
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) INTRODUCTION

1. Since its last Review in 1997, Chile has continued the reform and liberalization of its already open policy regime. Chile's trade and investment policy has sought to further promote, facilitate, and consolidate its integration in the international economy. The main comprehensive reforms carried out during the last years include new legislation on customs valuation, MFN tariff reductions, and on safeguard measures as well as the modification of various export promotion programmes. Chile's foreign investment regime grants national treatment to foreign investors with only few sectoral exceptions; investments made under the Foreign Investment Statute require authorization.

2. Trade policy is primarily conducted by the Ministry of Foreign Affairs. The WTO Agreements have the same ranking as national laws and can be invoked before national courts. Chile participates actively in the multilateral trading system. It took part in the extended negotiations on agriculture and financial services and in the Negotiating Group on Basic Telecommunications, and ratified the Fourth and Fifth Protocol to the GATS, on telecommunications and financial services respectively. It has been involved in 11 cases under the WTO dispute settlement system, although, only a few disputes reached WTO panels.

3. Alongside its participation in the multilateral trading system, Chile has increasingly sought to open its trade and investment regimes through the negotiation of preferential agreements. Since 1997, Chile has entered into agreements with Canada, Costa Rica, El Salvador, the European Union, and Mexico. Further agreements, with the European Free Trade Association, Korea, and the United States, have been negotiated but have not entered into force (as at June 2003). In Chile, like in other countries making similar efforts, preferential trade agreements are creating in Chile an elaborated system of different tariffs and rules of origin that could result in economic distortions; however, the importance of these distortions has not been assessed and might be minor in view of Chile's relatively low MFN border protection.

(2) TRADE POLICY FORMULATION AND IMPLEMENTATION

(i) General legal and institutional framework

4. The Constitution of 1980 defines Chile as a unitary and democratic republic. For administrative purposes, the country is divided into 13 regions (Region I to XII, running from north to south, and the Metropolitan Region). The regions consist of provinces, which are subdivided into municipalities.

5. Legislative power is exercised by the National Congress, which comprises a House of Representatives and a Senate. The House of Representatives is composed of 120 members elected for a four-year term. The Senate is composed of 48 senators, of which 38 are directly elected; the former Presidents of the Republic who have completed a continuous six year period, as senators for life (currently one); two former ministers, appointed by the Supreme Court; the former Commanders in Chief of the Air Force, Navy, Army, and the Police, all appointed by the National Security Council; one former Rector of or recognized by the State University, appointed by the President of the Republic; one former General Controller of the Republic, appointed by the Supreme Court; and one former minister, appointed by the President of the Republic. Members of both chambers may be re-elected. The next presidential and congressional elections are scheduled for December 2005.

6. Executive power is exercised by the President of the Republic who is also the Head of State and is elected by universal suffrage for a term of six years. Cabinet ministers are appointed by the President.

7. Judicial power is vested in the Supreme Court of Justice, 16 regional courts of appeal, and other courts established by law. The 21 Supreme Court judges are appointed by the President and confirmed by a two-thirds majority in the Senate. Members of the lower courts are appointed by the Supreme Court.

8. Chile's government has undertaken considerable efforts in recent years to reform the public administration and legal framework. In June 2000, the President created a Project for the Reform and Modernization of the State. In January 2003, the political parties represented in Congress and the Government signed an Agreement for the Modernization of the State, Transparency, and Promotion of Growth.¹ This Agreement provides for 49 individual legal and administrative initiatives in areas such as: simplifying procedures in the public service, increasing fiscal transparency, decentralization, creating one-stop offices, and increasing the use of new technologies in the public administration, such as electronic signatures. As part of these reform efforts, new legislation on public procurement has already entered into force.

9. As described in detail in the last Secretariat Report, Chile's legislative procedures distinguish between constitutional organic laws, qualified quorum laws, ordinary laws, decrees with force of law, and decree laws.² Constitutional organic laws are enacted only to specify general matters in the Constitution and, before entering into force, must be examined by the Supreme Court. Qualified quorum laws may be established, amended or repealed by an absolute majority of serving deputies and senators. Ordinary laws require a simple majority of the votes cast by members of Congress present on a day when a bill is voted. Decrees with force of law are issued by the Executive Power on the basis of laws enacted by Congress delegating powers to the President of the Republic. Decree laws may be issued by the Executive Power without Congress in exceptional situations defined by the Constitution. Laws are published in the *Official Gazette* and enter into force on the day of publication unless otherwise stated.

10. Bills may be proposed by members of the House of Representatives or of the Senate, or by the President of the Republic. Once the bill is discussed and approved in the Chamber where it originates, it is passed to the other Chamber for approval. The bill is then submitted to the President of the Republic, who promulgates it through a Supreme Decree. The Constitution establishes that the President of the Republic has the exclusive initiative to propose bills on matters that concern changes in the political or administrative organization of the country, the annual budget, taxes, and tariffs. International treaties undergo the same procedures as a domestic bill. Pursuant to Article 50 of the Constitution, the Congress has the exclusive authority to approve international agreements concluded by the Government.

(ii) Trade policy objectives and formulation

11. Chile's trade policy follows a number of objectives, the most important being: stimulating the efficiency and competitiveness of national producers; reducing the level of effective protection and any existing anti-export bias in the tariff structure; and fostering regional economic cooperation. The authorities consider secured and permanent access to foreign markets, together with the capacity to attract foreign investment, essential to Chile's economic growth. To this end, efforts

¹ Additional information is available in MINSEGPRES online information, at: <http://www.segpres.cl/temas/modernizacion/>.

² WTO (1997), p. 19.

towards the negotiation of new preferential trade agreements have been intensified in recent years (section 4(ii) below).

12. Trade policy formulation is under the responsibility of the Executive, with the General Directorate of International Economic Affairs, in Ministry of Foreign Affairs', taking the lead role in trade negotiations. Other institutions involved in the formulation of trade policy include the Ministries of Finance, Economy, and Agriculture. Chile's mission to the WTO is under the Ministry of Foreign Affairs.

13. According to the authorities, the government is in permanent dialogue with the private sector in various fora; the Council on International Economic Relations is the most important. This Council brings together representatives of the private sector, organized in the Confederation of Production and Commerce, with all major public institutions involved in trade policy formulation and administration. Its main work areas include trade facilitation and export promotion. The authorities further indicated that the private sector played a vital role in the negotiation of Chile's preferential trade agreements.

14. The Interministerial Committee for International Economic Negotiations, created in 1992, advises the President in matters regarding international economic negotiations. The Committee is chaired by the Minister of Foreign Affairs; its members are the Minister of Finance, the Minister of the Presidency, and the Minister of Economy. Two additional committees were created to support the Interministerial Committee: the Negotiation Committee, and the Committee for the Participation of the Private Sector.

15. The function of the Committee for the Participation of the Private Sector, a permanent advisory body also established in 1992, is to inform the private sector of the progress of international negotiations and learn the views of the sector. This Committee is chaired by the Minister of Economy and also comprises the Ministers of Foreign Affairs, Finance, the Presidency, Agriculture, the Director General of International Economic Affairs of the Ministry of Foreign Affairs, two representatives of the private sector, two representatives of labour unions, and three experts in the field of international negotiations.

16. The Export Council, created in April 2003, brings together representatives of the private and public sectors; its main objective is to make recommendations on export policy formulation. The Council has four working groups: on trade facilitation, international integration, support of exporters, and on promotion of exports and tourism.

(iii) Main trade laws and regulations

17. The Constitution takes precedence over all other laws. The principal laws and regulations governing foreign trade are listed in Table II.1.

18. The WTO Agreements were adopted by Chile through Supreme Decree No. 16 of 5 January 1995 of the Ministry of Foreign Affairs. They form an integral part of national legislation, with the status of an ordinary law, and may be invoked before Chilean courts. WTO Agreements take precedence over domestic legislation if they contain a greater degree of specificity, when covering the same subjects, or if they establish a new set of rules covering subjects not dealt with by domestic legislation, or when they regulate institutions or subjects setting rules whose legal sense and effects are in contradiction with the sense and effects of prior domestic legislation. Moreover, when the WTO Agreements were enacted after the prevailing relevant domestic legislation, the principle of tacit derogation applies. However, this does not detract from the validity of the provisions of an existing law that do not conflict with or contradict newer laws (Article 52 and 53 of the Civil Code).

Table II.1
Main domestic laws and regulations relating to foreign trade, June 2003

Name or description	Domestic statute	Date of issue
General legislation		
Constitution of Chile	n.a.	8.8.1980
Incorporation of WTO Agreements into domestic law	Supreme Decree No.16 of the Ministry of Foreign Affairs	5.1.1995
Law on the Importation of Goods	Law No. 18.525	30.6.1986
Reduction of MFN tariffs	Law No. 19.589	14.11.1998
Preferential trade agreements		
Chile – Canada Preferential Trade Agreement	..	..
Chile – Costa Rica Preferential Trade Agreement	..	..
Chile – El Salvador Preferential Trade Agreement	..	..
Chile – EU Preferential Trade Agreement	..	..
Chile – Mexico Preferential Trade Agreement	..	..
Customs procedures		
Customs Law	Decree with Force of Law No. 2/97 of the Ministry of Finance	12.11.1997
Regulations on the Application of GATT Article VII	Decree No. 1134	20.6.2002
Tax and tariff concessions		
Simplified duty drawback system	Law No. 18.480	19.12.1985
Deferred payment of customs duties	Law No. 18.634	5.8.1987
General duty drawback system	Law No. 18.708	11.5.1988
Modification of export promotion programmes	Law No. 19.589	14.11.1998
Contingency measures		
Law on the Importation of Goods	Law No. 18.525	30.6.1986
Domestic legislation on safeguard measures	Law No. 19.612	31.5.1999
Intellectual property		
Intellectual Property Law	Law No. 17.336	2.10.1970
Law establishing Rules Applicable to Industrial Privileges and Protection of Industrial Property Rights	Law No. 19.039	25.1.1991

.. Not available.

n.a. Not applicable.

Source: Information provided by the Chilean authorities.

19. Law No. 18.525 of 19 June 1986, establishing Rules on the Importation of Goods, is Chile's main trade law. The Law has been amended and modified a number of times since 1997 and contains regulations on customs valuation, customs duties, contingency measures, and the price band system. Moreover, the Customs Law (Decree Law No. 2/97 of the Ministry of Finance) of 12 November 1997, which consolidates a number of former legal instruments, contains provisions on export and import procedures. Law No. 19.589 of 14 November 1998 provided for a reduction of Chile's MFN tariffs and revised some export promotion programmes with a view to bringing them into line with Chile's WTO commitments.

20. A draft law on miscellaneous WTO-related matters was sent to Congress in October 1999 and approved in August 2003. The bill aims to bring various individual provisions of Chile's legislation into line with the WTO Agreements. It contains provisions on customs valuation, technical regulations, taxation, and intellectual property. The bill provides for notification procedures for technical regulations and conformity assessments. It also provides for the abolition of the dispatch tax on goods imported duty-free, and of the trade-related investment measures in the automotive sector. Furthermore, it amends Chile's intellectual property legislation by specifying protection for computer programs, data compilations, and textile designs.

(3) FOREIGN INVESTMENT REGIME

21. The main legal instruments governing FDI in Chile are the Foreign Investment Statute (Decree Law No. 600 of 1974, amended on 16 December 1993), a special voluntary investment regime, and the Central Bank's Compendium of Foreign Exchange Regulations. Foreign investors have the choice between the two statutes when bringing capital to Chile; most foreign investment enters Chile under the provisions of the Foreign Investment Statute.

22. Foreign investors generally receive national treatment. However, specific legislation for a number of sectors and activities excludes foreign investors from market access or equal treatment (see Chapter IV for details). The main exceptions include international land transport, maritime cabotage, fisheries, and radio and print media. Furthermore, land owned by the State, within a distance of ten kilometres from the borders and five kilometres from the high-water line, cannot be sold to foreigners.

23. To attract foreign investment, the Foreign Investment Statute establishes rules and procedures for foreign investors who opt for this mechanism. Under this statute, applications submitted by investors for foreign investment are subject to authorization by the Foreign Investment Committee.³ The Committee is composed of the Minister of Economy, who presides it, the Ministers of Finance, Foreign Affairs, and Planning and Cooperation, and the President of the Central Bank. It accepts or rejects applications for foreign investment, and establishes the terms and conditions for the relevant investment contracts. It has the power to restrict investment in certain areas on an MFN basis. However, if the Committee rejects an application because it considers the application concerns short-term speculative investment, the capital may enter Chile under Chapter XIV of the Central Bank's Compendium for Foreign Exchange Regulations (see below). The authorities note that the Committee has not rejected investment applications in recent years.

24. Under the Foreign Investment Statute, foreign investors conclude a contract with the State of Chile, which authorizes and protects the transfer of capital for the investment. Under Article 9 of the Statute, both the investment and the respective company are subject to the general laws applicable to domestic investment. The contract, which is indefinite in duration, may be modified only with the consent of both parties. It sets out the period in which the foreign investor must bring in the capital, which cannot exceed three years (eight years in the case of mining investments). The Committee may extend this period to eight years for investments of at least US\$50 million when warranted by the nature of the project, and twelve years in the case of mining projects when prior exploration is required.

25. Pursuant to Article 8 of the Foreign Investment Statute, foreign investors have the right to include a clause establishing invariability of indirect taxes and customs duties for imported capital goods for the term authorized to effect the investment. However, this provision may apply only to goods that are not produced in Chile and that figure on a special list.

26. Foreign investors may also opt for a system of invariable direct taxation, under which a company's operations are subject to a fixed overall income tax rate of 42%. Investors who choose this option may, only once, waive this right and ask for the application of ordinary tax laws. Tax invariability is available for a maximum period of ten years, but may be extended for up to 20 years on industrial and extractive projects with a value exceeding US\$50 million.

³ The application form for FDI under Decree Law No. 600 is available online at: http://www.foreigninvestment.cl/fdi_inchile/solicitud.pdf.

27. As an exception to the principle of national treatment, Article 11 of the Foreign Investment Statute allows regulations limiting the access of foreign investors to domestic credit. The authorities indicated, however, that this provision has not been applied in recent years.

28. Chapter XIV of the Central Bank's Compendium of Foreign Exchange Regulations establishes rules for investment (including portfolio investment), capital contributions, and foreign credit. Under Chapter XIV, the Central Bank is not allowed to reject foreign investments, although it may impose conditions based on its monetary policy on the transfer of funds into and out of Chile, such as the one-year retention requirement. Foreign capital entering Chile under Chapter XIV receives national treatment, but it is excluded from the benefits of the foreign investment contracts possible under the Foreign Investment Statute, in particular the choice of invariable taxation. Foreign capital entering Chile under Chapter XIV has to be registered with the Central Bank. This may be carried out at any commercial bank, prior to converting the capital into Chilean pesos.

29. The Investment Platform Law (Law No. 19.840) of 23 November 2002 is aimed at persuading multinational companies to use Chile as a regional base under a special regime granting tax-free status on earnings from international operations. At the same time, the Law contains various provisions designed to prevent the use of Chile as a tax haven or the misuse of the regime by domestic entrepreneurs to avoid paying domestic taxes. In particular, enterprises using this regime must accept the reporting requirements for open companies and renounce the banking secrecy guarantees contained in other Chilean laws; they must also accept wider controls by the tax authority on transfer prices. The Chilean operations of these companies are taxed under the regime that normally applies to foreign investment.

30. Chile has bilateral investment agreements to promote and protect investment, with Argentina, Australia, Austria, Belgium, Bolivia, China, Costa Rica, Croatia, Cuba, the Czech Republic, Denmark, Ecuador, El Salvador, Finland, France, Germany, Greece, Guatemala, Honduras, Italy, Indonesia, Lebanon, Malaysia, Nicaragua, Norway, Panama, Paraguay, Peru, the Philippines, Poland, Portugal, Romania, Spain, Sweden, Switzerland, Ukraine, the United Kingdom, Uruguay, and Venezuela. Further bilateral investment agreements have been or are being negotiated, with Brazil, Colombia, the Dominican Republic, Egypt, Greece, Hungary, the Netherlands, New Zealand, South Africa, Tunisia, Turkey, and Viet Nam; those were not yet in force in May 2003.

31. In addition, Chile is a member of the Multilateral Investment Guarantee Agency (MIGA), of the International Center for the Settlement of Investment Disputes, and of the Overseas Private Investment Corporation (OPIC). It has ratified the Inter-American Convention on International Commercial Arbitration, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, and the Convention on the Settlement of Investment Disputes between States and Nationals of other States. Furthermore, a draft law on private international commercial arbitration was submitted to Congress in 2003.

32. As of January 2003, Chile had signed double taxation treaties with Argentina, Canada, and Mexico. Agreements have been or are being negotiated, but are not yet in force, with Brazil, Denmark, Finland, France, Germany, Ecuador, Malaysia, New Zealand, Norway, Peru, Poland, Korea, Spain, Sweden, Switzerland, the United Kingdom, the United States, and Venezuela.

(4) INTERNATIONAL RELATIONS**(i) World Trade Organization****(a) Overall participation**

33. Chile is an original Member of the GATT and has been a WTO Member since 1 January 1995. The Marrakesh Agreements were incorporated into domestic law by Supreme Decree No. 16 of the Ministry of Foreign Affairs, of 5 January 1995. Chile is not a signatory to the Plurilateral Agreements. Chile grants at least MFN treatment to all its trading partners.

34. Table II.2 shows the notifications made by Chile under the various WTO Agreements since January 1997; the last notification made by Chile under the Agreement on Agriculture dated back to May 2001.

Table II.2
Chile's notifications under the WTO Agreements, June 2003

Instrument imposing obligation	WTO document and date (latest document if recurrent)	Description of requirement/Content
Agreement on Agriculture		
Article 9.1	G/AG/N/CHL/12, 2 May 2001	Table ES.1 – Export subsidies
Article 18.2	Yet to be notified	Table MA.2 – Tariffs and other quotas
Article 18.2	G/AG/N/CHL/13, 15 May 2001	Table DS.1 – Domestic Support
Agreement on Implementation of GATT Article VI (Anti-dumping)		
Article 5.8	G/ADP/N/100/CHL, 24 February 2003	Time-period for determination of negligible import volumes
Article 16.4	G/ADP/N/98/Add.1, 22 April 2003	Semi-annual reports
Article 18.5	G/ADP/N/17CHL/2, 14 March 2000	Laws and regulations
General Agreement on Tariffs and Trade (GATT) 1994		
Article XXVIII:5	G/MA/126, 16 December 2002	Reservation of right to modify Schedule of Concessions
Agreement on Import Licensing Procedures		
Article 7.3	G/LIC/N/3/CHL/1/Add.2, 16 February 1999	Replies to questionnaire
Agreement on Preshipment Inspection		
Article 5	G/PSI/N/1, 31 March 1995	Laws and regulations
Understanding on the Interpretation of Article XXIV (Regional Agreements)		
Article XXIV:7(a)	WT/REG38/N/1/Add.1, 6 October 1997	Free-Trade Agreement (Canada)
	WT/REG125/N/1, 8 March 2001	Free-Trade Agreement (Mexico)
	WT/REG136/N/1, 14 May 2002	Free-Trade Agreement (Costa Rica)
	Yet to be notified	Free-Trade Agreement with El Salvador and the EU
Quantitative Restrictions (Decision on Notification Procedures for Quantitative Restrictions)		
WTO document G/L/59	G/MA/NTM/QR/1/Add.2, 9 October 1996	Initial and biennial reports
Agreement on Rules of Origin		
Article 5 and Annex II(4)	G/RO/N/38, 7 October 2002	Preferential rules of origin contained in PTAs with Canada, MERCOSUR, Mexico, Peru, and LAIA members
Article 5 and Annex II(4)	Yet to be notified	Rules of origin of PTAs with Costa Rica, El Salvador, and the EU

Table II.2 (cont'd)

Instrument imposing obligation	WTO document and date (latest document if recurrent)	Description of requirement/Content
Agreement on Safeguards		
Article 12.1(a) – (c)	G/SG/N/9/CHL/1, 31 January 2000 - G/SG/N/11/CHL/5 Suppl.4, 18 December 2002	Notifications on investigations, findings, and decisions related to safeguard measures
Article 12.6	G/SG/N/1/CHL/2, 24 August 1999	Laws and regulations
Agreement on the Application of Sanitary and Phytosanitary Measures		
Article 7, Annex B	G/SPS/N/CHL/1-133, 29 May 1996 – 16 June 2003	Notifications on laws, regulations and emergency measures
General Agreement on Trade in Services (GATS)		
Article V:7	S/C/N/65, 13 November 1997 S/C/N/142, 14 March 2001 S/C/N/191, 24 May 2002	Trade agreements
Article VII:4	S/C/N/8 22 December 1995	Recognition measures
Understanding on the Interpretation of Article XVII (State Trading)		
Article XVII(4)(a)	G/STR/N/7/CHL, 10 October 2001	State-trading activities
Agreement on Subsidies and Countervailing Measures		
Article 25.1	G/SCM/N/60/CHL, 4 July 2000	Annual report on subsidies
Article 25.11	G/SCM/N/93/Add.1, 1 May 2003	Semi-annual report on countervailing duty actions
Article 32.6	G/SCM/N/17CHL/2, 14 March 2000	Laws and regulations
Agreement on Technical Barriers to Trade		
Article 10	G/TBT/ENQ/19, 26 September 2001	National enquiry point
Article 10.6	G/TBT/Notif.97317, 2 July 1997 G/TBT/N/CHL/35, 13 March 2003	Notifications on proposed and adopted technical regulations
Article 15.2	G/TBT/2/Add.16, 22 July 1996	Measures taken to implement the Agreement
Annex 3C	G/TBT/CS/N/15, 16 October 1995	Notification of acceptance of code of good practice
Agreement on Trade-Related Aspects of Intellectual Property Rights		
Article 63.2	IP/N/1/CHL/C/1-8, 14 September 2000	Laws and regulations
Article 63.2	IP/N/1/CHL/G/1-3, 14 September 2000	Laws and regulations
Article 63.2	IP/N/1/CHL/I/1-5, 14 September 2000	Laws and regulations
Article 63.2	IP/N/1/CHL/O/1, 14 September 2000	Laws and regulations
Article 63.2	IP/N/1/CHL/P/1-3 14 September 2000	Laws and regulations
Article 63.2	IP/N/1/CHL/U/1, 14 September 2000	Laws and regulations
Agreement on Trade-Related Investment Measures		
Article 6.2	G/TRIMS/N/1/CHL/2/Rev.1, 28 July 1997	Publications

Source: WTO Secretariat.

35. Chile has participated actively in the ongoing WTO negotiations on agriculture, reflecting the sector's economic importance. Chile has made proposals in this regard as part of the Cairns Group, and, at the Doha Ministerial Conference in 2001, reiterated the importance of agriculture for a new round.⁴ It suggested that clear objectives should be established for the elimination of export subsidies, for a substantial reduction in trade-distorting domestic support, and for substantial reductions in the barriers to market access. Furthermore, Chile and other Members suggested that Members discipline the activities of governmental and non-governmental enterprises and marketing boards that benefit

⁴ WTO document WT/MIN(01)/ST/48, 10 November 2001.

from monopoly import or export rights, with a view to avoiding distorting effects on the market.⁵ In addition, Chile suggested that agricultural export credits, export credit guarantees, and export insurance programmes should be brought under specific multilateral discipline under the WTO, to end government subsidization of such credits.⁶

36. Chile participated in the Negotiating Group on Basic Telecommunications and in the extended negotiations on financial services. Both the Fourth and the Fifth Protocol to the GATS entered into force on 16 June 1998. Chile has not acceded to the Information Technology Agreement and does not participate in the ITA Committee.

37. At the Geneva Ministerial Conference in 1998, Chile underlined the importance of the WTO as a rules-based organization for the multilateral trading system, but raised concerns regarding the widespread use of non-tariff barriers to trade.⁷ It values the Trade Policy Review Mechanism as a way of strengthening the transparency of Member's trade policies and providing information on the actual trends in such policies.

38. At the Seattle Ministerial Conference in 1999, Chile underlined its commitment to open markets.⁸ It argued that continuing the process of agricultural reform would contribute to poverty alleviation, while stricter disciplines should be adopted in the application of anti-dumping duties. Moreover, competition policy and investment issues should complement the existing investment disciplines under the GATS.

39. At the Doha Ministerial Conference in 2001, Chile called upon the Organization to achieve the agreement needed to launch an extensive programme of negotiations.⁹ Chile reiterated the importance of issues such as agriculture and anti-dumping rules for a new round. In its view, clear objectives should be established for the elimination of export subsidies, for a substantial reduction in trade-distorting domestic supports, and for substantial reductions in the barriers to market access. Furthermore, the growing use and misuse of anti-dumping duties for protectionist purposes should be addressed. Environmental measures should be adopted within the framework of multilateral rules and disciplines, avoiding the risks that could lead to protectionism and discrimination. Chile played an important role in launching the Doha Development Round, *inter alia*, as a chair of the working group on environment.

40. Together with other Members, Chile made a proposal to amend certain provisions of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU).¹⁰

41. Furthermore, together with the United States, Chile submitted a contribution to the negotiations on improvements and clarifications of the DSU on improving flexibility and member control in WTO dispute settlement¹¹; as well as a number of possible options for enhancing dispute settlement.¹²

42. Between January 1998 and February 2003, Chile participated in 31 WTO technical cooperation activities. The projects and seminars covered a wide range of WTO-related issues,

⁵ WTO document G/AG/NG/W/104, 27 January 2001.

⁶ WTO document G/AG/NG/W/139, 21 March 2001.

⁷ WTO document WT/MIN(98)/ST/35, 18 May 1998.

⁸ WTO document WT/MIN(01)/ST/51, 1 December 1999.

⁹ WTO document WT/MIN(01)/ST/48, 10 November 2001.

¹⁰ WTO document WT/GC/W/410/Rev.1, 26 October 2001.

¹¹ WTO document TN/DS/W/28, 23 December 2002.

¹² WTO document TN/DS/W/52, 14 March 2003.

including dispute settlement, competition policy, multilateral negotiation training, and general training courses for government officials.

(b) Involvement in WTO dispute settlement

43. Since its last Review in 1997, Chile has been involved in 11 dispute cases under the multilateral dispute settlement mechanism (Table II.3). Chile has been the respondent in six cases, two of which have led to the adoption of a Panel Report; one concerned Chile's taxation of alcoholic beverages and the other concerned the price-band system for certain agricultural goods. Chile's adoption of legislation on safeguard measures in May 1999 and the subsequent imposition of such measures (Chapter III(2)(ix)) has led to an increased number of consultation requests.

44. Chile has been the complainant in five cases, of which two have led to the adoption of a Panel Report; one on the United States' Tariff Act of 1930, and the other on Argentina's definitive safeguard measure on imports of preserved peaches. One case involving the establishment of a panel is still pending (as at May 2003). Three of the five cases concerned the tax treatment of certain imported products. Chile has reserved its third-party rights in nine other cases, most of which concerned the adoption of anti-dumping measures by the country against which the issue was raised.

Table II.3
Dispute-related WTO matters involving Chile, 1997-May 2003

Subject	Against/raised by	Actions taken (date)	WTO document ^a
Issues raised against Chile			
Taxes on alcoholic beverages	Chile / EU	Consultations requested 4 June 1997; Panel Report circulated 15 June 1999; Appellate Body Report circulated 13 December 1999	WT/DS87/1-17, 11.06.1997 and WT/DS110/1-16, 18.12.1997 WT/DS87/R and WT/DS110/R, 15.06.1999 WT/DS87/AB/R and WT/DS110/AB/R, 13.12.1999
Measures affecting the transit and importation of swordfish	Chile / EU	Consultations requested 19 April 2000, provisional arrangement reached in March 2001	WT/DS/193/1-3, 26.04.2000
Price band system and safeguard measures relating to imports of wheat, sugar, and edible oils	Chile / Argentina	Consultations requested 5 October 2000; Panel Report circulated 3 May 2002; Appellate Body Report circulated 23 September 2002	WT/DS207/1-14, 12.10.2000 WT/DS207/R, 3.05.2002 WT/DS207/AB/R, 23.09.2002
Provisional safeguard measure on mixtures of edible oils	Chile / Argentina	Consultations requested 19 February 2001	WT/DS/226/1, 22.02.2001
Safeguard measure on sugar	Chile / Colombia	Consultations requested 15 March 2001	WT/DS/228/1-6, 22.03.2001
Safeguard measure and modification of schedules regarding sugar	Chile / Colombia	Consultations requested 17 April 2001	WT/DS/230/1-6, 23.04.2001
Chile as a complainant			
Tariff Act of 1930 signed on 28 October 2000 with the title "Continued dumping and subsidy offset Act of 2000"	U.S. / Australia, Brazil, Chile, EU, India, Indonesia, Japan, Korea, Thailand, Argentina, Canada, Mexico	Consultations requested 21 December 2000; Panel Report circulated 16 September 2002; Appellate Body Report circulated 16 January 2003	WT/DS/217/1-13, 09.01.2001 and WT/DS/234/1-21, 01.06.2001 WT/DS217/R and WT/DS234/R, 16.09.2002 WT/DS217/AB/R and WT/DS234/AB/R, 16.01.2003

Table II.3 (cont'd)

Subject	Against/raised by	Actions taken (date)	WTO document ^a
Taxes on cigarettes	Peru / Chile	Consultations requested 1 March 2001; panel requested 3 May 2001; withdrawal of the matter by Chile 12 July 2001 following an amendment of Peruvian legislation	WT/DS/227/1-3, 06.03.2001
Definitive safeguard measure on imports of preserved peaches	Argentina / Chile	Consultations requested 14 September 2001; Panel Report circulated 14 February 2003	WT/DS/238/1-5, 24.09.2001 WT/DS238/R, 14.02.2003
Tax treatment of certain imported products	Peru / Chile	Consultations requested 22 April 2002; panel requested 13 June 2002; withdrawal of the matter by Chile 26 July 2002 following an amendment of Peruvian legislation	WT/DS/255/1-5, 29.04.2002
Tax treatment of certain products	Uruguay / Chile	Consultations requested 18 June 2002; panel requested 3 April 2003	WT/DS/261/1-4, 26.06.2002
Chile as Third Party			
Anti-dumping measures on certain hot-rolled steel products	U.S. / Japan	Consultations requested 18 November 1999; Panel Report circulated 28 February 2001; Appellate Body Report circulated 24 June 2001	WT/DS/184/1-16, 23.11.2000
Anti-dumping and countervailing measures on steel plate	U.S. / India	Consultations requested 4 October 2000; Panel Report circulated 28 June 2002	WT/DS/206/1-9, 09.10.2000
Definitive anti-dumping measures on steel rebar	Turkey / Egypt	Consultations requested 6 November 2000; Panel Report circulated 8 August 2002	WT/DS/211/1-7, 07.11.2000
Section 129(C)(1) of the Uruguay Round Agreements Act	U.S. / Canada	Consultations requested 17 January 2001; Panel Report circulated 15 July 2002	WT/DS/221/1-7, 22.01.2001 WT/DS184/R, 28.02.2001 WT/DS184/AB/R, 24.07.2001
Trade description of sardines	EU / Peru	Consultations requested 20 March 2001; Panel Report circulated 29 May 2002; Appellate Body report circulated 26 September 2002	WT/DS/231/1-17, 23.04.2001 WT/DS231/R, 29.05.2002 WT/DS231/AB/R, 26.09.2002
Continued Dumping and Offset Act of 2000	U.S. / Canada, Mexico	Consultations requested 21 May 2001; Panel Report circulated 16 September 2002; Appellate Body Report circulated 16 January 2003	WT/DS/234/1-21, 01.06.2001 WT/DS234/R, 16.09.2002 WT/DS234/AB/R, 16.01.2003
Definitive anti-dumping duties on poultry	Argentina / Brazil	Consultations requested 7 November 2001; Panel Report circulated 23 April 2003	WT/DS/241/1-5, 12.11.2001 WT/DS241/R, 22.04.2003
Sunset review of anti-dumping duties on corrosion-resistant carbon steel flat products	U.S. / Japan	Consultations requested 30 January 2002; panel requested 4 April 2002; Communication issued by the Chairman of the Panel, 9 January 2003, stated that it would not be possible for the Panel to complete its work within six months	WT/DS/244/1-6, 04.02.2002
Import licensing measures on certain agricultural products	Venezuela / U.S.	Consultations requested 7 November 2002	WT/DS/275/1-8, 12.11.2002

a For recurrent documents the date corresponds to the first document of the series.

Source: WTO Secretariat.

(ii) Preferential agreements in force¹³

45. The importance of preferential trade agreements (PTAs) for Chile's trade has increased since its previous Trade Policy Review. Chile has PTAs in place with Canada, Costa Rica, El Salvador, the European Union, and Mexico. In addition, Chile has concluded complementarity agreements with Bolivia, Colombia, Cuba, Ecuador, MERCOSUR, Peru, and Venezuela. Furthermore, Chile has

¹³ This section covers agreements in force at end June 2003.

negotiated PTAs with the European Free Trade Association, Korea, and the United States, which have not been ratified to date.¹⁴

(a) PTA with Canada

46. Chile's Free-Trade Agreement with Canada (CCFTA) was signed in November 1996 and entered into force in July 1997.¹⁵ The NAFTA-style agreement immediately eliminated tariffs on a broad range of products, whereas duties on some manufactured goods, such as textiles, apparel, and footwear, were phased out by January 2003. Rules of origin are based mainly on the principle of substantial transformation (change of HS classification). A protocol to accelerate tariff reduction was adopted in 1999 and a note to clarify positions on the investment chapter reduction was adopted in 2002.

47. For agricultural products, most tariffs were eliminated by January 2003. However, Chile retained its duties on dairy, poultry, and egg products, and Canada retained its out-of quota tariffs on the same products. Some Chilean agricultural tariffs have a phase-out period of up to 17 years; these include: pork meat, vegetable oils, beef meat, potato products, corn flour, sugar and certain sugar products, milling wheat, and wheat flour. As at March 2003, the total tariff average for imports originating in Canada was 0.1% (Table III.2).

48. In addition to provisions for market access for goods, the CCFTA includes provisions on trade in services, customs procedures, competition, safeguards, state enterprises and monopolies, dispute settlement, investment, and two side-agreements on labour and environmental issues. The agreement further provides for reciprocal exemption from anti-dumping investigations and measures once a product enters duty-free into either market. Both countries agreed to maintain their duty drawback programmes.

49. Since the agreement entered into force, its dispute settlement mechanism has been used on two occasions: concerning the importation of Chilean salmon into Canada, and Chile's safeguard measures on wheat and wheat flour, sugar, and edible vegetable oils.

(b) PTAs with Costa Rica and El Salvador

50. The PTAs with Costa Rica and El Salvador were ratified by Chile on 24 January 2002 and entered into force on 1 June 2002. The Agreements comprise one part negotiated by Chile and the members of the Central American Common Market¹⁶ (CACM) as a block, and other parts negotiated between Chile and each CACM member, including the tariff lists, rules of origin, and provisions on trade in services. Bilateral negotiations with the other CACM members are still in progress. The agreement covers: market access for goods, rules of origin, customs procedures, safeguard measures, unfair trade practices, SPS measures, technical regulations, investment, trade in services, competition policy, and dispute settlement.

51. Tariff reductions were negotiated bilaterally between Chile and Costa Rica, and Chile and El Salvador; the respective tariff lists figure in the annex to the agreement. Immediate duty-free treatment granted by Chile to imports from Costa Rica and El Salvador cover 83.4% of the tariff lines. Chilean goods that do not benefit from duty-free access to these countries include live animals, meat

¹⁴ The texts of Chile's preferential trade agreements are available online at: <http://www.direcon.cl/>.

¹⁵ For a brief description of the agreement see WTO documents WT/REG/38/1, 10 April 1997 and WT/REG38/2, 28 January 1998.

¹⁶ Members of the Central American Common Market are Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua.

products, tobacco, and various steel products. Goods from Costa Rica and El Salvador that do not benefit from duty-free treatment include vegetable oils, sugar, flour of various cereals, and various apparel products. As at March 2003, the total tariff average was 0.3% for imports from Costa Rica and 0.6% for imports from El Salvador (Table III.2).

(c) PTA with the European Union

52. This agreement is of particular importance for Chile, as the European Union is its most important trading partner, its main source of FDI, and the principal donor for technical cooperation projects. Negotiations on the PTA with the European Union, with which Chile already had a Framework Cooperation Agreement since 1996, began in 2000; the Agreement was signed on 18 November 2002 and entered into force on 1 February 2003. The agreement includes provisions on political, economic, scientific, and cultural cooperation.

53. As at March 2003, the total tariff average for imports originating in the EU was 0.5% (Table III.2); Chile granted duty-free treatment to about 91% of all tariff items originating in the EU.

54. The agreement provides for a framework on trade in goods, contingency measures, SPS measures and technical regulations, maritime transport, telecommunications, capital controls and balance-of-payments measures, financial services, right of establishment, competition, investment, intellectual property, public procurement, and dispute settlement. It contains in its annex two side-agreements on trade in wines and on alcoholic and flavoured beverages. These side agreements include provisions on the protection of geographical indications and denominations, traditional expressions, and complementary quality indications, trade marks, and labels.

(d) PTA with Mexico

55. An agreement between Chile and Mexico had been in place since 1992; the two parties decided to expand the scope of the original agreement, and a new PTA was signed on 17 April 1998, and came into force on 1 August 1999.¹⁷ The Agreement establishes provisions in market access in goods, rules of origin, technical regulations, sanitary and phytosanitary measures, safeguards, investment, trade in services, competition policy, intellectual property, and dispute settlement. Negotiations with respect to government procurement and financial services started in August 2000. As at March 2003, the total tariff average for imports originating in Mexico was 0.1% (Table III.2). Goods excluded from duty-free treatment by both parties include various dairy products, shrimps and lobster, wheat and wheat flour, edible vegetable oils, sugar, tobacco products, and various petroleum products.

56. Since the agreement entered into force, its dispute settlement mechanism has been used on two occasions, concerning the initiation of safeguard investigations by Mexico relating to the importation of plywood, and Mexico's import regime for apples.

(iii) Other agreements and arrangements

(a) PTA with the European Free Trade Association

57. Negotiations on a preferential trade agreement with the members of the European Free Trade Area (EFTA) were concluded on 25 March 2003. The authorities indicated that the agreement would provide for duty-free treatment of about 90% of imports originating in EFTA members. According to

¹⁷ For a brief description of the Agreement see WTO document WT/REG/125/3, 4 March 2003; the text of the Agreement is reproduced in WT/REG/125/1, 27 August 2001.

the Chilean authorities the parties further agreed to reciprocal exemption from anti-dumping investigations and measures. The agreement also contains provisions on public procurement, investment, trade in services, SPS measures, technical regulations, and dispute settlement.

(b) PTA with Korea

58. This agreement, the world's first transpacific PTA and the first signed by Korea, was concluded in October 2002, but has not been ratified to date (June 2003). The agreement contains provisions on customs procedures, safeguard measures, anti-dumping and countervailing measures, SPS measures, technical regulations, investment, trade in services, movement of natural persons, competition, government procurement, intellectual property rights, and dispute settlement.

59. The agreement provides for immediate tariff-free access for a wide range of goods. Chile will grant immediate tariff-free access to 67% of its tariff lines, while Korea will introduce immediate duty-free treatment on 87% of its tariff lines. All other goods will obtain tariff-free access within five, seven, ten or thirteen years. Chile permanently excluded refrigerators, washing machines, sugar, wheat, and oilseeds, and Korea permanently exempted rice, apples, and pears.

(c) Agreement with MERCOSUR

60. The Partial Scope Agreement between Chile and MERCOSUR was signed on 25 June 1996 and entered into force on 1 October of the same year. Annexed to the agreement are a general list of tariff reductions, containing 81% of all tariff lines, and nine further lists with different product groups, mostly agricultural goods and goods otherwise classified as sensitive. Goods featuring in the general list will be granted duty-free treatment as of January 2004, complete liberalization for the other goods will be reached between 2004 and 2014. Tariff preferences are generally expressed as a percentage of respective MFN tariffs. As at March 2003, the total tariff average for imports from Mercosur countries was 0.4%; thus the agreement provides a degree of liberalization comparable to Chile's PTAs concluded under GATT Article XXIV (Table III.2).

61. The agreement contains provisions on market access in goods, unfair business practices, safeguard measures, dispute settlement, customs valuation, technical regulations, SPS measures, export promotion measures, and intellectual property. Since the agreement entered into force, its dispute settlement mechanism has been used once regarding a complaint by Argentina concerning Chile's import regime for edible vegetable oils.

(d) PTA with the United States

62. The Chile-U.S. Free Trade Agreement was signed in June 2003. The Agreement is scheduled for ratification in both countries during 2003, and is expected to enter into force in 2004. The PTA will eliminate most tariffs immediately and will establish duty-free bilateral trade in all products within a maximum of 12 years.

63. The agreement provides for a framework on trade in goods, investment, intellectual property, public procurement, trade in services, electronic commerce, labour rights, and environmental regulations. Furthermore, the investment section of the Agreement, in Article 10.8, permits "all transfers relating to a covered investment to be made freely and without delay". This provision is subject to special dispute settlement provisions, contained in Annex 10C to the Agreement; these include the provision that claims under Article 10.8 may be submitted only after one year has elapsed since the events giving rise to the claim.

64. Furthermore, each country committed itself to non-discriminatory treatment of digital products, agreed not to impose customs duties on such products, and agreed to cooperate in policy areas related to electronic commerce.

(e) Complementarity agreements

65. In 1998, Chile signed complementarity agreements with Cuba and Peru; agreements with Bolivia (signed in 1993), Colombia (1993), Ecuador (1994), and Venezuela (1993) were described in detail in the Secretariat Report for Chile's previous Review.¹⁸ These agreements include regulations regarding rules of origin, safeguard measures, unfair trade practices, taxation, investment, government procurement, maritime and air transport, and dispute settlement.

66. Chile's Agreement with Peru, which entered into force in July 1998, provides for the gradual elimination of tariffs by July 2003. However, 329 tariff lines, mostly agricultural products, have a phase-out period of 18 years. Both parties have agreed to limit the use of export subsidies. The agreement also contains provisions on SPS measures, technical regulations, taxation, intellectual property, and customs valuation.

67. The Agreement with Cuba provides for duty-free treatment of about 650 goods originating in Cuba; about 750 goods from Chile enter Cuba duty free. The Agreement has not yet been ratified (mid 2003).

(f) Other agreements

68. In October 2002, Chile, New Zealand, and Singapore agreed to initiate formal talks on a trilateral free-trade agreement in the second half of 2003, with the aim of signing an agreement in 2004. In the second half of 2003, Chile started negotiations with Bolivia to extend the coverage of the existing complementarity agreement, both in disciplines and goods. In addition, Chile initiated talks on trade agreements with India and Japan.

69. Chile participates in the negotiating groups of the Free Trade Area of the Americas (FTAA). The FTAA process, which began in 1994, seeks to progressively eliminate barriers to trade and investment, with negotiations to be completed no later than January 2005.

(g) Other arrangements

70. Chile is a member of the Asia-Pacific Economic Community (APEC). APEC members are committed to achieving free trade in goods and services among developed members by 2010 and among all members by 2020. Chile committed itself to achieving free trade by 2010.

71. Chile is a beneficiary of the Generalized System of Preferences schemes Bulgaria, Hungary, Japan, and New Zealand. It participates in the Global System of Trade Preferences among Developing Countries (GSTP).

72. Chile is a founding member of the Cairns Group. It is not member of any international commodity agreement or association.

¹⁸ WTO (1997).