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Book

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WORKING PAPER

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Is the OECD Model Suitable for Strategic Public Enterprises in Terms of National Development? Reflections from CODELCO Case, Chile[*]

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[*] This article contains some sections based on Barría (2015). However, their focus, much of the evidence and reflections presented correspond to an in-depth version, which is based on a presentation at the XIV Milan European Economy Workshop "Major Public Enterprises in a global perspective", University of Milan, June 25-26, 2015, Research Project of CIRIEC's International Scientific Commission on Public Services/Public Enterprises.

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Abstract

This academic work address about the Chilean state owned company (CODELCO) and how it deals with the recommendations of OECD in order to define determined corporate governance. The core of this work is based on establishing a critic analysis to these guidelines.

In the last decades, state owned companies (SOEs) have returned to play a visible role in world economies. The privatization wave experienced by the world, with different intensities depending on the region since the 1970s, was not successful and weakened the extent of intervention of SOEs across economics. Large enterprises survived and in recent years, for example in Latin America, a new phenomenon has emerged: the renationalisation of enterprises previously privatized.

This is even evident in economies like Chile, in which between 1970s and 1990s, many of the then SOEs were privatized. Enterprises that remain in the hands of the Chilean State have been managed, increasingly, under a total private logic, inspired by notions of corporate governance of the OECD. However, a SOE, CODELCO (National Copper Corporation of Chile), one of the largest state-owned copper enterprises in the world, has not fully entered into that scheme. Both the Pinochet dictatorship (1973-1990) and the later democratic governments have considered CODELCO as strategic, due to its contribution to the national budget.

Key-words: State owned enterprise (SOE), Performance, OECD Guidelines, Corporate Governance, National Budget.

JEL-Codes: L2, L3, O1

Introduction

The public enterprise has returned to play a visible role in world economies. The privatization wave experienced by the world, with different intensities depending on the region since the 1970s, failed in eliminating state enterprises control from the economic sphere. Large enterprises survived and in recent years, for example in Latin America, a new phenomenon has emerged: the renationalisation of enterprises previously privatized (see, for example, Serrani, 2013).

In the academic sphere, a renewed interest is also seen to study public enterprises. A brief review of major international journals such as *Annals of Public and Cooperative Economics* accounts for this. Latin America is not far behind (Chavez and Torres, 2013; Guajardo and Labrador, 2014). As Guajardo (2013) points out, the public enterprise is a Leviathan that refuses to disappear.

This is even evident in economies like Chile, in which between 1970s and 1990s, many of the then state-owned enterprises (Barría, 2015) were privatized. Enterprises that remain in the hands of the Chilean State have been managed, increasingly, under a private logic, inspired by notions of corporate governance of the OECD. However, an enterprise, CODELCO (National Copper Corporation of Chile by its acronym in Spanish), one of the largest state-owned copper enterprises in the world, has not fully entered into that scheme. Both the Pinochet dictatorship (1973-1990) and the subsequent democratic governments have considered CODELCO as strategic, mainly by the amount of resources it provides to the treasury. This document is twofold. On the one hand, to characterize CODELCO to subsequently discuss whether it is appropriate that this enterprise fits all "best practices" that the OECD has identified for SOEs.

Public Enterprises in the History of Chile

The early history of the independent public enterprises in Chile can be traced back to the second half of the nineteenth century, a period in which the State had to retake railways projects abandoned by private companies (see Crowther, 1973; Alliende, 2001; Guajardo, 2007). This activity will take place during the first decades of the twentieth century, especially in the mining sector (Ibañez, 2003), but it will have its peak with the establishment of the Creation and Development Corporation (CORFO for its acronym in Spanish), in 1939 (see Ortega et al., 1989; Correa et al., 2001; Ibanez, 2003; Silva, 2008).

CORFO was created after the earthquake of Chillán city of that year and came to undertake the Chilean version of ISI (development strategy based on import substitution). The corporation was conceived as a public agency responsible for establishing economic development plans, acting as an entrepreneur and providing subsidies to private (Fermandois, 2005). During the presidency of Eduardo Frei Montalva (1964-1970), a process of nationalization (Chilenization) of copper deposits, which involved purchasing shares of copper companies to

make the State the majority shareholder. During the government of Salvador Allende and the Unidad Popular (Popular Unity) (1970-1973), the process ended with the complete acquisition of the enterprise in 1971. In addition, progress was made in shaping a social area in the economy: a group of enterprises, until that moment private, became state-run (Ortega et al., 1989). This process is materialized in a de facto takeover by the workers which reached such a pace that 70% of industrial property came under the social sector (Arellano, 1984: 44).

However, the social area and the state enterprise as relevant actor had an end with the coup carried out by the military to overthrow president Salvador Allende. The military dictatorship of Augusto Pinochet (1973-1990) introduced what Manuel Garate (2010) has called a capitalist revolution, characterized by the implementation of a neoliberal economic model, with minimal state involvement in the provision of social services, and a pro-business legislation that, among other things, has inhibited the emergence of unions as important actors (Frank, 2000).

In the field of public enterprises, a first measure taken by Pinochet and the Chicago Boys (group of monetarist economists trained at the University of Chicago), was to return to the private sector the enterprises that have gone social. This first phase also included, among other things, the creation of the private pension system (dominated by the Pension Fund Administrators, AFPs) (Saez, 1996). Between 1985 and 1988 a second wave of privatization was developed. It was highly controversial because several managers in charge of developing the process ended up being the owners of these enterprises (Monckeberg, 2001).

There were enterprises in this package that were created under the umbrella of CORFO fulfilling roles of public service providers (Telephone Enterprise of Chile, CTC; The National Airline, LAN Chile; the National Telecommunications Enterprise, ENTEL; the Chilean Electricity Enterprise, Chilectra) and production inputs for industry (ENDESA, CAP and Sociedad Quimica y Minera de Chile, SOQUIMICH). The State Bank, CODELCO and ENAP continued in state hands, being considered strategic enterprises (Garate, 2010).

In the 1990s, under the governments of the coalition called Concertación, a center-left coalition that replaced Pinochet, held a third wave of privatization, which covered water enterprises owned by the state and also the Port Enterprise of Chile which it was divided in ten enterprises, seven of which granted port management to the private sector. Instead of promoting the development of the public enterprise, which has prevailed has been the conception of a Subsidiary State, characterized by the dominant role of private actors in meeting social needs (see, for example, Bravo Lira, 1995).

Table 1: Enterprises of the State of Chile (2013)

Name	Year established	Type of legal entity	Percentage of state property	Transfers to the Treasury in 2012 by surplus and taxes
Astilleros y Maestranzas de La Armada	1895	Under Public Law	100	0
Banco del Estado	1952	Under Public Law	100	264,775,605
Casa de Moneda de Chile S.A.	1749	Public Limited Company	100	957,132
Cimm (Centro de Investigación Minera y Metalúrgica)	No information available	No information available	No information available	No information available
Cimm Tecnologías y Servicios S.A.	No information available	No information available	No information available	No information available
Comercializadora de Trigo S.A.	1986 (in its current form)	Public Limited Company	97,24	0
Corporación Nacional del Cobre de Chile	1976	Under Public Law	100	3,763,872,614
Empresa Concesionaria de Servicios Sanitarios S.A.	1990	Public Limited Company	100	255,235
Empresa de Abastecimiento de Zonas Aisladas	1960-2013	Under Public Law	100	0
Empresa de Correos de Chile	1858 (in 1981 it obtains its current form)	Under Public Law	100	0
Empresa de los Ferrocarriles del Estado	1884	Under Public Law	100	0
Empresa de Servicios Sanitarios Lago Peñuelas S.A.	1998	Public Limited Company	98,67	36.738
Empresa de Transporte de Pasajeros Metro S.A.	1989 (in its current form)	Public Limited Company	100	0
Empresa Nacional de Aeronáutica	1984	Under Public Law	100	0
Empresa Nacional de Minería	1960	Under Public Law	100	35,408,086
Empresa Nacional del Carbón S.A.	1921 2012 sales of assets to close down	Public Limited Company	99,97	0
Empresa Nacional del Petróleo	1945	Under Public Law	100	5,926,484
Empresa Portuaria Antofagasta	1997	Under Public Law	100	22,118,452
Empresa Portuaria Arica	1997	Under Public Law	100	966,800
Empresa Portuaria Austral	1997	Under Public Law	100	1,370,922

Empresa Portuaria Chacabuco	1997	Under Public Law	100	1,214,300
Empresa Portuaria Coquimbo	1997	Under Public Law	100	2,621,961
Empresa Portuaria Iquique	1997	Under Public Law	100	6,705,725
Empresa Portuaria Puerto Montt	1997	Under Public Law	100	3,600,363
Empresa Portuaria San Antonio	1997	Under Public Law	100	40,638,474
Empresa Portuaria Talcahuano San Vicente	1997	Under Public Law	100	46,126,032
Empresa Portuaria Valparaíso	1997	Under Public Law	100	10,605,796
Fábrica y Maestranzas del Ejército	1953	Under Public Law	100	0
Polla Chilena de Beneficencia S.A.	1934 1990 pasa a sr S.A.	Public Limited Company	100	864,319
Puerto Madero Impresores S.A.	2004	Public Limited Company	69,3	0
Sociedad Agrícola SACOR Ltda.	1964 (en liquidación 2013)	Limited Liability Company	99	0
Sociedad Agrícola y Servicios Isla de Pascua Ltda.	1980	Limited Liability Company	99,93 (0,07 a través de SACOR)	0
Televisión Nacional de Chile	197rl0	Under Public Law	100	1,568,149
Zona Franca de Iquique	1990	Public Limited Company	71,27	251,368

Source: Compiled from information posted on official websites of the enterprises, www.sepchile.cl, www.dipres.cl and www.bcentral.cl.

The contributions were converted to dollars from the exchange rate observed in December 2012.

At present, the number of Chilean public enterprises is reduced. Table 1 summarizes the ones existing until today and shows that, except from CODELCO, the importance of these organizations is reduced, in terms of contribution to the public budget. As shown in the next section, the management of these entities has followed an OECD-isation pattern, assimilation of the recommendations of the OECD, except those defined by the military during the 1980s, as strategic.

Steps towards OECD-isation in terms of management of public enterprises in Chile

Since the 2000s, the management of the Chilean public enterprises has been debated. On the one hand, the issue of efficiency in terms of costs has been discussed, something sensible for enterprises such as CODELCO. Similarly, attention has been put into the setting up of the enterprise directors and the difficult relationship between politics and technical expertise. Another important issue in the debate was that of corruption[4].

In fact, between the 1990s and 2000, several enterprises were subject of scandals due to hefty price contracts or paying executives millions in compensation. Consequently, a debate on how to improve the management came and eyes pointed to the international debate on the subject, especially in regard to the corporatization.

McDonald (2013: 59-60) has defined corporatization as the process in which public organizations have responsibilities for the production of goods and services, but they are treated as if they were independent institutions. The creation of legal entities differentiated to the ones belonging to the State and that act as if they were part of the private sphere is promoted. In this sense, the existing discussion in the private sphere regarding agency problems in the management of public enterprises was incorporated in the debate on public management. In simple terms, the debate on corporate governance seeks to find mechanisms that allow the management of the enterprise to be aligned and sufficiently controlled by a higher body, the board, which must respond to the interests of shareholders[5].

In that vein, the Organization for Economic Cooperation and Development (OECD for its acronym in English) has been successfully promoting, particularly through its documents Guidelines on Corporate Governance of State-Owned Assets (2004), Guidelines on Corporate Governance Enterprises of State-Owned Enterprises (2005) and Corporate Governance of State-Owned Enterprises: A Survey of OECD Countries (2005) (on this point, see Fontes Filho, 2008).

The OECD (2005), following the logic of corporatization, proposes five recommendations on how states should manage their enterprises. They are:

- The legal and regulatory framework should be based on the principle of level playing field between public and private enterprises.

[4] The cases of corruption in state enterprises between 1998 and 2008 can be found in http://www.cdh.uchile.cl/corrupcion/

[5] For a debate on corporate governance, see Gompers, Ishii and Metrick (2003), Guillain and Starks (2003), Hart (1995), Morck, Shleifer and Vishny (1989), OECD (2004), Shleifer and Vishny (1997) Vives (2000).

- The state should have a clear property policy, to ensure corporate governance based on transparency, accountability and professionalism.
- The ownership policy should recognize the responsibilities that fall into its jurisdiction to public enterprises in connection with stakeholders.
- Public enterprises must maintain a high level of transparency, following the OECD guidelines on corporate governance.
- The corporate boards require authority, competence and objectivity, to manage state enterprises.

Chilean public enterprises are controlled in their administration by three schemes. The first is the direct administrative control carried out by the President of the Republic through the relevant Ministry. CODELCO and ENAP fit into this category, two enterprises which, as we have seen, play an important role as a source of revenue for the Treasury. A second form of control is the articulated management. Here, according to Camacho (2010), a common rationality is imposed to a set of enterprises operating in different sectors. This has been done through CORFO. Traditionally, the corporation has been divided into committees that are in charge of different sectors. Until 1997, there was a committee in charge of CORFO enterprises, which was replaced this year by the Business Manager system. This committee functioned until 2001, when it was replaced by the System of Public Enterprises, committee operating until today. The vast majority of state enterprises are subject to this institutionality, except from CODELCO, ENAP and TVN. A third type of control is that performed by other enterprises. In this category are all those subsidiaries, which report to major enterprises. An example is Geotermia, whose ownership corresponds 50.01% to CODELCO and 49.9% to ENAP (Camacho, 2010: 434-439).

So far, there have been two bills on the subject (the first in 2008 by President Bachelet, and one in 2013 by President Piñera). What these initiatives have sought is to align Chilean institutions to the scheme promoted by OECD. For this, both governments have targeted four objectives:

- To establish a common framework for state enterprises.
- Differentiate entrepreneur State role from those of formulating and executing of public policies.
- Clarify business objectives.
- Determine responsibilities for information and transparency.

Table 3: Draft laws on corporate governance for the State of Chile, presented in 2008 and 2013

Goals	**Bachelet Project (2008)**	**Piñera Project (2013)**
Common institutional framework for state enterprises	Creation of the Higher Council for Public Enterprises as a decentralized public service and supervised by the President of the Republic through the Ministry of Finance. In charge of representing the Treasury, CORFO, companies or shares in companies with state participation. Dictates guidelines of general application within the enterprises under their charge. Appoints directors in state enterprises.	Creation of the Public Enterprise System (SEP for its acronym in English) as a decentralized public service and supervised by the President of the Republic through the Ministry of Economy, Development and Tourism. Responsible for ensuring that the management of state enterprises may minimize costs, maximize profitability and to meet efficiently and effectively the objectives or public purposes established by law. Appoints directors in state enterprises
State differentiated roles between employer and formulator and executor of public policies	Property rights companies are delivered to the Council, fulfilling the separation of functions.	Property rights on companies are delivered to the system, thus fulfilling the separation of functions.
Expliciting companies' objectives	-	The SEP must make a technical report, at least every three years, which should identify, among other things, the achieved objectives or public purposes, and if they are achieved at minimum cost.
Information and transparency	The Board may require information to companies and they are required to provide them. The Board shall report on management to the President of the Republic, companies that are represented by the Board, committees of the Senate and Chamber of Deputies. It must also meet and discuss business development plans and investment projects. It should inform the Ministry of Finance on budgetary matters.	The SEP must inform the Ministry of Finance and Economy, Development and Tourism made annually on the control on the management of the company directors. This report will also be sent to the Special Joint Committee on Budgets at the Congress.

Source: Compiled from bills available at *sil.senado.cl/docsil/proy6216.doc* and http://www.camara.cl/pley/pley_detalle.aspx?prmID=9487&prmBL=9083-05 [15-01-

While sharing common ideas, such as applying the rules of private enterprises to the state management, the projects have some differences. The Superior Council of Public Enterprises was conceived as an institution within the Ministry of Finance, while during Piñera's government the Public Enterprise System is part of the Ministry of Economy, Development and Tourism. This responds to a difference in approach: in the first, the relationship between business and the budget is emphasized, while the second treats the group of companies as market players. There is also a difference in the composition of the Board. Bachelet proposed to be nine members, seven appointed by the President of the Republic and two by the President in agreement with the Senate. Piñera, on the contrary, proposed a composition less dependent on the president and most diverse: one appointed directly by the President, four appointed by the latter from a list proposed by the Council of High Public Management, and four appointed by the president in agreement with the Senate.

Another difference lies in the fact that, as indicated in Table 3, the initiative presented by Piñera gave a greater emphasis on having public service, along with fulfilling the functions of representing the state, CORFO, Treasury and stock orient globally the progress of the group of companies. This orientation is clearly defined in many of the functions that the project delivers to the SEP, including: 1) monitoring and continuous evaluation of company directors' management; 2) the development of an annual plan for the whole group of companies (Group SEP plan); 3) the review of annual plans made by the boards of state enterprises; 4) the preparation of a technical report, at least every three years, in which the achievements of State companies are reported; 5) introduction of performance agreements to align the remuneration of directors with company results.

Similarly, there are differences in relation to exclusions from the system. Bachelet proposed to leave outside the control of the SEP the following companies: State Bank (Banco Estado), CODELCO, ENAP, ENAMI and TVN. For its part, the national defence companies were left outside, but on the boards of each of them there would be two directors appointed by the Council. President Piñera, meanwhile, proposed to exclude the State Bank, CODELCO and TVN, and include the rest of the companies to the system.

By January 2014, the project is under discussion in the Chamber of Deputies. Bachelet's second term, which begins on March 11 this year, will not mean a change in this direction, because in her program this initiative is compromised. Therefore, it is very likely that public companies start to be managed under a corporate governance framework in line with OECD guidelines.

CODELCO, a strategic company for Chile

The beginnings of the massive exploitation of copper in Chile are associated with the arrival, in the early twentieth century, of monetary capital from the United States. Between 1904 and 1910, two companies, Branden Copper Company and Chile Exploration Company, began the exploitation in the mines of Chuquicamata and El Teniente, respectively. In the 1920s new American actors such as Anaconda Copper Company and Kennecott Copper Corporation (Vergara, 2015: 229) entered the arena.

During the 1950s a debate about the fact that this industry was in foreign hands began. In 1951 the so-called Washington Agreement was signed, which allowed the country had 20% of the production at its disposal. In 1955, the state created the Copper Department, to conduct studies on production and sales, and to exercise control in the industry. In the following years, steps will be taken towards nationalization. In 1967, during the government of Eduardo Frei Montalva (1964-1970), the law 16,425, of "Nationalization of copper" is approved which allowed the state to control 51% of the most important deposits in the country. In 1971 it goes a step further, during the presidency of Salvador Allende (1970-1973), and through the law 17,450, the state happens to have full control over the deposits of copper (see, eg, Correa et al. 2001).

In 1976, through the enactments 1,939 and 1,940, it was established an institutionality capable to manage and exploit the deposits nationalized at the time of Salvador Allende. The National Copper Corporation (CODELCO) was established as a state enterprise, with legal personality and its own assets. The company management is in the hands of a Board (CODELCO, 2015). It is composed as follows:

CODELCO's corporate governance is regulated by law 20,329. This regulation came on a proposal by President Michelle Bachelet in his first term (2006-2010), which sought to make some innovations to the ways of the enterprise was managed. On the one hand, the proposal explicitly stated the desire of the Executive to incorporate the OECD guidelines for the management of public companies. The proposal considered CODELCO to be subject of the rules for private companies (except in matters that were incompatible with the rules established in 1976), established a mechanism for selecting the directory to respond to eligibility criteria. Also it separated the functions between the board and the CEO of the company. Currently, the board is composed of nine members: three are appointed directly by the President, four were selected via the System of High Public Management (the mechanism through which the most senior public managers are selected) and two members nominated by workers' associations (BCN, 2009).

At present, the company consists of eight production divisions: Radomiro Tomic, Chuquicamata, Gabriela Mistral, Ministro Hales, Salvador, Andina,

Ventanas and El Teniente. Each of them has a high level of decentralized management (CODELCO, 2015).

CODELCO is a major player in an economy like Chile, geared to international trade and it is dependent on exports of raw materials (see Llorca, 2015). From the 1960s until now, exports represented 21.1% of Chile's GDP, reaching in recent years to about 30%.

Figure 1: Evolution of Chilean exports as a percentage of GDP

Source: Rodríguez et al. (2015).

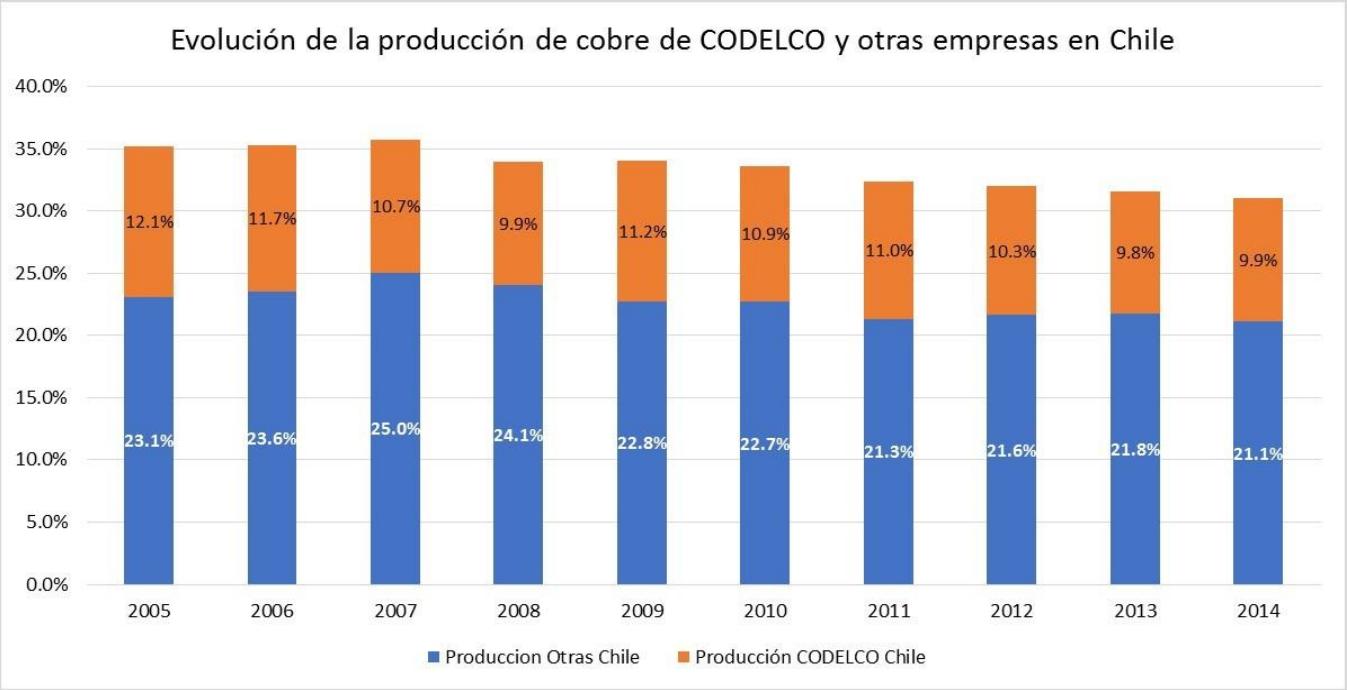
Within exports, corresponding to copper has a gravitating weight. In the period 2010-2014, they reached 54% of total exports. Of these, about a third of production is for CODELCO.

Figure 2: Copper as part of Chilean exports

Source: Rodríguez et al. (2015).

Chile concentrates approximately 30% of world copper production. Specifically, CODELCO represents almost 10% of world production. In other words, the company is the largest producer in the world and also owns about 10% of world reserves and 32% of Chile's reserves. In fact, the reserves of the company exceed that of countries such as Mexico and the United States (Cochilco, 2014).

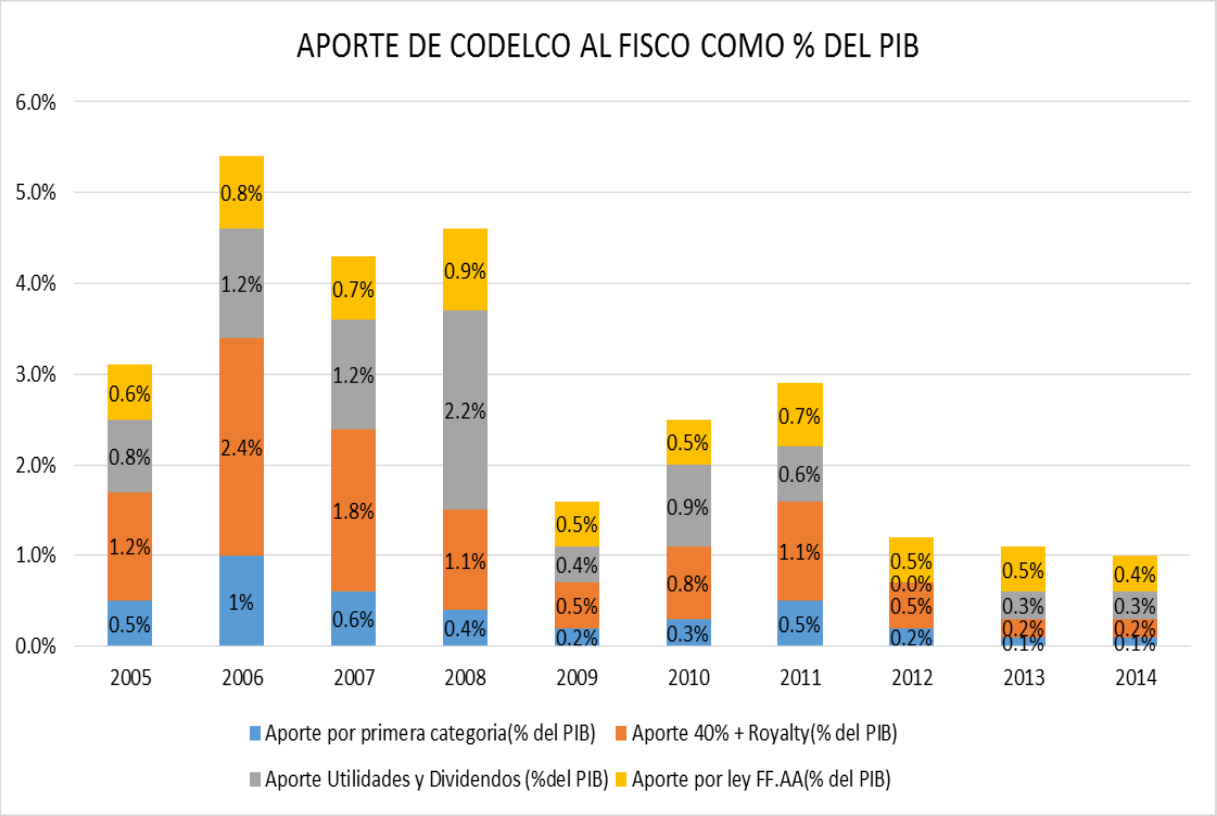
Figure 3: Production of CODELCO as part of the total Chilean copper production



Source: COCHILCO (2014).

CODELCO is not only the leader in the world in copper production, but also plays a key role in tax collection. As shown in another study, the company plays the role of generating revenue to the Treasury and, in fact, there is no other company that delivers that amount of resources (see Table 1 of this paper and Barria, 2015). They are derived from taxes on profits that every company must pay (20%), a tax of 40% for public companies (Decree Law 2,398), along with a variable payment of Royalty (between 5 and 14% law 20,469) and a 10% tax on exports (Law 13,196). The following table shows these contributions as a percentage of GDP.

Figure 4: Contributions of CODELCO to the Treasury as a percentage of GDP



Source: DIPRES (2014).

The importance of the copper industry for the economy and for the treasury CODELCO makes highly relevant the budget formulation process. Since 2001, Chile's fiscal policy is based on a rule of structural adjustment, called Cyclically Adjusted Balance (CAB). This rule seeks to set spending targets, which initially involved a tax savings of 1% respect to a potential GDP of the economy. Today, the goal is to reach 0%. Through this mechanism, the Chilean State is capable of driving countercyclical fiscal policies, as demonstrated, for example, with increased fiscal spending in 2009 in order to combat the global crisis last year (DIPRES, 2015).

In order to promote this fiscal policy a budget formulation process has been developed seeking to adjust spending decisions to trends in the economy. To do this, in a first stage, a committee of experts delivers projections on trend GDP and copper long-term price. These estimates are added to those made by the Ministry of Finance from prospective studies of levels of growth and tax revenues (mining and non-mining). With information from both actors, consolidated projections on GDP, the copper price and the structural fiscal revenues are determined in order to establish the limits of public spending to comply with the fiscal rule stated before. The BCA of a period is derived from the difference of the accrued balance of the period t (BD_t) and the cyclical adjustments in the same period (AC_t):

$$BCA_t = BD_t - AC_t$$

Without going into details concerning the calculation of AC_t, it is clear that it is closely related to Codelco and the copper industry, as seen in the four components considered: 1) Non-Mining Income Tax (ITNM); 2) pension contributions of Health (ICS); 3) raw copper (CODELCO) (ICC); and 4) Income Tax of the GMP10 (ITM) (DIPRES, 2015). Component 3 points directly to the performance of CODELCO, 4 focuses on the industry as a whole, as the GMP10 is the set of the ten largest mining companies. Similarly, it emphasizes that in the budget formulation process, the Ministry of Finance makes an explicit distinction between mining and non-mining revenue.

Discussion: Is OECD-isation an alternative to CODELCO?

In the previous pages two questions regarding the Chilean public companies have been addressed. On the one hand, it has been shown that CODELCO is a strategic company for the national economy, not only for its importance as a trigger of the economic growth but also for its relevance to fiscal policy. Secondly, it has been shown that steps have been taken towards incorporating the principles of the OECD regarding the management of public companies. In fact, it is expected that the National Congress passes an initiative that explicitly seeks to incorporate these criteria to the institutions. CODELCO already partially advanced in that line in 2009. However, this progress has been relative, as the authorities have understood that CODELCO requires special treatment which has materialized, for example, in special forms of financing.

The presence of long-term benefits that are not captured by a private logic, and that they can be explained not only in pure economic profits; but also in contributing to state funding, a dynamic link with the private sector, and support and development of an entire sector of small and medium enterprises, they are threatened in a privatizing logic. Especially in the development of a state company that operates in the extraction of a non-renewable natural resources.

CODELCO productive linkages is distributed and spread throughout the Chilean economy. Hence good corporate governance ensuring transparency in the use of resources to mitigate conflicts of interest in the property, and that is transparent to society are an essential requirement of any good corporative government, independent that this is a state or private enterprise. But given its strategic nature and the presence of positive externalities not captured by a vision of self-financing of a state enterprise of the relevance of CODELCO (as suggested by the OECD) can lead to the detriment of the company and a loss of competitiveness in international markets with the consequent negative effects on

their contribution to the public purse, and certainly, with undesirable effects on macroeconomic balances which holds the Chilean economy.

The analysis of corporate governance of public companies using standard models (theory of contracts, agency costs) partly reflects the reality behind these companies (Castañeda, 2009, p. 21). The exogenous factors that are associated with international markets rather than short-term decisions of the company (fluctuations in the international price of copper), open space for fiscal action that it is necessary to state enterprises in developing countries. The same need for the State to safeguard income for the future, leading to a fiscal activism in the co-financing of state enterprises. This certainly presents risks (political capture, management inefficiencies, excessive consumption of non-monetary benefits for senior management, agency costs) that are levied on the assets of the company. But to the extent that these risks are administered and managed in a clear and transparent manner, revealing that "no action" may be "more expensive" in the future, it may be that the company decreases its value and contribution to finance public spending.

There is no risk fiscal activism in financing public companies. But the risk of not acting and not rush these funding challenges, especially in companies the size and importance of Codelco, may involve greater long-term costs for productive economic structure.

Here are some ideas as to why CODELCO should not adopt the scheme of the OECD. Alternative ways are discussed.

In the "OECD Guidelines on Corporate Governance of State-owned Enterprises" in Part I: "Ensuring an Effective Legal and Regulatory Framework for State-Owned Enterprises" notes that:

> "Should SOEs face competitive conditions regarding access to financing. Their Relations with state-owned banks, state-owned Financial Institutions and other state-owned companies Should be based on purely commercial grounds".

From the theoretical point of view, this should work, especially if this is applied to private companies operating in stock market transaction environments. Developments in the share price and dividend payments are a source of constant monitoring regarding decisions of firms ("market discipline"). Although there are exogenous, external factors unrelated to the performance of the firm itself, these indicators allow reducing the asymmetry of information regarding the transparency of corporate decisions.
But in the case of state-owned enterprises (SOEs) and not listed on the stock exchange, as CODELCO (one of the biggest copper firms in the world), and based on developing economies like Chile's economy, the fact of applying those OECD principles to treat them almost as they were a private company, would leave the company strategically disadvantaged.

What are these principles in financial terms?

Overall, SOEs, according to OECD, should get their funding competitively. This is without preferences or privileges of any kind. They also note that the relationship of these SOEs with financial, state and non-state sector should be based solely on commercial grounds.

The argument behind this definition is that the creditors and board assume the existence of a "lender of last resort" (State) in the case of debts and credits of SOEs. OECD notes that this could lead to excessive indebtedness, market distortions, and this would be detrimental to the taxpayers and creditors. And all this would leave a large space for opacity and conflicts of interest. Furthermore, market discipline would not operate, and it will affect the incentive structure of these companies.

OECD indicates in these Guidelines that it is necessary to make a clear distinction between the state and responsibilities of SOEs in relation to creditors. The State could grant guarantees to SOEs to compensate for its inability to provide them with equity capital. Besides, OECD guidelines, adds that SOEs should be encouraged to seek financing from capital markets.

In the case of CODELCO, the situation is much more complex as it is described by OECD Guidelines.

This is a firm that contributes to the State incomes from 2005 to 2014 with an average of 2.8% of the GDP and in 2014 with approximately 1% of the GDP. 60% of total exports, and the sectoral GDP regarding mining sector is approximately 13% of the GDP. If we apply the guidelines of OECD to Codelco, this firm in the long term would be commercially non-viable.

CODELCO presents a great contribution to the Chilean economy, not only by the aggregate figures, but also by its relevance in the development of mining clusters in Chile.

Hence, the need to develop new structural projects (The most important of these five years is to transform Chuquicamata mine open pit, the in the world’s largest, into an underground mine, which is one of seven projects of these five years amounting 23,000 MMUSD which requires a significant amount of investment. Due to that by law CODELCO cannot leave out resources to invest because apart from paying taxes, it must deliver all the profits to the state. Therefore, CODELCO cannot capitalize the profits to invest in new businesses.

The estimated financial leverage of CODELCO (debt over equity) is two times, and it is already in the limit of the contracts of debt (restrictive clauses), and the access to allow issuing debt (bonds) in the international markets might become constrained. Therefore, the needs of capital, to develop these structural projects that ensure the viability of the company in the long term got more necessary and important.

In this logic to analyse the company as an active generator of long-term resources, the Chilean government announced in 2014 the capitalization of US $ 4,000 million for Codelco in 2014-2018. From this, $ 3,000 billion represents Treasury debt issuance. This means that the government, beyond the possibilities of financing the company through issuance of debt or retained earnings to capitalize the company, is committing itself to long-term structural development of these mining projects.

And certainly the fall of copper's price in the last year due to a deceleration of China has accentuated this need of new capital to develop these investment projects.

In this context, the Chilean State, and its government, in order to support this company, key in the development of Chilean economy, in many aspects, decided in 2014 to issue debts as State (as it was mentioned previously), in order to facilitate these resources to Codelco.
In any extent, state acted as a lender of last resort, due to inability of CODELCO of issuing debt in significant amounts in international markets at reasonable interest rates. Moreover, as state, gets proper spreads adjusted by risk country (Chile owns one of the best indicators of risk country in emerging markets)[6] which allows having a low financing cost.

The relevance issue, as is posed by OECD Guidelines, is that the new projects, their assessment, accountability, and development on a timely basis, is that it must be clear, transparent and consistent with the long term public policies defined by the Chilean government.

However, if we apply the rule of self-finance to SOEs, without considering the business cycle in which the economy is embodied and in this case, the mining sector, could be the origin of declining and collapse of this company in the future.

In the same line, given the nature of these new resources, these must be managed and supervised in an open framework such that taxpayers, politicians, among others, and access to public information about how these new projects will be developed should be provided.

The political economy of SOEs, so relevant in the emerging economies, cannot be under the same conditions that SOEs operating in developed economies. It poses complexities that are not captured wholly in these OECD Guidelines, and that require some adjustments, especially if these SOEs contribute in a significant way to the state's income.

[6] Clasificación de riesgo de Chile: S&P (AA-); FITCH (A+); MOOD'S (Aa3).

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