



SETTING UP BUSINESS IN
CHILE
2023



General Aspects

Chile is located in the southwest of South America. The country has a length of 4,200 km. In addition to the Chilean Antarctic. It limits with Peru to the north, Bolivia and Argentina to the east, to the west with the Pacific Ocean and to the south with the South Pole. It has 19.49 million inhabitants, a density of 25 inhabitants per square km. The currency is the Chilean peso (\$) or CLP). The official language is Spanish.

Business Organization in Chile

Legal form	Feature	Remarks
Branch or Agency (Permanent Establishment)	It is not an autonomous legal entity in itself, but an agency of the parent that establishes domicile in Chile. It is a commercial extension of its parent company abroad.	To establish a branch of a foreign legal person in Chile, it is necessary that certain documents be legalized and registered with a local Notary Public. Subsequently, the agent must execute a public deed that contains a declaration of establishment for the branch.
Corporation (Sociedad Anónimo)	Generally speaking, Chilean corporate regulations do not differ much from other jurisdictions. Under Chilean law (basically, the Corporations Law - Law No. 18,046 and its Regulations), corporations can be public or private corporations.	Public limited companies are basically those in which their shares are publicly listed or have 500 or more shareholders or in which at least 10% of the shares belong to 100 shareholders, excluding for calculation purposes those shareholders who individually exceed said percentage . They make a public offer of their shares. Closed corporations are basically those that are not within the above definition, and do not make a public offer of their shares.
Limited Liability Company (Sociedad de Responsabilidad Limitada)	Limited liability companies are organized through the granting of a public deed by at least two parties, whether natural or legal persons. Said deed must include the name of the company, its corporate purpose and the amount of capital, among others. Any modification to its statutes requires unanimous agreement of the partners. Regulated by Law 3,918.	Limited liability companies are not subject to any particular supervisory control, such as that exercised by the Commission for the Financial Market (CMF) on open stock companies and on closed stock companies that voluntarily wish to be controlled by the CMF. They are controlled by the tax authority.
Simplified Corporations (Sociedad por Acciones)	Called "Stock Company", or "SpA"), it basically has a closed capital company, although it has some material differences for a corporate structure similar to that of a corporation, reducing the procedures and administrative costs generally associated with corporations. Its administration is much more flexible since it can fall to an administrator or a board of directors and can be made up of a single shareholder, whether it is a natural or legal person.	SpAs are governed by the Commercial Code, but in the absence of provisions therein they are governed by the provisions applicable to closed corporations. It can have 1 single shareholder, contrary to Public Limited Companies or Corporation, where at least 2 shareholders are needed to survive.

Individual Limited Liability Company (EIRL)	It is constituted only by a natural person, it is a commercial company with its own assets different from that of the owner and is subject to the "Commercial Code"	It is governed by Law 19,857. You can carry out all kinds of civil and commercial operations, except those reserved by law to corporations. The company is exclusively liable for the obligations contracted within its business, with all its assets.
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Foreign Investment in Chile

The regulatory framework for foreign investment in Chile is found mainly in two legal entities: The Framework Law on Foreign Direct Investment in Chile (Law 20,848 or "DFI Law") in force as of January 1, 2016 and Chapter XIV of the Compendium Of the Exchange Regulations of the Central Bank of Chile (BCCH).

Additionally, Chile has signed Reciprocal Investment Promotion and Protection Agreements ("APPI") and Free Trade Agreements ("FTA") with numerous countries, providing additional protection to foreign investors. This also

includes the Agreements for the Avoidance of Double Taxation that Chile has concluded with several States, which grants a more favorable tax treatment to foreign investments from those States. There are 35 countries with which Chile has signed double taxation agreements and 4 non-current signed country; agreements with international transport and multilateral information exchange agreements with the European community and OECD.

Topic	Feature	Remarks
Foreign Direct Investment Law (DFI Law)	The DFI Law regulates the investments made by any natural or legal person incorporated abroad, who does not reside or has a domicile in Chile, whose investment is equal to or greater than USD \$ 5,000,000, or its equivalent in other foreign currencies. For the protection of this law, it must obtain the qualification of "foreign investor". Regulated by Law 20,848.	Foreign Investor's Law under the DFI law Repatriation abroad - at any time - of the invested capital and of the net benefits, once the applicable tax obligations have been fulfilled. Access to the Formal Exchange Market ("FEM") to settle currencies. Right not to be arbitrarily discriminated against. Right to exemption from value added tax (VAT) on the importation of capital goods, in accordance with the requirements set forth in article 12 letter B No. 10 of DL 825.
Chapter XIV of the Compendium of international exchange regulations of the Central Bank of Chile	Chapter XIV of the Exchange Regulation Compendium of the Central Bank of Chile (BCCH) regulates all foreign loans, deposits, investments and capital contributions for a total amount equal to or greater than US \$ 10,000 (minimum amount currently in force under the policy of the BCCH) Transferred from abroad to Chile. In accordance with current exchange regulations, all transfers of funds from abroad to Chile, related to loans, deposits, investments or capital contributions, must be made through the Formal Currency Market (FEM) and reported to the BCCH.	Loans can be disbursed in Chile or abroad; In both cases, these loans must be reported to the BCCH. The terms for the repayment of the principal and interest can be freely agreed between the creditor and the debtor, including the interest rate agreed by the parties. If the debtor fails to pay the principal and / or interest, the law gives the guarantor the right to pay and carry out the transfer of the funds. Said guarantee must be reported to the BCCH in accordance with Chapter XIV. Capital transfer is not subject to tax. The remittance of interest is subject to a 35% withholding tax, unless the lender is a foreign or international financial institution (for example, a bank), in which case the payment of interest is subject to a withholding tax of 4%.

Economic Public Order

The Political Constitution of the Republic contemplates certain principles and norms that try to establish the foundations of our economic system, collectively called "economic public order". Many of these principles and norms are based on respect for individual liberties and private initiative as the main driving forces

Topic	Feature	Remarks
Constitutional rights and their protection	The Constitution protects certain constitutional economic rights, such as the right to property, the right to acquire assets, equality before the law, equal protection of the law in the exercise of rights, the right of association, freedom of work , the equitable distribution of taxes and other public charges determined by law, the right to carry out any lawful economic activity, non-discrimination by the State in economic matters, among others. It is appropriate to comment that the process of creating a new constitution that Chile has been facing during the last few years, has culminated and the new draft constitution was not approved, therefore, our country will continue under the constitution and rights that it has had during the last decades.	Property right is particularly relevant, as it is the pillar of private economic activity. The Constitution further establishes that only the law can establish the limitations and obligations that result from the social function of property, as required by the general interests of the Nation, national security, public utility and health, and the conservation of environmental heritage.
Control of public spending	The Constitution establishes numerous provisions with the objective of controlling public spending.	Only the President of the Republic may initiate the debate on bills intended to (i) create new public services or jobs paid by the State; or (ii) take out loans or participate in any other type of operations. The President must present to Congress, each year, the draft of the National Budget. In turn, Congress has no right to increase or decrease the revenue estimate within the context of this bill; And in general, you only have the right to reduce the expenses contained therein. Finally, one of the main functions of the Office of the Comptroller General of the Republic - an autonomous body of constitutional rank - independent of the Executive Power, exercises control over the State's income, funds, and investment..

Competition Law	<p>The legal regime of competition applicable in Chile is contained in Decree Law 211 ("DL 211") that sanctions any act or agreement that prevents, restricts or hinders free competition or that tends to produce any of the aforementioned effects.</p>	<p>DL 211 broadly defines conducts that contravene free competition as "any fact, act or transaction that prevents, restricts or distorts free competition or tends to produce such effects".</p> <p>In Chile, there is no exact prior control of mergers, although such control may be applicable if: i) the parties to the concentration voluntarily submit the proposed transaction to the review and approval of the Free Competition Defense Court, or ii) if the National Economic Prosecutor's Office (FNE) or third parties challenge the transaction before the Court of Defense of Free Competition, or (iii) if the FNE and the parties involved in the transaction reach an out-of-court agreement and submit such agreement to the Antitrust Court for approval .</p> <p>Chilean merger control standards provide for voluntary filing. Law 20.945 incorporated into DL 211 the title IV called "Of Concentration Operations", which establishes a preventive and mandatory control of said class of operations, which is triggered from the notification made by the parties of an operation to the FNE.</p>
Environmental Regulations	<p>In the last decade, Chilean environmental legislation has become increasingly important and consistent with much higher standards. From the judicial application of the constitutional right to live in an environment free of contamination to the enactment of Law 19,300, and numerous decisions of environmental authorities and historical jurisprudence, environmental regulations have constituted a law that must be taken.</p> <p>There are three government agencies related to the application of environmental regulations in Chile:</p> <p>The Ministry of the Environment, in charge of the design and application of environmental policies. Secondly, the Environmental Assessment Service (SEA), whose main function is to administer the Environmental Impact Assessment System. Finally, the Superintendency of the Environment (SMA), which is a decentralized public service that executes, organizes and coordinates the monitoring to environmental certification.</p>	<p>It is important to mention the entry into force of the new "Green Tax" regulations starting this year 2023.</p> <p>As from January 1, 2023, the update of the green tax on atmospheric emissions set forth in Law 20210 becomes effective. The mechanisms to determine whether an industrial establishment is subject to the payment of the tax are modified, expanding the criteria in this regard. In addition, the current scope is broadened to include all incorporating new emitting equipment such as furnaces and generators to the tax. Finally, the possibility of compensating the emissions of local regulated pollutants (PM, NOX, SO2) has been incorporated through the implementation of emission reduction projects, which will be considered in the calculation of the emission and consequently in the payment of the tax.</p> <p>Regarding the calculation of this tax, which will be in force as from 2023, the Ministry of Environment has a table with the different rates that exist on this matter.</p>

Industrial property	<p>The brands have an effective term of 10 years.</p> <p>Registrations are granted for products and services classified in the 11th edition of the Nice Classification. Furthermore, the Law has two additional categories of trademarks; One is the “commercial establishment” for retailers, and the other is known as “industrial” for industrial production. There is no commercial name registry in Chile, but the Corporations Law grants protection to the name of Corporations registered in the Commercial Registry.</p>	<p>Trademark applications are filed with the National Institute of Industrial Property (INAPI) and are subject to a review of the formalities before publication and on an absolute and relative basis after publication. Applications are published in the Official Gazette so that any interested party may object to their registration.</p>
Patents and Designs	<p>Patents are an exclusive and exclusive right granted by the State for the protection of an invention, they have a validity period of 20 years from the filing date, while for designs it is 10 years, also counted from of the filing date. These terms are not renewable.</p>	<p>To file a patent application in Chile, the applicant must submit the full text of the patent application in Spanish. However, INAPI’s practice has been to accept documents in English provided that a Spanish translation is subsequently provided.</p> <p>With regard to design applications, the applicant must submit a complete set of drawings including side, front, flat, top, back, and bottom views of the drawing, showing the shape and configuration of the item to prepare the description.</p>



Taxation

Under the Political Constitution of the Republic of Chile, taxes, customs duties and all kinds of public taxes must be implemented through the enactment of a law approved by Congress.

The initiative to legislate in tax matters rests solely with the President of the

Republic. Consequently, taxes cannot be changed unless the Executive Branch takes action and Congress approves said initiative.

The main taxes established by Chilean law are: i) Income Tax; ii) Value Added Tax (VAT); iii) Stamp and Stamp Tax and iv) Territorial Tax.

Topic	Feature	Remarks
<p>Corporate Income Tax</p>	<p>Taxpayers domiciled or resident in Chile are subject to taxes on profits from any source. Non-domiciled or non-resident taxpayers are taxed only on income from a Chilean source.</p> <p>Taxpayers can be organized into entities in the manner outlined above.</p>	<p>The taxes established in the Income Law are the following:</p> <p>First Category Tax: This tax is paid by the company that obtains the benefits and is payable, at a rate of 10% for the income obtained during business years 2020, 2021 and 2022, and 25% for the following years for the taxpayer who has opted for the SME regime. In the case of Semi-Integrated Income, the rate is 27%.</p> <p>The law provides for three options, namely: i) Semi Integrated Income; ii) SME Regime and iii) Tax Transparency Regime.</p> <p>ii) The taxation of the "Semi Integrated Income", affects the segmented entities such as Large Companies, will pay income tax on profits with a rate of 27% in the year of obtaining the income, and non-resident owners they will be affected by taxes at the time and year in which all or part of the profits are remitted to them, at a rate of 35%, using a credit of 17.55% (65% on the corporate rate of 27%). This 65% partial credit operates for all investors with residence in countries with which Chile does not have a double taxation agreement in force, instead when the investor is domiciled in a country with which Chile has a double taxation treaty, the Tax on the remittance of profits will be equal to 35% but with the credit of 100% of the corporate rate.</p> <p>ii) The companies classified as SMEs will keep complete accounting and will be taxed for their benefits with a rate of 25% and the owners will be taxed with the final taxes, based on the distribution of profits, applying the corporate tax in full.</p> <p>iii) The Pyme Tax Transparency regime, the companies of this group will be freed from keeping accounts and paying taxes. However, the owners are only affected by the final taxes, under the attribution criterion.</p> <p>Royalty to Mining:</p> <p>This tax is applied to the income of mining companies obtained in the exercise of their activities. Mining companies with annual sales of any type of minerals, up to the equivalent of 50,000 and not less than 12,000 metric tons of fine copper or less, are subject to a progressive tax rate with a maximum of 4.5%. The mining companies with the highest sales are subject to a progressive tax rate of 5% to 14%, depending on their operating margin. The Senate Mining and Energy Committee approved in January 2023 the mining royalty bill, which modifies the scale of rates to apply the tax based on the operating margin of mining companies that produce more than 50 thousand metric tons of copper, which will fluctuate between 8% and 26%. We note that this new regulation is not yet in force.</p>

<p>Personal Income Tax</p>	<p>Taxpayers domiciled or resident in Chile are subject to worldwide tax on income. Non-domiciled and non-resident taxpayers are taxed only on income from a Chilean source.</p> <p>As an exception to the foregoing, foreigners who establish their domicile or residence in Chile will only be subject to taxes on income from Chilean sources during the first three years, this period may be extended by the Director of the Internal Revenue Service (SII)</p>	<p>Second Category Tax: This tax is progressive applied on the total sum received by an employee for professional services, remuneration, profit sharing or others. Tax rates range from 0% to 40%.</p> <p>Progressive personal tax (Global Complementary): This tax is applied to persons domiciled or residing in Chile with worldwide source income, including income from outside Chile and must be declared annually by the taxpayer. The progressive table for this year 2023 ranges between 0% and 40% depending on the annual taxable income.</p> <p>Tax on super-rich individuals: The tax will affect individuals with domicile or residence in Chile, with respect to their wealth held in Chile or abroad. Brackets and rates: Up to USD 4.9 million = Exempt. From USD 4.9 to USD 14.7 million = 1%. More than USD 14.7 million = 1.8%. This possible tax has not yet been approved by Congress, but is currently being discussed.</p> <p>Additional Tax: This tax is applied, as a general rule, on income from a Chilean source obtained by individuals or legal entities not domiciled or resident in Chile. This tax also applies to certain payments made by Chilean taxpayers abroad. The general tax rate is 35%. There are several exceptions to this general rate, such as the concept of payment for "royalties" or for services provided in Chile or abroad for engineering work or technical advice and professional or technical services, where a rate of 15%. In the case of remittances of profits, the First Category Tax paid by the company may be credited against the Additional Tax, but it must also be considered as additional taxable income for the Additional Tax (Gross-Up). In the case of Semi Integrated Income, the procedure explained above applies.</p>
<p>Additional Tax</p>	<p>A tax will be applied on the total of the amounts paid or credited, without deduction, to persons without domicile or residence in the country, for rents that are remitted to remunerate the following benefits with the rates applicable to each operation, according to details below:</p>	

TAXABLE INCOME	RATES
All amounts paid or credited, without deduction, for:	
1.- Use of trademarks, patents, formulas and other similar services.	30%
2.- Royalties for the use of patents, industrial designs, topographies of integrated circuits, new plant varieties.	15%
3.- Royalties for the use of computer programs.	15%
4.- Royalties for the use of standard or basic computer programs, intended only for use and not commercial exploitation, or reproduction.	0%
5.- Remittances to fiscal and / or harmful countries. And those related to 10% or more of capital or profits.	30%
6.- Editing or author rights.	15%
7.- Remittances to producers and / or distributors of material to be exhibited in film and TV.	20%
8.- Interests in general.	35%
Interest originated by:	4%
* Deposits in Cta. Cte. And term in foreign or domestic currency;	
* External loans from banks or financial institutions;	
* Price balances for deferred coverage or collection system;	
* Bonds or debentures in foreign or national currency issued by companies incorporated in Chile, by the State of Chile or Central Bank of Chile;	
* Latin American Banking Acceptance ALADI (ABLAS).	
* Other instruments indicated in the law.	
9.- Remuneration for services rendered abroad.	35%
9.1.- Exemptions: payments for freight, shipping, storage, weighing, sampling and analysis of products, insurance and reinsurance other than those indicated in Article 59 No. 3, commissions, telecommunications, smelting and refining of products. . Advertising and promotion, market analysis, technological research, advice and legal defenses, among others, related to the export of goods and services.	0%
10.- Remuneration for services rendered in Chile or abroad for engineering work or technical advice and professional or technical services.	15%
10.1 Remittances to fiscal and / or harmful countries. And those related to 10% or more of capital or profits.	20%
11.- Insurance premiums contracted in companies not established in Chile, on goods permanently located in the country or the loss of goods on temporary admission or in transit; Life insurance premiums.	22%
12.- Reinsurance	2%
12.1 Premiums derived from insurance of the hull and machinery, excesses, freights, disbursements and others specific to the shipping activity are released; Those of aircraft, freight and others specific to the air navigation activity; As well as the protection and indemnification related to such activities and insurance and reinsurance for export credits.	0%
13.- Sea freight, commissions or interests in maritime freight from or to Chilean ports, and other revenues for services to ships and cargoes at national ports, or foreigners that are necessary to provide transportation.	5%
14.- Lease, sublease and other forms of assignment of the use or temporary enjoyment of foreign vessels that are destined or used in cabotage services or when the respective contracts allow or do not prohibit to use the ship for cabotage.	20%
15.- Amounts paid by the lessee pursuant to the lease contract with or without purchase option, of an imported capital asset, susceptible of receiving a deferred payment system of customs duties. The profit is presumed to be 5% of the profits.	35%
16.- Total income of Chilean source that receives or accrues a Chilean non-resident and that is not in the previous catalog.	35%
17.- Remunerations arising exclusively from the development in Chile of scientific, cultural or sports activities	20%

Value Added Tax (VAT)	The general tax rate is 19% on the transaction price. When the price is manifestly below the normal level, the SII is empowered to evaluate it.	<p>In general terms, the following operations are subject to VAT:</p> <p>Sales and other contracts in which personal and immovable property are transferred by title as long as they are carried out regularly;</p> <p>Services relating to commercial, industrial, financial, mining, construction, insurance, advertising, data processing and other commercial activities;</p> <p>Rental of personal property, as well as rental of real estate furnished or equipped to carry out industrial or commercial activities;</p> <p>Leasing of said assets;</p> <p>Insurance premiums with some exceptions;</p> <p>In real estate construction activities; and</p> <p>Digital services understood as: 1.- The intermediation of services provided in Chile, or sales made in Chile or abroad, provided that the latter lead to an import; 2.- The supply of digital entertainment content; 3.-The provision of software, storage, platforms or computer infrastructure; and 4. Advertising.</p> <p>It is very important to comment that this year 2023, the main rule will be that all services are taxed with VAT, with the exception of services provided independently by natural persons, those from the exercise of liberal professionals and those obtained by professional societies that do not pay taxes according to the first category rules</p>
Stamp Tax	Bills of exchange, promissory notes, letters of credit and, in general, any type of documentation regarding a loan or credit transaction for borrowed money are subject to stamp and stamp tax.	The rate is 0.066% per month on the face value of the document, with a maximum of 0.8%. If the document is payable on demand, the rate is 0.332%.
Territorial Tax	The tax is calculated on the tax valuation of the property.	<p>Real estate is taxed at a rate of between 1% on the tax assessment of the property.</p> <p>Real estate whose tax value exceeds the sum of USD 470,000, in the possession of the same person, there is a surcharge that ranges from 0.075% to 0.275%. In January 2023, as a result of Law 21,420, the increase in the surtax rate affecting the top bracket of personal real estate assets, from 0.275% to 0.425%, applicable to assets exceeding 1,510 UTA, came into effect.</p>

Labor Sistem and Social Security

Topic	Feature	Remarks
Employment contracts	Our legislation recognizes three categories of employment contracts: individual employment contracts, collective employment contracts and special contracts.	<p>Individual employment contracts It is a written contract between an employer and an employee by which they are obliged, the employee to provide personal services by virtue of dependency and subordination links to the former, while the employer to pay compensation for those services.</p> <p>Collective Labor Agreements Our Law recognizes two different collective work contracts, the Collective Contract and the Collective Agreement.</p> <p>Special Contracts Our law also considers the existence of special labor contracts. Each of these contracts has its own characteristics and specifications.</p>
Social Security	<p>In 1980, the Government introduced a major change in the Chilean social security system, transitioning from government-administered and pension-managed systems to contributions to funds managed by private entities under general government control.</p> <p>On Dec 28, 2017 the Insurance for the Accompaniment of Boys and Girls with serious illnesses (SANNA) Law 21063 is created</p>	<p>Employees must contribute 10% of their monthly remuneration with a maximum limit of 81,6 Promotion Units or UF. Any remuneration greater than 81.6 Promotion Units is not subject to the 10% contribution.</p> <p>In addition, employees must contribute 7% of their monthly remuneration for medical care, also up to a limit of 81.6 UF.</p> <p>In other hand, there is a Work Accident Law that covers work accidents and occupational diseases, which is financed with an employer contribution equal to 0.90% of employee compensation plus an additional payment that ranges from 0% to 3 , 4% depending on the business risk of the company. In addition, 3% for unemployment insurance provided by the company for indefinite contracts and for fixed-term contracts, these percentages are applied on the basis of UF 122.6. Finally, there is the Disability and Survival Insurance, where the monthly percentage of the insurance will be 1.85% for men and 1.18% for women.</p> <p>In the case of self-employed workers, as from January 1, 2023, the withholding percentage increased to 13%, a gradual increase that will be completed in 2028, when the withholding per invoice issued will reach 17%.</p>
Taxes	We can distinguish between national and foreign employees domiciled or residing in Chile and foreign employees	<p>National and foreign employees with residence in Chile Employee compensation is subject to an income tax of the second monthly category, under a progressive tax scale that the employer must deduct at the source. Employees of foreigners who provide services in the country and who are domiciled or reside in Chile are also subject to the Second Category tax as explained above. Currently, the range of tax ranges from exemption to a 40% tax rate.</p> <p>Foreign employees As a general rule, foreigners who do not have domicile or residence in Chile and who work in Chile, are subject to an additional income tax of 35% to be deducted by the company that employs them in Chile.</p>

Visa for Foreigners

Chilean law provides three types of visas for foreigners who want to work in Chile.:

Topic	Feature	Remarks
Tourist visa	Foreigners who come to Chile for business but do not intend to immigrate, reside or carry out remunerated activities are considered tourists.	The tourist visa is granted for a maximum period of 90 days. In certain cases, the Immigration Department of the Ministry of the Interior may grant a special work permit to a tourist, which allows them to perform paid services in Chile for periods not exceeding 30 days, extendable for equal periods until the expiration of the tourism permit.
Visa subject to an employment contract	This visa is granted to foreigners living in Chile under an employment contract. This visa is also extended to the spouse, parents and children, as long as they live at the expense of the foreign employee in Chile. These dependent beneficiaries are not authorized to carry out remunerated activities in the country. The visa is granted for a period of up to two years and can be extended for equal periods.	The work visa is granted subject to the following requirements: The employee must have a legal domicile in Chile. The contract must be signed in Chile before a Notary Public. The foreign professional must demonstrate that he / she has the corresponding professional degree The profession, activity or work to be performed by the employee is necessary for the country. The activities carried out are not considered dangerous to national security.
Temporary residence visa	This visa is granted, among others, to professionals, technicians and experts who do not come to Chile under an employment contract with a company or branch in Chile. This visa is also extended to the spouse, parents and children as long as they live at the expense of the foreigner in Chile, not being able to carry out remunerated activities in the country. The visa is granted for one year and can be extended once for the same period, up to 2 years.	To obtain this visa, you can request documents that demonstrate the professional degree of the applicant, as well as family ties or interests in the country, or other documents required by the competent authority. The extension must be presented 90 days before the expiration of the permit held by the foreigner.



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**MIDDLE EAST
AND AFRICA**

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Kenya

Kuwait

Lebanon

Mauricio

Morocco

Nigeria

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