Comisión Nacional de **Evaluación** y **Productividad**

Executive Summary

Analysis of Priority Sectoral Permits for Investment in Chile

2023

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A significant tension exists between two critical public policy objectives in Chile and within a broader comparative context. On the one hand, there is a concerted effort to foster investment and drive economic growth. On the other hand, there is an imperative to safeguard fundamental elements crucial for the advancement of modern society, including public health, environmental integrity, national security, and more. Reconciliation of these divergent interests is a pivotal challenge in pursuing a Sustainable Development model.

In February 2023, the President of the Republic requested that CNEP undertake an exhaustive review and analysis of critical sectoral permits for investment projects in Chile to propose improvements to enable the practical reconciliation of these two objectives.

Initially, the CNEP identified 439 processes affecting investment proceedings, with a concentrated focus on those potentially hindering investment progresses, resulting in the identification of 309 "sectoral permits." These permits necessitate a clear and favorable directive from the relevant authority to proceed with an investment project. Although the origin of these "sectoral permits" can be traced to diverse contexts such as health preservation, environmental safeguarding, fiscal heritage preservation, and more, they all share a common characteristic of tying a specific activity's development to the issuance of the corresponding authorization.

While the term "sectoral permits" may lack doctrinal precision (given that the legal characterization of these processes does not always align with that of an official permit or administrative authorization), we employed this terminology in the study for enhanced clarity regarding its scope.

Subsequently, considering their pivotal role and potential to obstruct project advancement along its critical trajectory, the CNEP pinpointed 63 paramount sectoral permits essential for investment. It's worth underscoring that permits processed through the Environmental Impact Assessment System (SEIA) were excluded from this study's scope; however, numerous were subjected to analysis within their sectoral context.

These 63 high-priority sectoral permits constitute a comprehensive representation of the permits mandated across the entirety of the investment development lifecycle. This spans the preliminary phase of securing access to land and natural resources to the final stages of construction and operational deployment, encompassing a spectrum of productive sectors. Most of these addressed permits are transversal and applicable to all project types. Nonetheless, sector-specific permits were also considered, especially within the mining realm, due to their significant relevance.

A concerted endeavor was undertaken to compile multidimensional data concerning these permits. This encompassed factors such as their usage frequency, the tally of approved and declined submissions, processing durations, and the number of pending procedures as of December 31, 2022. This meticulous data collection ensures the analysis is firmly grounded in empirical evidence. Additionally, information was gathered on other variables, including the extent of digitalization, practices implemented to enhance permit management, and the degree of interaction with applicants.

Throughout this process, the Ministry of Economy, Development, and Tourism played a pivotal role as an intermediary with the various pertinent public services. Their involvement provided invaluable assistance and support in the data collection and analysis efforts.

Based on the extensive evidence collected, covering over 128,000 permits processed in the last five years, a detailed analysis of the behavior of 40 priority permits was conducted, yielding valuable conclusions for the commissioned study.

To begin with, while priority permits display variations across multiple aspects (such as the object of protection, the investment stage when they are sought, and the authority responsible for granting them), recurring trends in their performance emerge primarily based on their level of complexity. It's noticeable that permits with lower complexity (class 1) are in high demand, processed within relatively brief timeframes (roughly two months on average), and exhibit a minimal rejection rate (15%). As complexity increases, there is a notable extension in processing times, reaching an average of 17 months for the most complex permits (class 3), with a rejection rate close to 40%. For this category of permits, the scenario becomes particularly difficult due to the high number of pending procedures, which, given the large number of ongoing applications, is reasonable to expect will continue to increase.

Secondly, despite identifying several commendable practices adopted in permit processing, including various digitalization initiatives, notable progress still needs to be made, particularly concerning the most intricate permits.

To tackle these challenges, a set of measures is proposed that constitutes a targeted intervention strategy based on permit type. Specifically, for more intricate permits, mechanisms that address specific dimensions in which their performance falls short are recommended.

Regarding processing times and pending procedures, mechanisms for external file reviews are proposed to hasten analysis but under controlled and demanding conditions, relieving the burden on respective public services. Additionally, establishing a coordinating body to temporarily supplement the resources of those public services with higher backlogs is suggested.

Regarding rejection rates, the CNEP suggests a novel governance approach to foster practices that harmonize the content of permit applications with the technical prerequisites during the assessment for project endorsement.

Furthermore, recommendations are made for modifications to specific permits and public services. This stems from the collected evidence that highlights their contribution to significant delays in the critical path of projects. These include Maritime Concessions, Favorable Construction Reports, permits from the Council of National Monuments, and Pertinence Consultations for entry into the SEIA.

Lastly, the proposal includes suggestions to curtail the volume of permits requiring processing by shifting away from conventional ex-ante authorization paradigms. Instead, a move towards an analysis centered on the specific risk inherent in the activity or project is suggested. This approach allows the authorization efforts of relevant services to focus on those with heightened risk levels, simultaneously bolstering oversight mechanisms.