billion, including infrastructure, exploration, and mining equipment, which all increased from previous years.⁵ Peru's Minister of Mines and Energies stated that Government's concessions cover 14% of the territory and that only 0.3% is under exploitation. The Minister expects to increase exploration, to facilitate existing projects not yet developed and to guarantee continuity of existing operations.

The Government passed new legislation in late 2017 intending to promote investment in Peru. The new rules are intended to accelerate environmental licensing while also assuring compliance with environmental rules. According to the new rules, prior studies and investigations of the soil do not require environmental licenses. The developers must however adopt protection measures to prevent and mitigate environmental damage, being liable for environmental impacts they may cause. The Government is also looking to minimize social conflicts which have held up mine projects over the years by securing community approval through a prior consultation process. The Government plans to create a fund which will direct spending on developing prior infrastructure projects in areas where the mining exploration will take place.

The Government expects to see production increase by development of new projects as well as investments in expanding existing projects. In February 2018, Southern Copper invested US\$400 million plus 3% in royalty to obtain the concession of the estimated US\$2 billion Michiquillay copper mine. According to Government's investment agency *Proinversión*, 15 projects are expected to be tendered in 2018. In March 2018, the agency announced a call for bids for feasibility studies of the Colca and Jalaoca copper projects.

Other expected projects include Anglo American's US\$4.9 billion Quellaveco copper project; the US\$1.3 billion expansions of the Toromocho and Mina Justa copper mines by Chinalco and Peruvian company Minsur; and the construction of China's Jinzhao Mining iron ore mine Pampa de Pongo project.

However, the investment climate in Peru is likely to be negatively impacted by political instability in the country, as President Kuczynski recently resigned after footage showed his allies offering financial rewards to opposition politicians in the Congress. He was facing impeachment proceedings in view of corruption accusations resulting out of Brazil's Car Wash investigations.

WHAT TO EXPECT IN 2018?

Despite the social and political risks that are part and parcel of Latin America, the high price of commodities registered in 2017 and the positive outlook of 2018 have increased investor confidence in and appetite for the mining sector in the region. Investment opportunities are expected to increase, as producers focus on optimization and expansion projects. Copper and lithium are the commodities attracting most of the investment, and Peru and Chile present the largest project pipeline and potential investment opportunities in Latin America.

ENDNOTES

1. Presentación "Inversión Minera en Chile-Catastro de Proyectos 2017-2026"
2. <https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf>
3. <https://www.fraserinstitute.org/sites/default/files/survey-of-mining-com...>
4. <http://www.bcrp.gob.pe/estadisticas/cuadros-anuales-historicos.html>
5. <http://www.minem.gob.pe/minem/archivos/file/Mineria/PUBLICACIONES/VARIAB...>

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If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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