

Committee on Regional Trade Agreements

FACTUAL PRESENTATION

**Free Trade Agreement between the
Republic of Korea and Chile
(Goods)**

Report by the Secretariat

This report, prepared for the examination of the Free Trade Agreement between the Republic of Korea and Chile, has been drawn up by the WTO Secretariat on its own responsibility. The report was requested by the Parties and prepared in consultation with them in accordance with the Guidelines on Procedures to Improve and Facilitate the Examination Process (document WT/REG/W/15/Add.1).

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KOREA-CHILE FREE TRADE AGREEMENT (GOODS)

Factual Presentation by the Secretariat

I. TRADE ENVIRONMENT

1. The Parties to the Korea-Chile Free Trade Agreement (hereafter KCFTA or Agreement) are both among the world's fifty top merchandise traders: with total exports of \$194 billion and imports of \$179 billion, Korea ranked in 2003 as the twelfth top exporter and the 13th top importer; Chile's 47th rank corresponded to its \$21 billion of exports and \$19 billion of imports in that year. Though of different size, both economies showed relatively high average trade/GDP ratios in 2001-03, surpassing two-thirds.

2. Trade between the Parties accounted for less than 1 per cent of their combined world exports (or imports) in 2003. Developments in recent years are pictured in Charts I.1 and I.2 below.

Chart I.1 – Chile: Merchandise imports from and exports to the world and Korea, 1997-2003

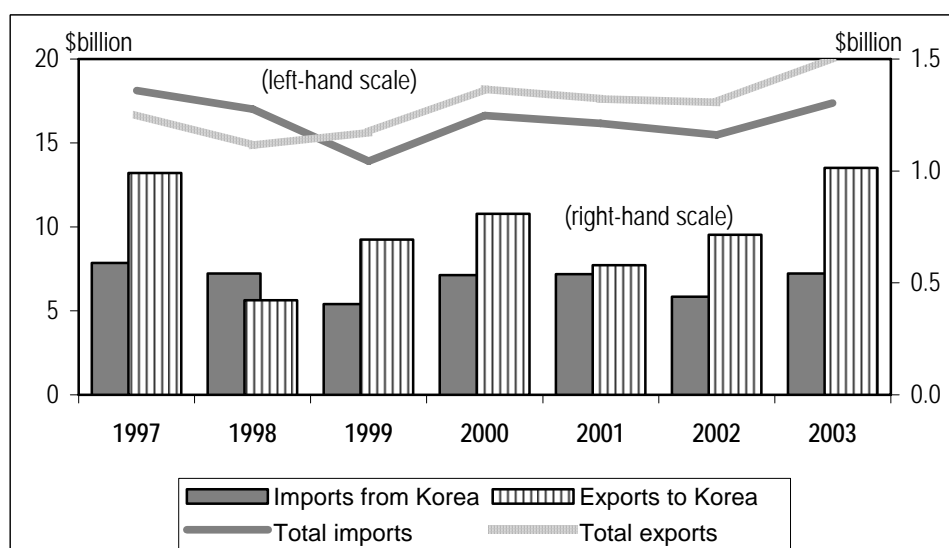
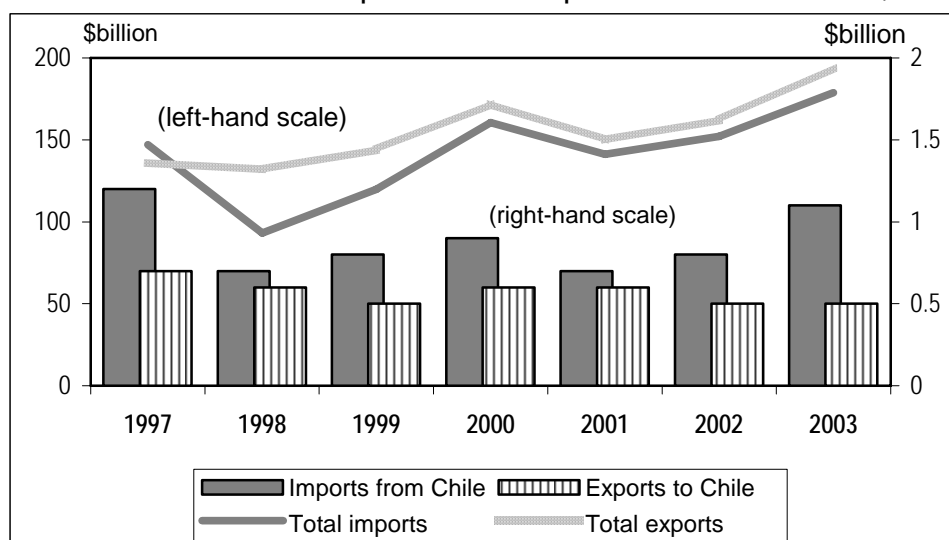
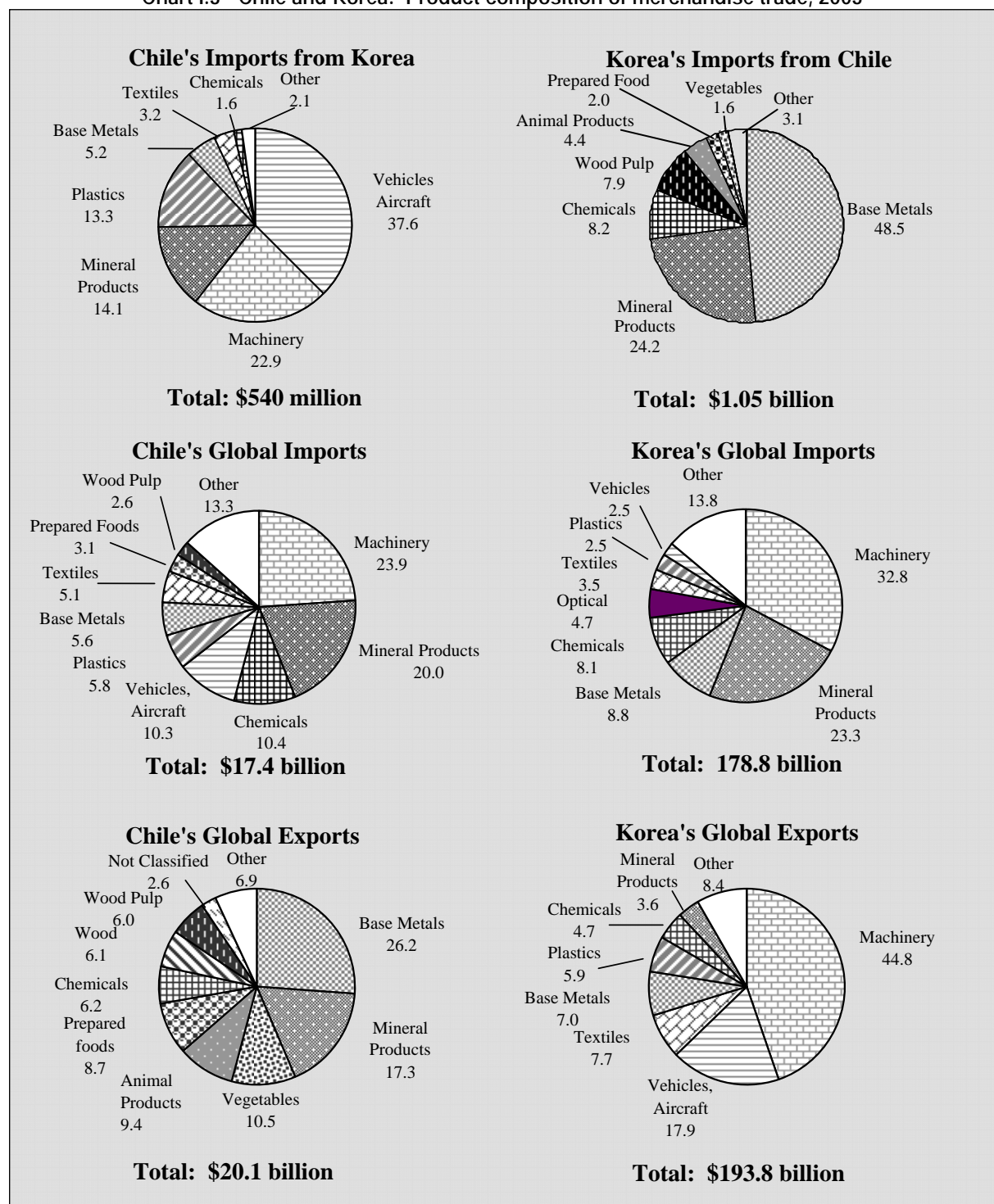


Chart I.2 – Korea: Merchandise imports from and exports to the world and Chile, 1997-2003



3. The commodity structure of trade among the Parties, as well as of their imports and exports to the world in 2003, is shown in Chart I.3, on the basis of HS section product categories.

Chart I.3 - Chile and Korea: Product composition of merchandise trade, 2003



4. There was a strong linkage in product composition between Chile's imports from Korea and the latter's global exports in 2003. Leaving aside imports of mineral products (petroleum products), the three most important product categories of Chile's imports from Korea (together accounting for 74 per cent of the total) were vehicles and aircraft, machinery, and plastics. Textile imports stand out as

accounting for a relatively small share of Chile's imports from Korea, given the latter's global competitive position in these products (which make up 7.7 per cent of total exports).

5. Korea's imports from Chile were in 2003 heavily concentrated on base metals and mineral products (in particular, copper), these accounting for nearly three-quarters of the total, while only making up 44 per cent of Chile's global exports. The share of vegetables, animal products and prepared foods in total imports from Chile was eight per cent, while these products together accounted for nearly 29 per cent of Chile's global exports in 2003.

II. TREATY CHARACTERISTIC ELEMENTS

A. BACKGROUND INFORMATION

6. The KCFTA was signed by the Government of Chile and the Government of the Republic of Korea on 15 February 2003; it entered into force on 1 April 2004.

7. On 19 April 2004, the Parties notified the KCFTA to the WTO under Article XXIV:7(a) of the GATT 1994, as forming a free-trade area (WT/REG169/N/1). The terms of reference for the examination of the Agreement were adopted by the Council for Trade in Goods on 5 July 2004 (WT/REG169/2). The text of the Agreement was circulated to the Members as document WT/REG169/1 and Corr.1 (English version only), and is also available, together with its Annexes, on the Parties' official websites (URL addresses: www.direcon.cl/tlc_corea_1.php, and www.mofat.go.kr/mofat/mk_a013/mk_b069/mk_c219/1183971_23531.html).

8. The Agreement is divided into seven parts as follows:

Part I	General Aspects (Initial Provisions; General Definitions)
Part II	Trade in Goods (National Treatment and Market Access; Rules of Origin; Customs Procedures; Safeguard Measures; Anti-Dumping and Countervailing Duty Matters; Sanitary and Phytosanitary Measures; Standard-Related Measures)
Part III	Investment, Services and Related Matters (Investment; Cross-Border Trade in Services; Telecommunications; Temporary Entry for Business Persons; Competition Policy)
Part IV	Government Procurement
Part V	Intellectual Property Rights
Part VI	Administrative and Institutional Provisions (Transparency, Administration of the Agreement, Dispute Settlement Procedures)
Part VII	Other Provisions (Exceptions; Final Provisions)

9. The Agreement contains a total of 27 annexes, in particular, Annex 3.4 Elimination of Customs Duties (Schedules) and Annex 4 Specific Rules of Origin.

10. No overall transition period is explicitly stated in the Agreement in relation to the tariff concessions granted. However, in the Parties' schedules for the elimination of duties on bilateral imports, periods of up to 13 years (Chile) and 16 years (Korea) are foreseen for a few products.

B. NATIONAL TREATMENT AND MARKET ACCESS PROVISIONS OF THE AGREEMENT**1. Import duties and charges, and quantitative restrictions**(a) General provisions

11. Each Party accords national treatment to the goods of the other Party in accordance with Article III of the GATT 1994 (Article 3.3).

12. Except in cases specified in the Agreement, the Parties cannot increase existing, or adopt new customs duties (Article 3.4.1). Article 3.4.2 provides for the elimination of customs duties by Chile and Korea on the date of entry into force and according to various stages listed in the tariff schedules of Annex 3.4, on the goods traded between the Parties that qualify under the rules of origin set out in Chapter 4. The Parties may consult regarding acceleration of the elimination of customs duties (Article 3.4.4). Article 3.4.6 provides that either Party may adopt or maintain import measures to allocate in-quota imports provided that such measures do not have trade restrictive effects on imports additional to those caused by the imposition of the tariff rate quota.

13. The Parties are not allowed to adopt or maintain any prohibition or restriction on the import of any good of the other Party, except in accordance with Article XI of the GATT (Article 3.9). Exceptions to this general rule are provided for in the Agreement. Chile reserves the right not to apply Article 3.9 to imports of used vehicles.

14. Article 3.5 regulates the duty-free temporary admission of goods of certain professional equipment necessary for carrying out business activity; equipment for the press or for sound or television broadcasting and cinematographic equipment; goods imported for sports purposes and goods intended for display or demonstration; and commercial samples and advertising films. Articles 3.6 and 3.7 extend duty-free entry to commercial samples of negligible or non-commercial value and to goods that have undergone repair or alteration in the other country respectively.

(b) Chile's liberalization scheme¹

15. Table II.1 shows the staged elimination of tariffs for Chile's imports from Korea, as revealed in the corresponding KCFTA schedule.

Table II.1 - Chile: Annual tariff reductions on imports from Korea

Year (as of entry into force)	Number of tariff lines	Percentage reductions													
		Entry into force	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
0	3546	100													
3	1	25	50	75	100										
5	2464	16.7	33.3	50	66.7	83.3	100								
7	20	12.5	25	37.5	50	62.5	75	87.5	100						
10	1519	9.1	18.2	27.3	36.4	45.5	54.5	63.6	72.7	81.8	90.9	100			
13	290	0	0	0	0	0	0	12.5	25	37.5	50	62.5	75	87.5	100

Note: Tariff reductions take place on 1 January of the given year except for the year of entry into force (1 April 2004)

¹ For a detailed view of the Parties' trade liberalization commitments, see also the Annex.

16. Upon entry into force, 3,546 tariff lines were immediately liberalized.² Different timetables are applied to the tariff reduction of a further 4,294 tariff lines; liberalization takes the form of fixed annual percentage reductions within each staging category, as summarized in Table II.1. The bulk of tariff lines not liberalized by Chile upon entry into force of the KCFTA are subject to reduction up to 2009 and 2014; 290 tariff lines are scheduled to be liberalized starting in 2010 and ending in year 13 (i.e. 2017); 96 tariff lines are excluded from duty elimination under the Agreement.

17. Table II.2 shows the number of HS 8-digit tariff lines eligible for duty-free treatment by Chile after entry into force, organized by the year in which they are liberalized, and the HS Chapter to which they pertain. Out of the total of 4,294 products (defined at the HS 8-digit level), 22 are agricultural goods, while the rest are a broad range of industrial products covering 48 HS Chapters. Most of the products falling within the longest transition period (13 years) are textiles and machinery.

Table II.2 - Chile: Number of products subject to scheduled duty-free treatment

Year of duty-free treatment, HS Chapter and description	HS 8-d. lines	Year of duty-free treatment, HS Chapter and description	HS 8-d. lines	Year of duty-free treatment, HS Chapter and description	HS 8-d. lines
2007		2009 (cont.)		2014 (cont.)	
39-Plastics & articles thereof	1	89-Ships, boats & floating strcs.	6	69-Ceramic products	45
Total	1	Total	2464	70-Glass & glassware	78
2009		2011		2017	
21-Miscellaneous edible preps.	6	28-Inorganic chemicals	1	72-Iron & steel	55
25-Salt, sulphur, earths & stone	1	29-Organic chemicals	1	73-Articles of iron or steel	102
27-Mineral fuels & oils	26	39-Plastics & articles thereof	2	74-Copper & articles thereof	41
28-Inorganic chemicals	191	40-Rubber & articles thereof	4	76-Aluminium & articles thereof	11
29-Organic chemicals	486	74-Copper & articles thereof	2	78-Lead & articles thereof	1
30-Pharmaceutical Products	8	84-Nuclear reactors, machinery	3	82-Tools, implements	18
32-Tanning or dyeing extracts	44	85-El. machinery & equipment	1	83-Misc. articles of base metal	15
36-Explosives, Pyrotechnic prods	16	90-Optical, photographic instrs.	3	84-Nuclear reactors, machinery	49
38-Miscellaneous chemical prods	100	95-Toys, games & sports	3	85-El. machinery & equipment	36
39-Plastics & articles thereof	153	Total	20	87-Vehicles other th. rail/tramway	18
40-Rubber & articles thereof	24	2014		89-Ships, boats & floating strcuts	11
41-Raw hides & skins	41	02-Meat, offal	10	90-Optical, photographic instrs.	1
42-Articles of leather	27	10-Cereals	6	95-Toys, games & sports	57
43-Furskins & artificial fur	18	25-Salt, sulphur, earths & stone	4	Total	1519
49-Printed books, newspapers	33	28-Inorganic chemicals	8	2017	
51-Wool, woven fabric	34	29-Organic chemicals	29	38-Miscellaneous chemical prods	1
52-Cotton	46	30-Pharmaceutical Products	52	40-Rubber & articles thereof	12
54-Man-made filaments	17	31-Fertilizers	4	52-Cotton	2
56-Wadding, felt & non-woven	24	32-Tanning or dyeing extracts	33	54-Man-made filaments	4
57-Carpets & oth. textile floor cov.	30	34-Soap, organic surface agents	20	55-Man-made staple fibres	19
58-Special woven fabrics	36	35-Aluminoidal substances	6	58-Special woven fabrics	1
59-Impregn., coated textile fabrics	35	38-Miscellaneous chemical prods	10	60-Knitted or crocheted fabrics	11
61-Knitted articles of apparel	3	39-Plastics & articles thereof	8	61-Knitted articles of apparel	31
62-Not knitted articles of apparel	4	40-Rubber & articles thereof	38	62-Not knitted articles of apparel	28
63-Other made up textile articles	5	52-Cotton	76	63-Other made up textile articles	11
68-Art. of stone, plaster, cement	57	53-Other vegetable textile fibers	20	64-Footwear, gaiters	68
72-Iron & steel	92	54-Man-made filaments	67	72-Iron & steel	31
73-Articles of iron or steel	35	55-Man-made staple fibres	89	73-Articles of iron or steel	6
74-Copper & articles thereof	9	56-Wadding, felt & non-woven	20	74-Copper & articles thereof	1
76-Aluminium & articles thereof	23	58-Special woven fabrics	5	76-Aluminium & articles thereof	1
82-Tools, implements	60	59-Impregn., coated textile fabrics	5	83-Misc. articles of base metal	2
83-Misc. articles of base metal	25	60-Knitted or crocheted fabrics	39	84-Nuclear reactors, machinery	13
84-Nuclear reactors, machinery	557	61-Knitted articles of apparel	159	85-El. machinery & equipment	8
85-El. machinery & equipment	156	62-Not knitted articles of apparel	179	87-Vehicles other th. rail/tramway	21
86-Rail or tramway locomotives	5	63-Other made up textile articles	76	89-Ships, boats & floating strcuts	7
87-Vehicles other th. rail/tramway	30	64-Footwear, gaiters		94-Furniture, bedding, mattresses	12
				Total	290

² The total number of tariff lines (HS 2002 at the 8-digit level) is 7,936 including 55 partial lines.

18. Out of the 96 tariff lines which are excluded from duty elimination under the Agreement, 61 correspond to agricultural products (see Table II.3).

Table II.3 - Chile: Products excluded from liberalization under the KCFTA

HS Chapter & description	HS 8-digit lines	Product
10-Cereals	1	wheat and meslin
11-Products of the milling industry	1	wheat or meslin flour
15-Fats and oils	33	oils
17-Sugar and sugar products	17	sugar, glucose
21-Miscellaneous edible preparations	9	fruit powders
38-Miscellaneous chemical products	1	insecticide
40-Rubber and articles thereof	10	tyres
84-Nuclear reactors, machinery	24	refrigerators, freezers
Total	96	

19. Chile does not maintain any tariff quotas under the KCFTA.

(c) Korea's liberalization scheme

20. The various timetables for Korea's elimination of tariffs on its imports from Chile, as contained in the corresponding KCFTA schedule, are shown in Table II.4. Upon entry into force of the Agreement, Korea liberalized 9,740 tariff lines.³ By 2020, a further 1,018 tariff lines are scheduled to be freed. Most tariff lines not liberalized by Korea upon entry into force are subject to reduction in 2009 and 2014; for 12 products, liberalization is to begin in 2011 and last a period of ten years ending in 2020. In all cases, liberalization takes the form of fixed annual percentage reductions. The Agreement also provides that the schedule of liberalization of 391 tariff lines should be negotiated after the end of the Doha Development Agenda (DDA) negotiations; 21 tariff lines are excluded from duty elimination under the Agreement.

Table II.4 - Korea: Annual tariff reductions on imports from Chile

Year (as of entry into force)	Number of tariff lines	Entry into force	Percentage reductions										
			2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	
0	9740	100											
5	701	16.7	33.3	50	66.7	83.3	100						
7	41	12.5	25	37.5	50	62.5	75	87.5	100				
9	1	10	20	30	40	50	60	70	80	90	100		
10	262	9.1	18.2	27.3	36.4	45.5	54.5	63.6	72.7	81.8	90.9	100	
10*	1	9.1	18.2	27.3	36.4	45.5	54.5	63.6	72.7	81.8	90.9	100	
			Percentage reductions										
			2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	
16	12	0	10	20	30	40	50	60	70	80	90	100	
DDA**	391												
* The preferential treatment is applied only to grapes imported from 1 November to 30 April of each year.													
** The tariff elimination schedule for this category will be negotiated after the end of the Doha Development Agenda negotiations.													
Note: Tariff reductions take place on 1 January of the given year except for the date of entry into force.													

21. Table II.5 shows the number of HS 10-digit tariff lines subject to scheduled progressive elimination of duties by Korea after entry into force of the Agreement, by the year in which they will

³ Over a total of 11,170 tariff lines (HS 1996 at the 10-digit level).

be liberalized and the HS Chapter to which they pertain. Most of them correspond to agricultural products (869 lines), of which around 25 per cent will become duty-free after 2013.

Table II.5 - Korea: Products subject to scheduled duty-free treatment

Year of duty-free treatment, HS Chapter and description	HS 10-d. lines	Year of duty-free treatment, HS Chapter and description	HS 10-d. lines	Year of duty-free treatment, HS Chapter and description	HS 10-d. lines
2009		2009 (cont.)		2014 (cont.)	
01-Live Animals	35	35-Albuminoidal substances	15	05-Products of animal origin	4
02-Meat, offal	6	38-Miscel. chemical prods	2	06-Live trees & other plants	7
03-Fish & crustaceans	62	44-Wood & articles of wood	69	07-Vegetables, plants	46
04-Milk, milk products, eggs	4	94-Furniture, bedding, etc.	1	08-Edible fruit & nuts	23 ^a
05-Products of animal origin	26	Total	701	11-Products of the milling ind.	2
06-Live trees & other plants	67	2011		12-Oil seeds, grains	3
07-Vegetables, plants	25	02-Meat, offal*	4	16-Preparations of meat, fish	14
08-Edible fruit & nuts	5	07-Vegetables, plants	6	18-Cocoa & cocoa preps	1
09-Coffee, tea, mate & spices	25	08-Edible fruit & nuts	4	19-Preps of cereals, flour	6
10-Cereals	2	10-Cereals	1	20-Preps of vegetables, fruit	27
11-Products of the milling ind.	7	12-Oil seeds, grains	1	21-Miscellaneous edible preps	8
12-Oil seeds, grains	26	16-Preparations of meat, fish*	2	22-Beverages, spirits & vinegar	4
13-Lac, gum, resins	12	18-Cocoa & cocoa preps	2	23-Residues & waste food ind.	2
14-Vegetable plaiting materials	10	20-Preps of vegetables, fruit	14	24-Tobacco	4
15-Fats & oils	52	21-Miscellaneous edible preps	5	33-Essential oils & resinoids	1
16-Preparations of meat, fish	17	22-Beverages, spirits & vinegar	1	35-Albuminoidal substances	3
17-Sugar & sugar products	11	74-Copper & articles thereof	1	44-Wood & articles of wood	29
18-Cocoa & cocoa preparations	24	Total	41	Total	262
19-Preparations of cereals, flour	32	2013		2020	
20-Preps of vegetables, fruit	30	20-Preps of vegetables, fruit	1	08-Edible fruit & nuts	1
21-Miscellaneous edible preps	40	Total	1	18-Cocoa & cocoa preps	2
22-Beverages, spirits & vinegar	44	2014		19- Preps of cereals, flour	1
23-Res. & waste from food ind.	24	02-Meat, offal	45	20- Preps of vegetables, fruit	6
29-Organic chemicals	2	03-Fish & crustaceans	25	21-Miscellaneous edible preps	2
33-Essential oils & resinoids	26	04-Milk, milk products, eggs	8	Total	12

^a Duty-free treatment applied to grapes only if imported from 1 November to 30 April.
* An asterisk denotes those HS Chapters where tariff quotas apply

22. Several agricultural products, particularly those in HS Chapters 8 (edible fruit and nuts), 20 (preparations of vegetables and fruit), and 21 (miscellaneous edible preparations) are subject to multiple categories for tariff liberation.

23. Almost all 391 tariff lines on which the KCFTA provides that Korea's tariff elimination schedule(s) will be decided upon after completion of the Doha Round are agricultural products (see Table II.6).

Table II.6 - Korea: Products to be scheduled for liberalization after conclusion of the DDA

HS Chapter & description	HS 10-digit lines	Product
01-Live Animals	6	cows, cattle, ducks
02-Meat, offal*	32	carcasses, liver, frogs' legs
04-Milk, milk products, eggs*	39	cream, milk powder, butter
05-Products of animal origin	6	antlers, silkworm eggs
07-Vegetables, plants*	47	onions, aubergines, garlic, pumpkins
08-Edible fruit and nuts*	38	pistachios, bananas, dates, mangoes
09-Coffee, tea, mate and spices	8	tea, ginger
10-Cereals	13	barley, popcorn, buckwheat
11-Products of the milling industry	31	barley flour, oats, cornflour
12-Oil seeds, grains	29	soya bean oil, ginseng, locust beans
13-Lac, gum, resins	8	ginseng extract
15-Fats and oils	19	refined oil, crude oil, mustard oil

HS Chapter & description	HS 10-digit lines	Product
16-Preparations of meat, fish*	14	meat juices, extracts
17-Sugar and sugar products	14	lactose, glucose, fructose
19-Preparations of cereals, flour	5	puffed rice, muesli
20-Preparations of vegetables, fruit	22	onions, garlic, peanut butter
21-Miscellaneous edible preparations	8	soya sauce, hot bean paste, ginseng tea
22-Beverages, spirits and vinegar	3	ginseng beverage, fermented alcohol
23-Residues and waste from food ind.	8	sesame seeds, milk replacer
24-Tobacco	21	cheroot, cigarillos, cigarettes
33-Essential oils and resinoids	3	ginseng solution
35-Albuminoidal substances	10	casein, milk albumin, starches
50-Silk	8	silkworm cocoons
Total	391	

24. All 21 tariff lines excluded from duty elimination by Korea under the Agreement are agricultural products (see Table II.7).

Table II.7 - Korea: Products excluded from liberalization under the KCFTA

HS Chapter & description	HS 10-digit lines	Product
08-Edible fruit and nuts	2	apples, pears
10-Cereals	6	rice
11-Products of the milling industry	5	rice flour
18-Cocoa and cocoa preparations	3	rice in grain form
19-Preparations of cereals, flour	5	rice products
Total	21	

25. Korea maintains under the KCFTA seven types of tariff quotas allowing for annual duty-free import quantities from Chile, as detailed in Table II.8. All quotas are managed according to Korea's internal regulations (auctioning). Tariff quotas on 6 tariff lines will end in 2011, when the corresponding products become duty-free. The removal of tariff quotas on the remaining 18 tariff lines will be determined at the end of the DDA negotiations, when the schedule for liberalization of these products is fixed. Tariff quotas apply exclusively to agricultural products, including meat, poultry, whey powder, other vegetables, plums and mandarins.

Table II.8 - Tariff quotas maintained by Korea under the KCFTA

Type	Tariff line	Description	Duty-free quantity (Metric tonnes per year)	2004 MFN tariff	Liberalization schedule
TQ(1)	0201.20.00.00	meat of bovine animals, fresh or chilled, other cuts with bone in	200	40 %	post-DDA
	0202.20.00.00	meat of bovine animals, frozen, other cuts with bone in	200	40 %	post-DDA
TQ(2)	0207.14.10.10	meat and edible offal of poultry, leg	2,000 (aggregate quantity)	20 %	post-DDA
	0207.14.10.20	meat and edible offal of poultry, breast		20 %	post-DDA
	0207.14.10.30	meat and edible offal of poultry, wing		20 %	post-DDA
	0207.14.10.90	meat and edible offal of poultry, other		20 %	post-DDA
	0207.14.20.10	cuts and offal, frozen, liver		22.5 %	post-DDA
	0207.14.20.90	cuts and offal, frozen, other		27 %	post-DDA
	1602.32.10.10	samge-tang		30 %	post-DDA
	1602.32.10.90	of fowls of the species Gallus domesticus, other		30 %	post-DDA
1602.32.90.00	of fowls of the species Gallus domesticus, other	30 %	post-DDA		

Type	Tariff line	Description	Duty-free quantity (Metric tonnes per year)	2004 MFN tariff	Liberalization schedule
TQ(3)	0207.25.00.00	turkey, not cut in pieces, frozen	600 (aggregate quantity)	18 %	2011
	0207.27.10.00	cuts and offal, frozen, cuts		18 %	2011
	0207.27.20.10	cuts and offal, frozen, liver		22.5 %	2011
	0207.27.20.90	cuts and offal, frozen, other		27 %	2011
	1602.31.10.00	turkeys, in airtight containers		30 %	2011
	1602.31.90.00	turkeys, other		30 %	2011
TQ(4)	0404.10.10.10	whey powder	1,000 (aggregate quantity)	49.5 %	post-DDA
	0404.10.21.20	whey from which all or part of the lactose, proteins or minerals have been removed, demineralized		49.5 %	post-DDA
	0404.10.21.30	whey from which all or part of the lactose, proteins or minerals have been removed, whey protein concentrates		49.5 %	post-DDA
	0404.90.00.00	whey, other		36 %	post-DDA
TQ(5)	0712.90.20.99	other vegetables, other	100	30 %	post-DDA
TQ(6)	0805.20.90.00	mandarins, other	100	144 %	post-DDA
TQ(7)	0809.40.10.00	plums	280	45 %	post-DDA

2. Rules of origin

26. Rules of origin are set out in Chapter 4, while customs procedures are detailed in Chapter 5. In accordance with Article 5.12, "Uniform Regulations" for the interpretation, application and administration of Chapters 3 (National Treatment and Market Access for Goods), 4 and 5 were agreed through an exchange of letters between the Parties.⁴ These Regulations have been implemented as from the entry into force of the Agreement. Articles 4.1 and 5.1 contain definitions of related terms used in the relevant Chapters.

27. Basic requirements for a good⁵ to be considered originating are as follows (Article 4.2):

- the good is wholly obtained or produced entirely in the Parties;⁶ or
- the good is produced entirely in the Parties and all of the non-originating materials meet specific criteria provided for in the Agreement,⁷ or
- the good is produced entirely in the Parties from originating materials only, or
- unassembled goods and goods classified with their parts which do not meet the specific origin rules but which reach a minimum regional value-content requirement (see paragraph 29 below). This criterion however does not apply for goods classified within Chapters 61-63 of the Harmonized System; for these products, the rule generally requires that some specific operations (generally cutting and sewing or otherwise assembling) be performed in the territory of the Parties.

⁴ The English and Spanish versions of the Uniform Regulations are available, respectively, at: <http://www.mofat.go.kr/pdf/files/UE.pdf> and http://www.bcn.cl/imag/tratados/tratado_vally049.pdf.

⁵ Throughout this Section, a "good" is to be understood as meaning a "final good", and "materials" refer to inputs used in the production of the good.

⁶ This concept applies to some agricultural, fishery and mining products.

⁷ Specific rules of origin are listed in Annex 4 of the Agreement. They normally provide for a change in tariff classification (see paragraph 29).

28. The Agreement does not provide for regime-wide rules of origin; it lists (in Annex 4) the specific criteria that non-originating materials have to conform with for a good produced from these materials to acquire originating status.

29. Generally, a change in tariff classification (CTC) defines origin, though it may be supplemented with (or even, in some cases, replaced by) regional value content (RVC) or, to a lesser extent, technical test criteria.⁸ The CTC criterion usually requires a change at the HS Heading (4 digit) level but changes at the Chapter level are also frequent, especially for agricultural goods.⁹ As detailed in Article 4.3, the RVC can be calculated on the basis of the "build-down" method or the "build-up" method, without any limitation.¹⁰ Whenever the RVC criterion applies, those goods for which an RVC of not less than 45 per cent using the build-down method, or 30 per cent according to the build-up method, are considered as originating goods; for products classified under HS 2008.92-2008.99 (prepared or preserved fruits, nuts and plants) and 2009.90 (mixture of fruit juices), an RVC of 80 per cent (build-down method) applies.¹¹ The technical test method is only used in apparel and clothing, always in conjunction with a CTC requirement (either at the Heading or Chapter levels).¹²

30. Article 4.5 allows full bilateral cumulation between Parties, i.e. both in terms of goods/materials (originating goods or materials from one Party incorporated in a good of the other Party are considered originating from the territory of the latter Party) and of production processes.

31. Under the Agreement (see Article 4.1, "value of materials", (b)(ii)d), the costs of originating materials are taken into account in determining origin of the final good. In practical terms, this tracing test means that when a non-originating material fails to acquire originating status after being processed, it does not become 100 per cent non-originating; rather, the costs of originating materials still count towards the determination of origin of the final product. Further, an intermediate material (i.e. a material that is also produced by the producer of the final good) that qualifies as originating benefit from the absorption/takeover principle, i.e. it will be considered 100 per cent originating once incorporated into a final good.

32. Article 4.6 (De Minimis) defines the tolerance rules with respect to origin determination. Thereby, a good that would not undergo the required CTC will still be granted originating status provided that the value of all non-originating materials which do not undergo the CTC does not exceed 8 per cent of the good's adjusted value. Exceptions apply to agricultural and textiles products

⁸ Through the prescription of certain manufacturing requirements that may (positive test) or may not (negative test) confer originating status. The negative test is generally used to describe minimal operations (see paragraph 33).

⁹ In the context of non-preferential rules of origin, the basic requirement is that of a CTC at the sub-heading level, i.e. 6-digit, except for cameras (value-added method) and textile articles (technical test method).

¹⁰ In the build-down method, RVC is calculated as the difference between the adjusted value of the good and the value of non-originating materials. "Adjusted value" is defined in Article 4.1 as being the (transaction) value determined in line with the WTO Customs Valuation Agreement, adjusted on an f.o.b. basis (i.e. excluding any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation).

In the build-up method, RVC is calculated on the basis of the value of originating materials. The manner in which originating and non-originating materials are valued is described in Article 4.1. In general terms, the former are valued on an into-factory or c.i.f. basis - i.e. costs incurred after the imported material has crossed the border (customs duties, freight, insurance and packing) are added to the value of the originating material - while the latter are valued on a f.o.b. basis - i.e. costs of freight, insurance and packing can be deducted from the value of the non-originating materials.

¹¹ If different from those basic minimum RVC requirements, the relevant specific RVC requirement listed in Annex 4 applies.

¹² The requirement is generally that the good is both cut (or knit to shape) and sewn or otherwise assembled in the Parties.

(HS Chapters 1-24 and 50-63, respectively).¹³ Tolerance rules do not apply in respect of RVC requirements

33. Article 4.13 describes the minimal, non-qualifying operations carried out on non-originating materials in the territory of the Parties which do not confer origin as "operations or processes that assure the preservation of goods in good conditions for the purpose of transportation or storage; operations or processes to facilitate shipment or transportation; or operations or processes relating to packaging or presentation of the goods for their respective sale". An illustrative list of such operations is also provided. Additional rules in Articles 4.7-4.11 indicate how certain materials (fungible goods and materials; accessories, spare parts and tools; indirect materials; packaging materials and containers) are to be treated/valued when determining the origin of goods.

34. The Agreement also includes two provisions on territoriality, dealing with processing and transportation outside the cumulation area. First, no outward processing is authorized; rather, the granting of originating status requires that the production be made entirely in the territory of the Parties and that any RVC requirement be met entirely in the territory of the Parties (Article 4.2.2). Second, transshipment rules (Article 4.12) authorize originating goods to transit through third countries under certain conditions: originating status is lost if the good either undergoes production/operations other than "unloading, reloading, crating, packing and repacking or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party", or "does not remain under the control or observation of the customs authority in the territory of the non-Party".

Rules of Origin: Basic Features at a Glance

- No régime-wide origin rules.
- Product-specific criteria:
 - Wholly obtained goods.
 - CTC, generally at the heading or Chapter levels.
 - RVC, at generally 45% in the build-down method or 30% in the build-up method; very few exceptions requesting 80% in the build-down method.
 - Technical test, only for Chapters 61-63 and in conjunction with a CTC requirement.
- Bilateral and full cumulation.
- Tracing test applies.
- Absorption principle included.
- Tolerance rule at a maximum of 8% of the adjusted value; exceptions for agricultural and textiles products. No tolerance rules for RVC requirements.
- No duty-drawback for non-originating materials once the final good acquires originating status.
- Outward-processing not authorized.
- Transit through third parties authorized under certain conditions.

35. The customs procedures in Chapter 5 are designed to ensure effective administration and enforcement of the rules of origin and other customs matters. These (including, among others, the establishment of a single certificate and declaration of origin; procedures for origin verifications and for advanced rulings on determinations of origin; and co-operation on customs related matters) are detailed in paragraph C.5.48 below.

¹³ For agricultural goods, non-originating materials have to be from a different sub-heading than that of the final good. In the case of textiles, the limitation refers to the maximum weight (instead of value) of the non-originating fibres and yarns *vis-à-vis* the total weight of the relevant component.

3. Export duties and charges, and quantitative restrictions

36. The Parties are not allowed to adopt or maintain any prohibition or restriction on the export or sale for export of any good, except in accordance with Article XI of the GATT (Article 3.9).

C. REGULATORY PROVISIONS OF THE AGREEMENT

1. Standards

(a) Standards-related measures

37. Chapter 9 of the Agreement addresses standards, technical regulations and conformity assessment procedures that may, directly or indirectly, affect trade in goods between the Parties.¹⁴ A Committee has been established to monitor the implementation, enforcement and administration of the provisions in this Chapter (Article 9.10). Article 9.11 lays down provisions for the exchange of information and the provision of technical assistance on standards-related measures and calls for co-operation among the Parties' respective standardizing bodies.

38. Article 9.4 stipulates that the Parties may prepare, adopt, apply or maintain any standards-related measure as well as measures ensuring enforcement and compliance with these standardizing measures, including approval procedures. It commits the Parties to accord each other national treatment and to use relevant international standards as the basis for their respective standards-related measures.

39. Article 9.5 contains a call for working towards compatibility of the Parties' standards-related measures. This goal is to be achieved by each Party promoting, upon request, the compatibility of a specific standards-related measure, or through a process of equivalence acceptance of their respective standards-related measures. As for conformity assessment procedures, Article 9.6 requires the Parties to ensure that their procedures are expeditious, transparent, that consideration is given to request by either Party to negotiate mutual recognition agreements of their respective conformity assessment procedures, and that each Party shall accredit, approve or recognize the conformity assessment bodies of the other Party on terms no less favourable than those accorded to bodies in their respective territory.

40. Chapter 12 (Telecommunications) provides for specific provisions on standards for telecommunications. Article 12.5 sets down the conditions for the adoption and/or maintenance of standards-related measures relating to the attachment of terminal or other equipment to the public telecommunications transport networks, including those measures relating to the use of testing and measuring equipment for conformity assessment procedures. In accordance with the WTO Agreement on Technical Barriers to Trade, conformity assessment procedures are to be transparent and non-discriminatory. Furthermore, no later than one year after the Agreement's entry into force, the Parties are required to provide for mutual acceptance of the test results from laboratories or testing facilities in their respective territories. In Annex 12.5.8A of the Agreement, a Committee is set up to specifically deal with telecommunications standards.

(b) Sanitary and phytosanitary measures

41. Chapter 8 provides a regulatory framework for sanitary and phytosanitary (SPS) measures which is deemed by the Parties to be consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (Article 8.2).

¹⁴ In addition to the provisions of this Chapter, the Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement (Article 9.2).

42. Article 8.4 requires that the Parties base their SPS measures on: scientific principles, and that their application does not constitute a disguised restriction to trade or arbitrarily discriminates against similar goods of the other Party and of any other country where similar conditions exist. Parties are referred to relevant international standards, guidelines or recommendations (with a view to seeking harmonization) in Article 8.5, and specific reference is made to the *Office International des Épizooties*, the *Codex Alimentarius* and the *International Plant Protection Convention*. Article 8.7 deals with risk assessment issues, and Article 8.7 allows the Parties to adopt provisional SPS measures where available scientific information is determined by a Party to be insufficient.

43. The Agreement includes provisions for equivalence of the Parties' SPS measures (Article 8.6) and for recognition of the concepts of pest- or disease-free areas or areas of low pest or disease prevalence (Article 8.8). With respect to control, inspection or approval procedures, Article 8.9 refers the Parties to apply the provisions in Annex C of the WTO SPS Agreement. Article 8.10 sets out transparency requirements while Article 8.11 provides *inter alia* for the establishment of a specialized Committee to implement the provisions of this Chapter, monitor compliance, facilitate consultations, promote technical co-operation. Article 8.12 allows a Party to initiate consultations with the other Party with respect to the application or interpretation of a SPS measure under Chapter 8 of the Agreement. The Parties may consider these consultations in the sense of Article 19.4 of the Agreement (see paras. 67-70).

2. Safeguard mechanisms

44. Chapter 6 (Safeguard measures) states that the Parties retain their rights and obligations under Article XIX of GATT and the Agreement on Safeguards of the WTO. Such safeguard actions are not subject to Chapter 10 on Dispute Settlement of the Agreement.

45. Article 3.12 provides for specific emergency safeguards for agricultural goods. Such emergency actions may be taken in circumstances when a product originating in a Party is being imported into the other Party in such increased quantities and under such conditions as to cause or threaten to cause serious injury or disturbance in the markets of like or directly competitive products. Measures permitted to be taken are the suspension of tariff reductions scheduled for the products concerned, or an increase in the rate of duty on that product to a level not exceeding the MFN rate (or the basic rate of duty on which the tariff reductions are to be applied). Before such a measure is taken, the concerned Party has to refer the matter to the Commission (see paragraph E.3.66 below) to allow for possible consultations with the other Party in view of seeking a mutually acceptable solution. Where exceptional circumstances require immediate action, the importing Party may take the measure on a transitional basis without referral to the Commission for a maximum period of 120 days. The safeguard measure must not exceed what is necessary to remedy the difficulties that have arisen. The Parties will hold consultations to determine compensation and should they fail to reach an agreement the affected exporting Party may suspend the application of substantially equivalent concessions.

3. Anti-dumping and countervailing measures

46. Chapter 7 addresses anti-dumping and countervailing duty matters, stating that the Parties maintain their rights and obligations under Article VI of the GATT, and the WTO Agreements on Implementation of Article VI of the GATT and on Subsidies and Countervailing Measures. Anti-dumping or countervailing actions are not subject to Chapter 19 on Dispute Settlement of the Agreement.

4. Subsidies and state-aid

47. As noted above, Chapter 7 states that the Parties maintain their rights and obligations under the WTO Agreement on Subsidies and Countervailing Measures. The Agreement further addresses

the issue of state-aid in the context of transparency under Chapter 17. In that respect, Article 17.5 allows either Party to request information on cases of state-aid that it believes affect trade between the Parties. The requested Party will make its best efforts to provide non-confidential information.

5. Other regulations

(a) Customs-related procedures

48. The Agreement contains several provisions that specifically deal with customs procedures. Some of these procedures have been further elaborated in the Uniform Procedures referred to in paragraph B.2.26 above, and have been supplemented by an agreed text on mutual assistance, aimed *inter alia* at developing mutual assistance, the exchange of information for detection, prevention and penalty of customs fraud, and technical training for officers.¹⁵ According to the Parties, the Customs Co-operation Agreement is still under negotiation and they have agreed to cooperate fully for an early conclusion of it. Chile has issued a circular to inform customs and trade operators on customs matters related to the implementation of the Agreement.¹⁶ Korea Customs Services has issued the regulations¹⁷ and has held seminars and published booklets related to the implementation of the Agreement.

49. Article 3.8 states that the WTO Customs Valuation Agreement will govern the customs valuation rules applied by the Parties to their reciprocal trade. The Agreement allows the maintenance of customs user fees, however, it limits their amount to the cost of services rendered (Article 3.10).

50. Chapter 5 of the Agreement provides for customs procedures related to rules of origin. In accordance with Article 5.2.1, single forms for the certificate of origin and declaration of origin have been agreed by the Parties (see Uniform Regulations).¹⁸ The declaration of origin is to be completed and signed by the producer and provided to the exporter, the latter being responsible for processing the corresponding certificate of origin (in English). Both documents will remain valid for two years from the date of signature (Article 5.2). Certificates of origin are not required in exceptional cases that are clearly identified in the Agreement (Article 5.5).¹⁹

51. Customs authorities of the importing Party may conduct verifications of originating status granted to any good, and that after the importation of the good. Verification can be made solely by means of written questionnaires, verification letters and requests for information to the exporter or producer in the other Party; verification visits to the premises of an exporter or a producer in the other Party; or any other method of communication customarily used by the customs administration of the Party in conducting an investigation. These, and other detailed requirements and procedures relating to verification, are found in Articles 5.8 of the Agreement and VIII of the Uniform Regulations.

52. Articles 5.9 of the Agreement and IX of the Uniform Regulations govern the advanced ruling on determination of origin, prior to the good's importation. Upon request, the competent customs authorities shall provide for the expeditious issuance of a written advanced ruling, on the basis of the

¹⁵ The text of the Uniform Regulations is available at <http://www.mofat.go.kr/pdf/UE.pdf>.

¹⁶ Circular Office N°66 of 19.03.04, available at:
http://www.aduana.cl/p4_principal/antialone.html?page=http://www.aduana.cl/p4_principal/site/artic/20040324/pags/20040324184120.html

¹⁷ http://www.fta.go.kr/inc/html/down.php?board_id=75&file_id=1 (Korean only)

¹⁸ These Regulations also include detailed instructions on how to complete these certificates forms.

¹⁹ i.e. commercial or non-commercial importation of a good of a value not exceeding US\$ 1,000 (a statement certifying that the goods qualify as originating may however be required in the former case) or if the relevant Party has waived the requirement for a Certificate of Origin for the imported good. Those exceptions apply on the grounds that importation has taken place in good faith and has not otherwise been arranged for avoiding certification requirements.

facts and circumstances presented by an importer, exporter or producer of the good qualifying as originating pursuant to the Agreement. Advanced ruling may be modified or revoked under certain circumstances (specified in the Agreement); further, a good that is subject to an origin verification process or any instance of review or appeal in the territory of one of the Parties may not undergo an advanced ruling. Articles 5.10 of the Agreement and X of the Uniform Regulations specify the circumstances and procedures related to rights of review and appeal of determinations of origin and advanced rulings.

53. If preferential tariff treatment has not been claimed for a good which would have qualified as "originating", the Agreement provides that the importer may, upon presentation of specified documents, request a duty refund within one year from the date of import (Article 5.5.3).

54. Goods invoiced by a non-Party operator may benefit from preferential treatment provided it is accompanied by a certificate of origin (Article 5.6). Provisions also exist regarding safeguarding confidential business information; criminal, civil or administrative penalties; and customs co-operation (Articles 5.7, 5.11 and 5.13, respectively). With respect to the latter, the Agreement includes provisions on *inter alia* the application of customs laws and regulations; requests for cooperation on verification procedures; mechanisms for detecting and preventing the illicit shipment of goods; and storage and transmission of customs-related documentation.

(b) Competition policy

55. Chapter 14 sets out a framework for co-operation and coordination of the Parties' competition authorities and for the implementation of their competition laws. Co-operation under this Chapter includes notification, consultation, exchange of non-confidential information and technical assistance. With respect to public enterprises and monopolies, Article 14.8 affirms the right of a Party to designate or maintain public and private monopolies according to their respective laws. The Parties do not have recourse to the arbitral process of the dispute settlement mechanism of the Agreement for any matter arising under this Chapter.

(c) Government procurement

56. Chapter 15 establishes a regulatory framework of rights and obligations among the Parties with respect to their laws, regulations, procedures and practices regarding government procurement.²⁰ Article 15.3 provides for national treatment and non-discrimination in regards to goods (and services) of each Party, for the procuring entities covered, subject to specified minimum thresholds and certain exceptions (Annex 15.1).

57. The Agreement contains a number of disciplines with respect to procurement procedures covered by the Chapter. These include: tendering procedures, which except for certain listed circumstances are to be based on "open tendering procedures" (Article 15.6); publication of advance notices (Article 15.8); procedures allowing suppliers to challenge alleged breaches of this Chapter (Article 15.13). Article 15.5 provides for transparency through the publication of information relating to laws, regulations, judicial decision and administrative ruling of general application and procedure regarding procurement. Article 15.14 encourages the Parties to use, to the extent possible, electronic means of communication and to provide each other technical co-operation and assistance.

58. The Agreement prohibits the use of offsets (Article 15.4) and contains obligations on technical specifications to avoid their use to create unnecessary obstacles to trade (Article 15.11). Technical specifications prescribed by entities will be in terms of performance and functional

²⁰ It should be noted that Korea is a party to the WTO Government Procurement Agreement (GPA) and Chile is an observer.

requirements rather than design and be based on international standards, where they exist, and in the absence of these, on national technical regulations, recognized national standards, or building codes.

59. Korea, which is a member of the WTO Agreement on Government Procurement (GPA), grants to Chilean suppliers the eligibility to participate in tendering for the covered procurement under the KCFTA (Article 16.6.1); the threshold value applying to its central government entities' supplies is however lower under the KCFTA (SDR 50,000) than under the GPA (SDR 130,000).

(d) Intellectual property

60. Chapter 16 commits the Parties to provide each other's nationals adequate and effective protection and enforcement of intellectual property rights and to faithfully implement the international conventions they have acceded to, including the WTO TRIPS Agreement (Article 16.1). Article 16.2 allows the Parties to implement more extensive protection of intellectual property rights than is required under the Agreement provided it is not inconsistent with the KCFTA and the TRIPS Agreement.

61. The Agreement includes provisions on trademarks (Article 16.3) and geographical indications (Article 16.4). With respect to the latter, Annexes 16.4.3 (Korea), and 16.4.4 (Chile) list the geographical indications that the Parties have agreed to protect under the Agreement. Protection of the geographical indications listed in Annex 16.4.5 are subject to consultations to be held between the Parties for the protection of additional geographical indications. The Agreement calls for enforcement of intellectual property rights consistent with the TRIPS Agreement (Article 16.5) and it provides for consultations under the dispute settlement procedures of the KCFTA with respect to the implementation and interpretation of this Chapter (Article 16.6).

D. SECTOR-SPECIFIC PROVISIONS OF THE AGREEMENT

62. There is no specific provision in the Agreement regarding trade in goods in any particular sector, other than the emergency clause for agricultural goods provided for in Article 3.12 (see paragraph C.2.45 above).

E. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions and reservations

63. General exceptions and reservations are laid down in Chapter 20 of the Agreement. Article 20.1 stipulates that the general exceptions understood under Article XX of the GATT 1994 and its interpretative notes are incorporated into and made part of the KCFTA. Other exceptions include measures concerning National Security (Article 20.2), Taxation (Article 20.3), and Balance Of Payments (Article 20.4).

2. Accession

64. There is no provision for the accession of third countries to the Agreement.

3. Institutional framework

65. Chapter 17 of the Agreement addresses transparency. Provisions under this Chapter include the designation of contact points (Article 17.2); publication of laws, regulations, procedures and administrative rulings relating to matters covered by the Agreement (Article 17.3); notification and provision of information (Article 17.4); exchange of information on state aid (Article 17.5); administrative proceedings (Article 17.6); and review and appeal (Article 17.7).

66. Chapter 18 of the Agreement provides for the establishment of a Free Trade Commission comprising the Minister of Foreign Affairs in the case of Chile and the Minister for Trade in the case of Korea, or their designees. The Commission will supervise the implementation of the Agreement and in the fulfilment of its functions it may, among others, modify the rules of origin established under the Agreement and, in order to accelerate the tariff elimination process, the Parties' tariff elimination schedules. The Commission is to establish its rules and procedures and it shall convene at least once a year in regular session; all of its decisions are to be taken by mutual agreement. Chapter 18 also requires each Party to designate a national organ to serve as secretariat for purposes of the Agreement and for all communications or notification to or by a Party. The national organs are the General Directorate of International Economic Affairs of the Ministry of Foreign Affairs of Chile, and the Multilateral Trade Bureau of Ministry of Foreign Affairs and Trade of Korea, or their successors.

4. Dispute settlement

67. Chapter 19 sets out the institutional arrangements that apply to the settlement of disputes between the Parties regarding questions of interpretation or application of the Agreement and whenever a Party considers that an existing or proposed measure by the other Party is or would be inconsistent with the obligations under the Agreement or causes nullification or impairment of benefits. Article 19.3 provides that disputes regarding any matters arising under both the KCFTA and the WTO Agreement may be settled in the forum selected by the complaining Party. Once dispute settlement procedures have been initiated under either forum, this forum must be used to the exclusion of the other.

68. Chapter 19 emphasises that the Parties will seek to resolve any matters affecting the operation of the Agreement through co-operation and consultations. In this respect a Party may request in writing consultations with the other Party regarding any existing or proposed measures or any other matter that it considers might affect the operation and the application of the KCFTA. The Parties may also resort to good offices, conciliation or mediation at any time. If these procedures fail to resolve the matter, the Parties may request the establishment of an arbitral panel. The panel will comprise three members normally selected from a roster of up to 15 individuals established by mutual agreement between the Parties no later than six months after the entry into force of the Agreement.

69. The panel will present to the Parties a final report which will be binding and not subject to appeal. This report will be made publicly available within 15 days of its delivery to the Parties. Unless the Parties decide otherwise, they will implement the panel decision in the manner and within the timeframe contained in the report. Should the Party complained against fail to implement the panel decision with respect to an inconsistent measure or the Parties fail to reach a mutually satisfactory agreement with respect to a measure causing nullification or impairment, within the timeframes set out in the Agreement, the complaining Party may suspend the application of benefits of equivalent effect. (For further details, see the text-box below.)

70. Section B of Chapter 19 sets out the institutional arrangements that apply to domestic proceedings and private commercial dispute settlements. With respect to questions of interpretation or application of the Agreement in domestic judicial or administrative proceedings of a Party, the Commission will attempt to agree on an appropriate response. Should that fail any Party may submit its own views on the matter to the judicial or administrative body. The Agreement does not confer to private parties of a Party the right of action, under its domestic law, against the other Party on the grounds that a measure of the other Party is inconsistent with the Agreement. With respect to the settlement of international commercial disputes between private parties in the free trade area, Article 19.18 encourages the Parties to resort to the use of arbitration or other alternative dispute resolutions and to provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

Dispute Settlement at a Glance
Dispute Settlement Levels
<p>Chapter 19 of the Agreement provides for two levels of dispute resolution:</p> <ul style="list-style-type: none"> • <u>Level 1: Consultation, good offices, conciliation and mediation.</u> <ul style="list-style-type: none"> ○ Article 19.4 provides that a Party may request in writing <u>consultations</u> with the other Party regarding any matter that it considers might affect the operation and application of the Agreement. If at the end of the timeframes set out in Article 19.6 the matter has not been resolved, then a Party may request in writing the establishment of an arbitral panel. ○ Article 19.5 allows the Parties to undertake on a voluntary basis and by agreement procedures of <u>good offices, conciliation and mediation</u>. Once these procedures are concluded without an agreement between the Parties, the complaining Party may request the establishment of a panel. • <u>Level 2: Arbitration.</u> <ul style="list-style-type: none"> ○ Article 19.6 sets out the conditions for a Party to request the establishment of an <u>arbitral panel</u>. The written request of an arbitral panel mandates its establishment. ○ The required qualifications of panellists and the procedures for the selection of a panel are outlined in Articles 19.8 and 19.9 respectively. ○ Once a panel has been established, it will present to the Parties an initial report (Article 19.12) containing findings of facts, its determination of the matter before it and its recommendations, if any. The Parties may submit written comments on this report. Upon consideration of these comments the panel may reconsider its report. It will then issue the final report (Article 19.13) which will be binding on the Parties and not subject to appeal (Article 19.14). ○ Annexes 19.7 and 19.10 set out respectively the code of conduct for members of panels and the panel rules of procedures <p>The Parties may have recourse to arbitration once the procedures of level one have been exhausted. In this respect, Article 19.1 emphasises that the Parties will seek to resolve any matter affecting the operation of the Agreement through co-operation and consultations.</p>
Effect of Panel Decision and Countermeasures
<ul style="list-style-type: none"> • The final report of a panel is <u>binding</u> on the Parties and <u>not subject to appeal</u>. Unless the Parties decide otherwise, the panel decision will be implemented in the manner and within the time-frame prescribed in the final report (Article 19.14). • In case of non-implementation of the panel's final report, either in terms of a measure found inconsistent with the obligations of the Agreement or the Parties failing to reach a mutually satisfactory agreement with respect to a measure found to cause nullification or impairment, <u>the complaining Party may suspend the application of benefits of equivalent effect</u> to the Party complained against. Such suspension of benefits will last until the dispute is resolved (Article 19.15).
Jurisdiction and Reference to WTO
<ul style="list-style-type: none"> • The Agreement provides for <u>compulsory jurisdiction</u> in the sense that upon delivery of a written request by a Party for the establishment of an arbitral panel, such panel will be established (Article 19.6). • With respect to matters arising under both the Agreement and the WTO Agreement, a <u>forum election clause</u> applies granting discretion to the complaining Party as to the choice of the forum where the dispute is to be settled (Article 19.3). In addition to the choice of forum, Article 19.3 includes an <u>exclusive forum clause</u> whereby once dispute settlement procedures have been initiated under either forum (Article 19.6 or the WTO Agreement), the forum selected shall be used to the exclusion of the other.

5. Relationship with other agreements concluded by the Parties

71. Article 1.3 states that the Parties affirm their rights and obligations with respect to each other under the WTO Agreement and other international agreements to which both Parties are party. In case of inconsistency between such agreements and this Agreement, the latter will prevail to the extent of the inconsistency.

72. The Agreement does not contain any reference to the relationship between the KCFTA and other regional trade agreements (RTAs) to which either Chile or Korea are presently parties (see Table II.10).

Table II.10 – Chile and Korea: Participation in RTAs (notified and in force)

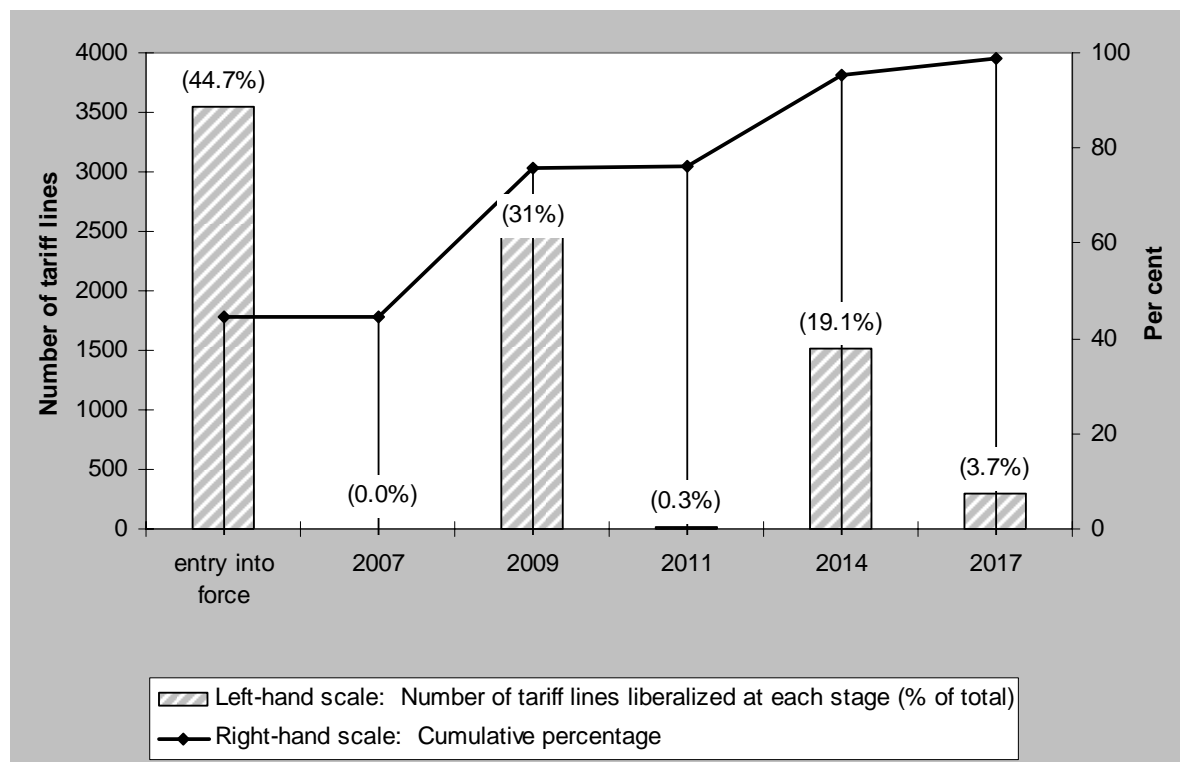
Partner/Agreement	Date of entry into force	Type of agreement	GATT/WTO Notification	
			Year	Provision(s)
CHILE				
EFTA	1-Dec-04	Goods & services	2004	GATT Art. XXIV & GATS Art. V
United States	1-Jan-04	Goods & services	2003	GATT Art. XXIV & GATS Art. V
European Communities	1-Feb-03	Goods	2004	GATT Art. XXIV
El Salvador	1-Jun-02	Goods & services	2004	GATT Art. XXIV & GATS Art. V
Costa Rica	15-Feb-02	Goods & services	2002	GATT Art. XXIV & GATS Art. V
Mexico	1-Aug-99	Goods & services	2001	GATT Art. XXIV & GATS Art. V
Canada	5-Jul-97	Goods & services	1997	GATT Art. XXIV & GATS Art. V
LAIA	18-Mar-81	Goods	1982	Enabling Clause
CHILE AND KOREA				
GSTP	19-Apr-89	Goods	1989	Enabling Clause
PTN	11-Feb-73	Goods	1971	Enabling Clause
KOREA				
Bangkok Agreement	17-Jun-76	Goods	1976	Enabling Clause

ANNEX

Indicators of trade liberalization under the KCFTA

1. The aim of this Annex is to investigate the overall scope of tariff liberalization under the Agreement and to explore, from several angles, its potential impact on mutual trade.
2. The elimination of tariffs applicable between the Parties is revealed in the corresponding KCFTA schedules. The scope of tariff liberalization can be measured in terms of the number of affected tariff lines at each liberalization stage and in terms of the value of affected imports. The share of imports at duty-free rates offers an insight into the liberalization of products currently traded among the parties, while the percentage of duty-free tariff lines points to the longer-term potential trade effects of the Agreement.
3. Indicators of *Chile's* tariff elimination schedule under the KCFTA are contained in Charts A.1 and A.2. Chart A.1 is based on a total of 7,936 tariff lines (HS 2002, at the 8-digit level).²¹ Chart A.2 is based on the corresponding value of imports into Chile from Korea for 2003.²²

Chart A.1 – Chile: Schedule for tariff liberalization, in terms of tariff lines

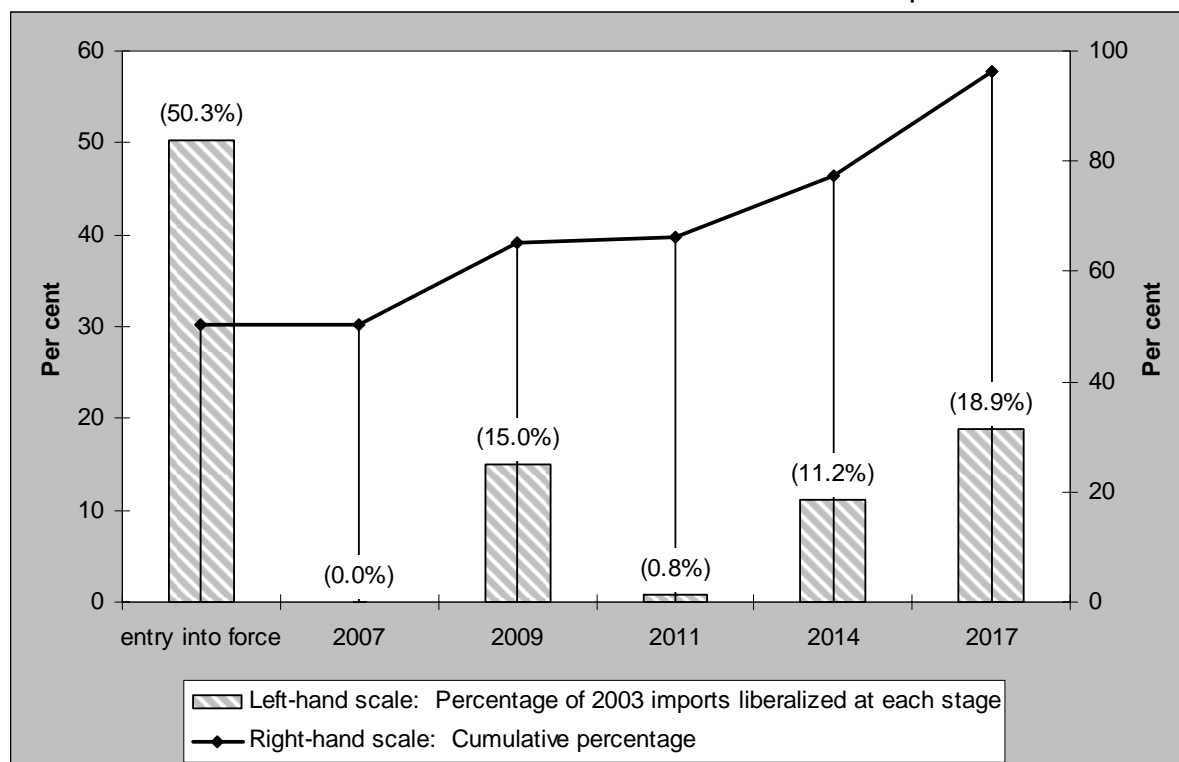


4. Upon entry into force of the Agreement, Chile freed Korean products from duties on 3,546 tariff lines (44.7 per cent of the total), or 50.3 per cent of Chile's imports from Korea in 2003. By year five (2009), the Agreement provides for the end of progressive duty elimination on a further 31 per cent of tariff lines, corresponding to 15 per cent of 2003 imports. By 2017, 98.8 per cent of tariff lines will be duty free; these account for 96.2 per cent of imports.

²¹ Schedule provided by the Chilean Authorities.

²² The source for imports is COMTRADE (HS 6-digit level). Where multiple staging categories in Chile's tariff liberalization schedule apply to a single import, the longest staging period has been used, thus understating somewhat the pace of liberalization. Such items account for 2.7 per cent of imports from Korea.

Chart A.2 – Chile: Schedule for tariff liberalization, in terms of import shares



5. A comparison of Charts A.1 and A.2 above indicates a remarkable parallelism in the scope of Chile's trade liberalization at entry into force of the Agreement, in terms of tariff lines and of actual imports. Such a parallelism becomes less pronounced afterwards; in particular, duty-free concessions scheduled for the last stage (up to 2017), corresponding to just 3.7 per cent of tariff lines, affect nearly one-fifth of Chile's total imports from Korea in 2003.

6. Indicators corresponding to *Korea's* tariff elimination schedule under the KCFTA are contained in Charts A.3 and A.4. Chart A.3 is based on a total of 11,281 tariff lines (HS 2002, at the 10-digit level).²³ Chart A.4 is based on the corresponding value of imports into Korea from Chile for 2003.²⁴ A vertical dotted line distinguishes in both charts the data relative to those products which will only be scheduled for tariff elimination at the end of the current DDA negotiations.²⁵

7. On the date of entry into force of the Agreement, 87.2 per cent of Korea's tariff lines became duty-free for imports from Chile, corresponding to 45.5 per cent of 2003 imports. The additional 6.7 per cent of tariff lines that will be subject to tariff elimination in years five and seven (i.e. by 2011) account for 47 per cent of those imports. In 2020, 96.3 per cent of Korean tariff lines will be duty free for Chilean exporters; this translates into 99.9 per cent of Korea's 2003 imports from Chile. In the case of Korean commitments under the KCFTA, the tariff-line method of capturing the scope of trade liberalization shows a considerably faster pace of liberalization than the trade value indicator.

²³ Schedule provided by the Korean Authorities. The figures used in the main text are based on the tariff liberalization schedule in HS 1996, also provided by Korea, which contains a total of 11,170 tariff lines.

²⁴ The source for imports is COMTRADE (HS 6-digit level). Where multiple staging categories in Korea's tariff liberalization schedule (which is at an HS 10-digit level) apply to a single import (at an HS 6-digit level), the longest staging period has been used, thus understating somewhat the pace of liberalization. Such items account for 1.1 per cent of all trade.

²⁵ For tariff-rate quotas, only the prevailing preferential tariff rate has been taken into account in Table A.3. Such tariff quotas applied to \$151,920 of imports from Chile into Korea in 2003.

Chart A.3 – Korea: Schedule for tariff liberalization, in terms of tariff lines

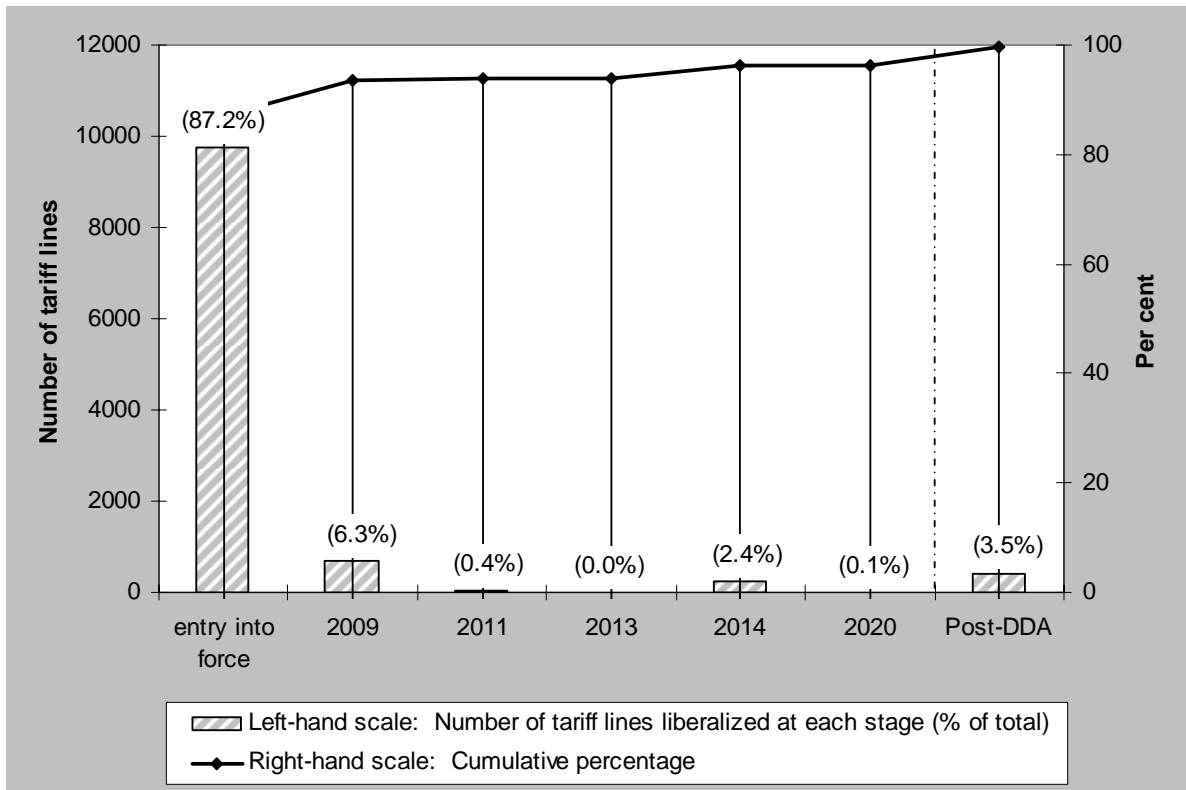
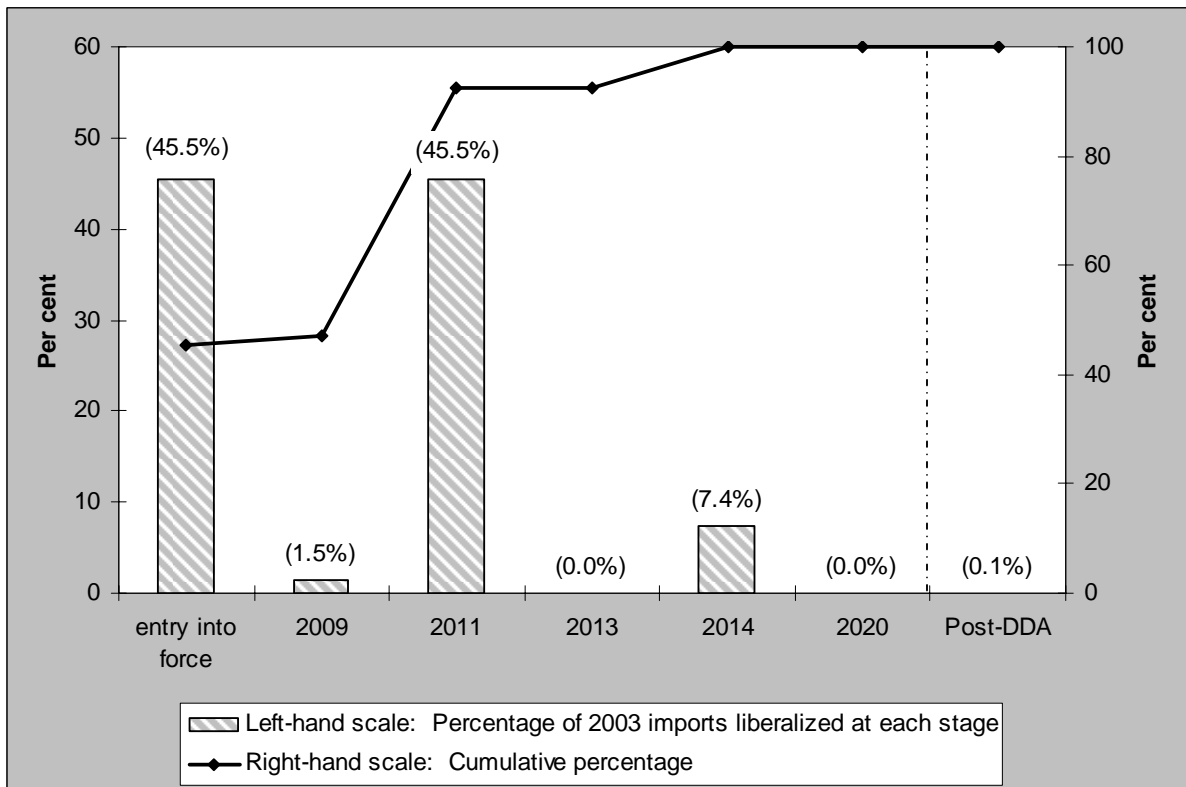


Chart A.4 – Korea: Schedule for tariff liberalization, in terms of import shares



8. Though implied by the above exploration of the overall scope of tariff liberalization under the KCFTA, more detailed statistics are necessary to grasp the competitive gains offered by KCFTA preferential concessions. This requires a comparison between the scheduled elimination of tariffs applied to the Parties' mutual imports and the duty rates applied by Chile and Korea to MFN imports. Such a comparison is shown in Tables A.1 (Chile) and A.2 (Korea) below, broken into agricultural, industrial and total products. Applied MFN duty rates in 2004, the year of entry into force of the KCFTA, serve as a basis to the comparison.

9. In 2004, *Chile* had a flat MFN rate (6 per cent) that applied to over 99 per cent of tariff lines, as suggested in Table A.1. Immediately after entry into force of the Agreement, Korean exporters enjoyed an (unweighted) average margin of preference of over 4 percentage points, as well as a sharp increase (to nearly 45 per cent) in the share of Chile's duty-free lines. This development was particularly marked in the case of agricultural products, where virtually 95 per cent of Chile's tariff lines became duty free upon entry into force; the additional liberalization scheduled until 2017 is minimal. Contrastingly, a slower pace has been scheduled for the tariff liberalization of industrial imports into Chile from Korea, though as from year five (2009) they will be granted, on average, a margin of preference representing 5.1 percentage points on the MFN rate applied in 2004, with Korean imports entering duty free for over two-thirds of Chile's tariff lines.

Table A.1- Chile: Indicators of tariff rates applied to MFN and Korean imports

Origin of goods	Year	ALL PRODUCTS			Agricultural products			Industrial products		
		Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)
		Overall (%)	On dutiable ^a (%)		Overall (%)	On dutiable ^a (%)		Overall (%)	On dutiable ^a (%)	
MFN	2004	6.0	6.0	0.4	6.1	6.1	0.0	5.9	6.0	0.5
Korea	2004	1.9	3.3	44.7	0.3	4.8	94.2	2.2	3.3	33.8
	2007	1.6	3.0	44.7	0.3	5.5	94.2	1.9	2.9	33.8
	2009	0.8	3.3	75.7	0.3	5.3	94.6	0.9	3.3	71.6
	2011	0.4	1.6	76.0	0.3	5.1	94.6	0.4	1.4	71.9
	2014	0.2	3.2	95.1	0.3	6.0	95.7	0.1	2.7	95.0
	2017	0.1	6.0	98.8	0.3	6.0	95.7	0.0	6.0	99.5

^a "On dutiable" excludes duty-free tariff lines
Source: IDB (2003 MFN); data furnished by Chile (MFN 2004, preferential rates for 2004).

10. Table A.2 provides similar data for *Korea*, on MFN rates and the preferential rates applied to Chile. Korea has a variable MFN tariff structure. Its (unweighted) average MFN rate of 12 per cent thus masks a diversity of duty levels. The (unweighted) average MFN rate applied to agricultural products is 42.5 per cent, while that applied to industrial products is 6.6 per cent. That diversity complicates the interpretation of the information contained in Table A.2, which basically consists of (unweighted) averages.

11. Nevertheless, Table A.2 indicates that, as from entry into force of the Agreement, Chilean exporters into Korea enjoyed a relative margin of preference of 98 per cent in industrial products *vis-à-vis* the average MFN applied tariff in 2004, and a relative margin of preference of 81 per cent in agricultural products.²⁶ In the following years, the scheduled pace of liberalization of Chilean industrial products into Korea is faster than the liberalization applied to agricultural products, which is the reverse of Chile's liberalization profile. The (mainly agricultural) products that are to be scheduled for liberalization by Korea at the end of the DDA negotiations include those for which the applied MFN tariffs are the highest.

²⁶ Relative margins of preference are used for Korea given its variable tariff structure.

Table A.2– Korea: Indicators of tariff rates applied to MFN and Chilean imports

Origin of goods	Year	ALL PRODUCTS			Agricultural Products			Industrial Products		
		Average applied tariff		Share of duty-free tariff lines	Average applied tariff		Share of duty-free tariff lines	Average applied tariff		Share of duty-free tariff lines
		Overall (%)	On dutiable ^a (%)		Overall (%)	On dutiable ^a (%)		Overall (%)	On dutiable ^a (%)	
MFN	2004	12.0	13.8	13.4	42.5	43.3	1.8	6.6	7.8	15.4
Chile	2004	1.4	10.2	86.8	8.2	10.8	24.0	0.1	6.1	98.1
	2009	0.4	5.6	93.1	2.4	5.8	58.7	0.0	3.5	99.3
	2011	0.2	3.5	93.5	1.4	3.7	61.1	0.0	2.1	99.3
	2013	0.1	1.6	93.5	0.7	1.7	61.1	0.0	0.7	99.3
	2014	0.0	1.1	96.1	0.3	1.2	75.7	0.0	0.0	99.8
	2020	0.0	0.4	96.2	0.1	0.4	76.5	0.0	0.0	99.8
	<i>Post-DDA</i>		<i>150.9</i>	<i>150.9</i>	<i>0</i>	<i>150.7</i>	<i>150.7</i>	<i>0</i>	<i>154.6</i>	<i>154.6</i>

^a "On dutiable" excludes duty-free tariff lines.
Source: IDB (2003, 2004 MFN); data furnished by Korea (preferential rates for 2004)

12. How do the market openings described above translate into market access opportunities in each of the Parties for goods of export interest to the other? Tables A.3 and A.4 attempt to illustrate those opportunities for a subset of Korea's and Chile's products. These, the top 25 products (at the HS 6-digit level) exported to the world in 2002-2003, are deemed to closely reflect the comparative advantage of the Parties' exports.

13. Table A.3 shows the market access opportunities in *Chile* for Korea's top 25 exports, which in 2002-2003 accounted on average for 49.4 per cent of Korea's global exports. The table shows at which year all HS 8-digit tariff lines corresponding to the product definition (i.e. applying to the 6-digit HS code used to capture the volume of trade) will become duty-free in Chile, and the applicable rules of origin.

14. Under the KCFTA, a margin of preference varying from 0 to 6 percentage points has been granted by Chile for Korea's top 25 export products. Of these, which cover a total of 123 HS 8-digit tariff lines, in 77 Korea gains immediate duty-free access in Chile; for a further 41, Korea gains progressive reductions in the tariff rate starting in 2004 with duty-free access as of 2009. Only 3 products, including some types of vessels and four-wheel road vehicles, will get full duty-free access in Chile in 2017 (though duty reductions begin in 2010). Korea gains immediate duty-free access in Chile's market for its top five global exports (which accounted for 27 per cent of global exports in 2002-2003).

15. Table A.4, built up on the same basis as Table A.3, shows the market access opportunities in *Korea* for Chile's top 25 exports (at the HS 6-digit level) in 2002-2003, which accounted on average for 68.4 per cent of Chile's exports to the world. The table shows at which year all HS 10-digit tariff lines corresponding to the product definition (i.e. applying to the 6-digit HS code used to capture the volume of trade) will become duty-free in Korea, and the applicable rules of origin.

16. The margin of preference granted to Chile's top 25 exports under the KCFTA varies from 0 to 45 percentage points. Among these exports, one product (apples) is excluded from tariff liberalization under the KCFTA by Korea. The other 24 products correspond to 55 HS 10-digit tariff lines. On 31 of these, Chile gains immediate duty-free access in Korea, and for 17 additional tariff lines, it will benefit from progressive reductions in the duty rate starting in 2004 with total liberalization as of 2009 or 2011 (the latter in the case of a single tariff line). The remaining eight tariff lines will have duty-free access in Korea by 2014; these comprise fresh grapes and some fish products. Duty-free access in Korea for Chile's leading global export, copper cathodes, which accounted for 22 per cent of

total exports in 2002-2003, is scheduled for 2011. Longer liberalization periods tend to apply to products where Korea's MFN tariff rates are relatively higher.

Table A.3 – Chile: Market access opportunities under the Agreement, for Korea's top 25 exports

Korea's top 25 export products in 2002-2003		Conditions of access to Chile's import market				
Share in global exports (%)	HS number & description of the product	Ave MFN applied tariff (%)	Under the KCFTA			Origin rules*
			Duty-free in:			
			2004	2009	2017	
			Number of HS 8-digit lines			
6.81	854221 Electronic integrated circuits and micro-assemblies, digital	6%	3			change in subheading and RVC of 45% or 30%
6.75	852520 Transmission apparatus incorporating reception apparatus	6%	4			CTH and RVC of 35% or 30%
5.06	870323 General purpose, off road and similar vehicles equipped with four wheel drive, of a cylinder capacity > 1500 cc but < 3000 cc	6%	6			RVC of 45% or 30%
4.54	847330 Parts and accessories of automatic data processing machines	6%	4			CTH
3.39	890120 Tankers, of a gross tonnage exceeding 3.500 tons and/or of a length of 120 m or more	0%	2			CTC; or CTH and RVC of 45% or 30%
3.14	847160 Input or output units, whether or not containing storage units in the same housing	6%	13			CTH from any other heading except 84.13; or a CTH and RVC of 45% or 30%
2.69	271019 Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	6%	1	12		CTH
2.21	852990 Parts suitable for use solely or principally with transmission apparatus, other	6%	8			CTH
2.14	890190 Other vessels for transport of goods and other vessels for transport of both persons and goods : vessels exceeding 3.500 tons and/or 120m length	3%	3		3	CTC; or CTH and RVC of 45% or 30%
1.23	870899 Parts and accessories of the motor vehicles of headings 87.01 to 87.05, other	6%		7		CTH; or no change in tariff classification but RVC of 45% or 30%
1.20	852812 Reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors, colour	6%	8			CTH provided RVC of 45% or 30%
1.16	870322 General purpose, off road and similar vehicles equipped with four wheel drive : of a cylinder capacity > 1000 cc but < 1500 cc	6%	5		1	RVC of 45% or 30%
1.12	870324 General purpose, off road and similar vehicles equipped with four wheel drive : of a cylinder capacity exceeding 3 000 cc	6%	5	1		RVC of 45% or 30%
0.89	847170 Storage units	6%	3			CTH except from heading 84.13; or a CTH from 84.13 and RVC of 45% or 30%
0.86	271011 Light oils and preparations	6%		7		CTH
0.84	854229 Electronic integrated circuits and microassemblies, other	6%	1			change in subheading and RVC of 45% or 30%

Korea's top 25 export products in 2002-2003		Conditions of access to Chile's import market				
Share in global exports (%)	HS number & description of the product	Avg MFN applied tariff (%)	Under the KCFTA			Origin rules*
			Duty-free in:			
			2004	2009	2017	
			Number of HS 8-digit lines			
0.74	710813 Gold (including gold plated with platinum), unwrought or in semi-manufactured forms, or in powder form; other semi-manufactured forms	6%	1			CTC
0.68	841510 Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated; window or wall types, self-contained or "split-system"	6%	1	1		CTH; or change in subheading and RVC of 45% or 30%
0.67	847130 Portable digital automatic data processing machines, weighing not more than 10 kg, consisting of at least a CPU, a keyboard and display	6%		1		CTH except from heading 84.13; or change from heading 84.13 and RVC of 45% or 30%
0.66	854060 Other cathode-ray tubes	6%	1			CTH or subheading and RVC of 45% or 30%
0.60	540761 Of polyester only, single, measuring per single yarn more than 75, but less than 80 decitex, and 24 filaments per yarn, and a twist exceeding 900 turns per metre	6%		8		CTC
0.58	870332 General purpose, off road and similar vehicles equipped with four wheel drive : of a cylinder capacity > 1,500 cc but < 2,500 cc	6%	5		1	RVC of 45% or 30%
0.53	852290 Printed circuit assemblies for apparatus under headings 8519; 8520 or 8521	6%	2			CTH
0.49	847989 Mixing, kneading, crushing, grinding, screening, sifting, homogenizing, emulsifying or stirring machines	6%		4		CTH; or in subheading and RVC of 45% or 30%
0.48	390330 Acrylonitrile-butadiene-styrene (ABS) copolymers	6%	1			CTH; or no change in tariff classification but a RVC of 45% or 30%
TOTAL OF ABOVE			77	41	5	
* CTH=Change in tariff heading, CTC=Change in tariff chapter, RVC=Regional value content. RVC is based on either a build-down method or a build-up method. (See Section B.2 for further details).						
Source: Trade data 2002, 2003 (Comtrade), MFN rates and liberalization schedule taken from data provided by Chile.						

Table A.4 - Korea: Market access opportunities under the Agreement, for Chile's top 25 exports

Chile's top 25 export products in 2002-2003		Conditions of access to Korea's import market					
Share in global exports (%)	HS number & description of the product	Avg MFN applied tariff (%)	Under the KCFTA				Origin rules*
			Duty-free in:				
			2004	2009	2011	2014	
			Number of HS 10-digit lines				
22.27	740311 Copper cathodes and sections of cathodes	5%			1		CTC
11.05	260300 Copper ores and concentrates	1%	1				CTC
3.34	080610 Fresh grapes	45%				1 ^a	CTC
2.99	220421 Wine in containers holding 2l or less	15%		3			CTH but a RVC of 45% or 30%

Chile's top 25 export products in 2002-2003		Conditions of access to Korea's import market					
Share in global exports (%)	HS number & description of the product	Avg MFN applied tariff (%)	Under the KCFTA				Origin rules*
			Duty-free in:				
			2004	2009	2011	2014	
			Number of HS 10-digit lines				
2.86	470321 Chemical wood pulp, soda or sulphate, semi-bleached or bleached, coniferous	0%	2				CTH
2.74	9999AA unclassified						
2.23	290511 Methanol	3%	1				CTH; or no change in tariff classification but a RVC of 45 % or 30%
1.99	440710 Wood sawn or chipped lengthwise, coniferous	5%		8			CTH
1.89	740200 Unrefined copper	0%	2				CTC
1.82	030410 Fish, fresh or chilled	20%	6				CTC
1.70	230120 Flours, meals and pellets of fish or of crustaceans	5%				2	CTC
1.53	030420 Frozen fish fillets	10%	1	3		2	CTC
1.39	710812 Gold, other unwrought forms	3%	2				CTC
1.33	080810 Apples	45%	<i>Excluded</i>				
1.14	261310 Molybdenum ores and concentrates, roasted	1%	1				CTC
1.09	740319 Refined copper and copper alloys, other	5%	3				CTC
1.08	271011 Light oils and preparations	3.6%	6				CTH
1.05	440910 Wood (including strips and friezes for parquet flooring, not assembled), coniferous	8%		1			CTH
0.89	470329 Chemical wood pulp, non-coniferous	0%	2				CTH
0.83	030319 Frozen fish, other	10%		1			CTC
0.73	030490 Fish fillets and other fish, fresh, chilled or frozen, other	10%				3	CTC
0.70	280120 Iodine	5.5%	1				CTH; or no change in tariff classification but a RVC of 45% or 30%
0.63	283421 Nitrates, of potassium	5.5%	1				CTH; or no change in tariff classification but a RVC of 45% or 30%
0.61	440122 Wood in chips or particles, non-coniferous	2%	1				CTH
0.58	470311 Chemical wood pulp, soda or sulphates, unbleached, other than dissolving grades, coniferous	0%	1				CTH
TOTAL OF ABOVE			31	16	1	8	
* CTH=Change in tariff heading, CTC=Change in tariff chapter, RVC=Regional value content. RVC is based on either a build-down method or a build-up method. (See Section B.2 for further details).							
ª Duty elimination applies on a seasonal basis (1 November to 30 April of each year).							
Source: Trade data 2002, 2003 (Comtrade), MFN rates 2004 (IDB), liberalization schedule taken from data provided by Korea							

17. Chart A.5 portrays the rules of origin applied to the top 25 exports of both Chile and Korea. While the main origin rule criterion facing market access at preferential rates for these exports is the change of HS heading (CTH), change of HS chapter is also of importance, especially for Chile's exports (many of which are agricultural and mineral products, generally subject to change of HS chapter requirements). In some cases, two requirements apply jointly. Alternative rules of origin are available for ten top exports of Korea and three of Chile.

Chart A.5: Rules of origin applicable to the top 25 exports of Chile and Korea

