

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) OVERVIEW

1. Since its previous Review in 1997, Chile has continued the progressive liberalization of its trading regime. This has included the adoption of WTO-based rules on customs valuation, and the unilateral reduction of applied tariffs, resulting in a virtually uniform applied MFN tariff of 6% as of January 2003. All tariffs lines are bound, most at 25% *ad valorem*. For certain agricultural products, Chile maintains a price band system. Due to the growing number of its preferential trade agreements, MFN imports into Chile have decreased considerably since its previous Review.

2. The only tariff rate quota in place was introduced in 2002 and applies to sugar imports. Chile makes only modest use of contingency measures; it has taken no anti-dumping or countervailing action since April 2001, nor imposed any related duty as at June 2003. Since its last Review, Chile has enacted domestic legislation on safeguard measures, which it has used in a small number of cases.

3. To promote exports, Chile maintains various schemes involving subsidies; two public export finance programmes are also in place. A number of programmes were modified to bring them into line with the WTO Agreement on Subsidies and Countervailing Measures. Chile has also streamlined export procedures and introduced a single export form.

4. Chile has continued its privatization policy, with special emphasis on infrastructure-related activities such as water management and the operation of seaports. The Chilean Government has made efforts to increase transparency in public procurement, notably through new legislation and the introduction of electronic tendering; national treatment is granted to foreign suppliers. New competition legislation currently before Congress is aimed at achieving greater clarity in the definition of anti-competitive conduct and introducing institutional reforms. Trade-related investment measures in the automotive sector were terminated with the entry in force of the Free Trade Agreement with the European Union in February 2003. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights has applied fully to Chile since 1 January 2000; Chile had taken steps in advance to implement most of the Agreement's provisions.

(2) MEASURES AFFECTING IMPORTS

(i) Procedures

5. Import procedures have been streamlined since 1997. This includes in particular the introduction of an electronic processing and payment system, and the abolition of the requirement to submit the import declaration to the Central Bank.

6. Chile's customs regime is based on the Customs Law (Decree with Force of Law No. 2/97 of 12 November 1997 of the Ministry of Finance). All imports must be accompanied by an import declaration approved by the customs authorities.

7. The following information is required in the import declaration: the identity of the exporter, carrier, importer, consignee, and customs broker; a description of the merchandise (weight or quantity, unit price, HS code); the importer's tax identification number; and the c.i.f. value for customs purposes. The declaration must be accompanied by: the original commercial invoice; the mandate for the customs broker; a sworn declaration of the customs value; a sanitary, phytosanitary, or other certificate, where appropriate (Table III.4); and a certificate of origin for preferential imports. The import declaration must be rendered electronically. Import duties must be paid at an authorized bank.

8. The intervention of a customs broker is mandatory for all imports exceeding US\$500, except for imports into the free-trade zones. Customs brokers must be Chilean nationals and be accredited by the National Director of Customs. No customs service charges are applied.

9. Specific import procedures apply to free-trade zones and to goods in transit. Foreign goods destined for free-trade zones must be accompanied by a Request for Shipment to Free Trade Zones. The goods may remain in such a zone for resale or further processing or brought into the national customs territory or to an extended free-trade zone (see Chapter IV(4)(iv)). Goods in transit must be accompanied by a Declaration of Transit and by the International Freight Document – Transit Declaration; the latter is a LAIA document.

10. Import procedures apply to all trading partners without exception; all importers must comply with the same procedures. Importers are not subject to registration requirements.

11. Verification of the information provided in the declaration, and physical inspection of the goods to be imported is based on the principle of reasonable doubt. The authorities indicate that in 2002 about 6.2% of imports were subject to physical inspection. Imports are usually cleared the same day, provided there are no irregularities.

12. The National Customs Service, a semi-autonomous public institution, has overall responsibility for the administration of import procedures and the collection of all foreign-trade-related revenue due to the State, including VAT and specific taxes.

13. Chile has notified WTO Members that it does not have laws or regulations relating to preshipment inspection.¹ According to the authorities, preshipment inspection firms are not in operation.

14. Procedures for appeals are laid out in Articles 116 to 129 of Decree with Force of Law No. 2/97. Decisions of the National Customs Service may be challenged within 60 working days by any interested party. Appeals must be submitted to the regional director or the administrator of the respective customs office, who decides the case in the first instance. This decision can be appealed within five working days before the Director of the National Customs Service, who takes a decision in the final instance. The authorities indicate that 835 decisions on classification and 2,314 on valuation were challenged in first instance in 2002, and 1,501 appeals on classification and 642 on valuation were lodged in second instance.

(ii) Customs valuation

15. Chile availed itself of the five-year period allowed for developing countries to apply the Agreement on Customs Valuation.² Since the entry into force of Decree 1.134 of 20 June 2002, establishing the Regulations for the Application of Article VII of the GATT 1994, Chile has been applying a customs valuation system based on the WTO Customs Valuation Agreement. The regulations have yet to be notified to WTO. Chile defines transaction value as the c.i.f. value both for MFN and preferential imports.

16. As part of a broader set of measures to combat tax evasion, Law No. 19.738 of 19 June 2001, also provides for measures against under-invoicing. These statutes entered into force on 20 June 2002, together with Decree 1.134. The authorities indicated that it was too early to evaluate the impact of these measures.

¹ WTO document G/PSI/N/1, 31 March 1995.

² WTO document WT/Let/1Rev.2, 22 May 1995.

17. Before Decree 1.134 entered into force, Chile's customs valuation was based on the Brussels Definition of Value. However, Chile started applying WTO rules on customs valuation to imports from Canada and Mercosur countries in 1997 and to imports from Mexico in 1999.

18. Law No. 19.612 of 31 May 1999 abolished various parts of Law No. 18.525 of 30 June 1986, which empowered the President to establish minimum customs values under specific circumstances. However, the authorities indicate that no minimum customs values have been applied since 1994.

(iii) Rules of origin

19. Chile applies preferential rules of origin as defined in its various trade agreements; it does not apply any non-preferential rules of origin.³ All preferential trade agreements negotiated by Chile contain a specific rules of origin regime.

20. The main characteristics of the different sets of preferential rules in force are summarized in Table III.1. Most of Chile's preferential rules of origin define goods as originating if they are wholly obtained or produced in the region; produced entirely in the territory of its parties exclusively from originating inputs; produced from non-originating inputs that undergo a change of tariff classification in the region and comply with other requirements, or satisfy a regional value-content requirement. The rules of origin incorporated in the agreement negotiated with the European Union are based on the principle of "sufficient working or processing"; while they may differ from product to product, criteria for defining whether a good has been sufficiently worked or processed may include change in tariff classification, regional-value-content requirement, as well as production process rules. Rules of origin in the agreement with Canada are based on those of NAFTA; while for most goods the rules are based on the principle of substantial transformation, specific rules apply for automotive goods, textiles, and footwear.

21. The rules of origin contained in Chile's various bilateral partial scope agreements (with Bolivia, Colombia, Ecuador, Peru, and Venezuela) were described in detail in the Secretariat Report for the previous Review of Chile.⁴ The basis for Chile's preferential rules of origin applying to other Latin American countries is contained in the 1999 Resolution No. 252 of the Committee of Representatives of the Latin America Integration Association (LAIA). These rules of origin are based upon the principle of substantial transformation (i.e. tariff classification change). If there is no substantial transformation (i.e. the process of production entails only mounting or assembly), the c.i.f. value of foreign inputs must not exceed 50% of the f.o.b. value of the good produced, or 60% of the f.o.b value for goods produced in countries at a lower stage of development. In addition, a wide range of products are subject to specific rules of origin.⁵

22. Preferential imports must be accompanied by a proof of origin. Self-certification is allowed for imports from Canada, Costa Rica, El Salvador, and Mexico.

³ WTO document G/RO/N/6, 19 December 1995.

⁴ WTO (1997).

⁵ Resolution No. 78 of the Committee of Representatives of the Latin American Integration Association (LAIA), 1987.

Table III.1

Main characteristics of Chile's preferential rules of origin

Preferential trade partners and definition of originating goods	Other general provisions	Selected specific provisions
Mexico (Entry into force: 1 August 1999)		
Goods wholly obtained in the region	Bilateral cumulation of origin	Conditions vary according to products
Goods produced from non-originating materials that satisfy an applicable change in tariff classification and other specified requirements	Under a de minimis provision goods are considered originating if the total value of non-originating inputs does not exceed 8% of the total value (does not apply to goods classified in HS Chapters 50 to 63, and applies under specific conditions to goods classified in HS Chapters 1 to 27)	The regional value content of vehicles is calculated on the basis of the average regional value content of the total annual production or the total annual exports to the other party of: a model of given category of vehicles produced in a single plant; or of a category of vehicles produced in a single plant; or of a model produced in the country; or of a category of vehicles produced in the country
Goods produced from non-originating materials that satisfy an applicable change in tariff classification and other requirements, and comply with a regional value content requirement		
Costa Rica, El Salvador (Entry into force: 1 June 2002)		
Goods wholly obtained or produced in the region	Bilateral cumulation of origin	Conditions vary according to products
Goods wholly produced in the region with originating inputs	Under a de minimis provision goods are considered originating if the total value of non-originating inputs does not exceed 8% of the total value (does not apply to non-originating goods classified in HS Chapters 50 to 63, and applies under specific conditions to goods classified in HS Chapters 1 to 27)	
Goods produced in the region with non-originating inputs that satisfy an applicable change in tariff classification, a regional value content requirement, and other requirements		
European Union (Entry into force: 2 February 2003)		
Goods wholly obtained in the region	Bilateral cumulation of origin	Conditions vary according to products
Goods obtained from non-originating materials that satisfy an applicable change in tariff classification and other requirements	Under a de minimis provision goods are considered originating if the total value of non-originating inputs does not exceed 10% of the total value (does not apply to non-originating goods classified in HS Chapters 50 to 63)	Provisions on products of sea fishing apply only to vessels that are registered in the region, majority-owned by citizens of the region and of which at least 75% of the crew are citizens of the region
Canada (Entry into force: 5 July 1997)		
Goods wholly obtained in the region	Bilateral cumulation of origin	Conditions vary according to products; specific provisions for textiles, footwear, and the automotive sector
Goods wholly produced in the region with non-originating inputs that satisfy an applicable change in tariff classification or other requirements	Under a de minimis provision goods are considered originating if the total value of non-originating inputs does not exceed 9% of the total value (does not apply to various non-originating inputs defined by HS tariff line and non-originating goods of HS Chapters 1 to 21)	The regional value content of vehicles and parts thereof is calculated on the basis of the average regional value content of the total annual production or the total annual exports to the other party of: a model of given category of vehicles produced in a single plant; or of a category of vehicles produced in a single plant; or of a model produced in the country; or of a category of vehicles produced in the country
Goods wholly produced in the region with originating inputs		
Goods wholly produced in the region with non-originating inputs that do not satisfy an applicable change in tariff classification or other requirements, provided specific conditions are met, including a regional value content of at least 35% using the transaction value method and 25% using the net cost method (does not apply to HS Chapters 61 to 63)		

Source: WTO Secretariat.

(iv) Tariffs

(a) Structure and levels

23. Chile grants at least MFN treatment to all its trade partners.

24. The Chilean tariff classification is based on the Harmonized Commodity Description and Coding System (HS 2002). In March 2003, Chile's tariff schedule contained 7,903 lines at the eight-digit level. The average applied MFN tariff is 5.9% (Table III.2). Agricultural goods (WTO definition), including those subject to the price band system, are levied an average of 6.0%, while non-agricultural products excluding petroleum face an average tariff of 5.9%.

25. All import duties are applied to the c.i.f. value of goods. With the exception of 36 tariff lines that are subject to specific duties within a price band system (section (v)), Chile applies only *ad valorem* tariffs. It does not apply seasonal tariffs.

26. Through Law No. 19.589 of 14 November 1998, Chile has been reducing its applied tariffs unilaterally by one percentage point annually since 1999; since January 2003 it has been applying a uniform tariff of 6%, which applies to more than 98% of tariff lines. The authorities indicated that currently no further tariff reductions are envisaged. All changes in the tariff structure must be approved by Congress.

Table III.2
Average tariffs under Chile's main preferential agreements, 2003

Average tariffs under China's main preferential agreements, 2005									
			Average tariffs (%)						
		No. of lines	MFN ^a	Bolivia	Canada	Colombia	Costa Rica	Ecuador	El Salvador
Total		5,852	5.9	5.7	0.1	0.2	0.3	0.5	0.6
By WTO category									
Agriculture		746	6.1	5.4	0.9	1.2	1.5	1.4	1.8
Non-agriculture (excl petroleum)		5,090	5.9	5.7	0.0	0.0	0.1	0.4	0.4
By ISIC sector									
Agriculture and fisheries		325	6.0	5.5	0.2	0.2	0.6	0.3	0.5
Mining		109	6.0	5.7	0.0	0.0	0.1	0.2	0.1
Manufacturing		5,417	5.9	5.7	0.1	0.2	0.3	0.6	0.6
By HS section									
01	Live animals & prod.	276	6.0	5.8	1.5	1.2	1.5	1.6	1.7
02	Vegetable products	295	6.0	5.3	0.2	0.5	1.2	0.5	0.9
03	Fats & oils	51	5.2	5.9	1.9	4.3	4.2	3.9	4.3
04	Prepared food etc.	231	6.6	5.3	0.6	0.6	0.6	1.3	1.7
05	Minerals	171	6.0	5.8	0.3	0.1	0.2	0.4	0.4
06	Chemical & prod.	943	6.0	5.8	0.0	0.1	0.0	0.5	0.2
07	Plastics & rubber	229	6.0	5.9	0.0	0.0	0.0	0.4	0.4
08	Hides & skins	78	6.0	4.3	0.0	0.0	0.0	0.2	1.2
09	Wood & articles	97	6.0	4.3	0.0	0.2	3.8	1.0	2.4
10	Pulp, paper etc.	170	5.9	5.8	0.0	0.0	0.3	0.0	0.5
11	Textile & articles	934	6.0	5.7	0.0	0.0	0.1	0.3	0.1
12	Footwear, headgear	59	6.0	5.4	0.0	0.0	0.0	0.1	1.4
13	Articles of stone	162	6.0	5.9	0.0	0.1	0.0	0.6	1.3
14	Precious stones, etc.	53	6.0	4.7	0.0	0.0	0.0	0.0	0.0
15	Base metals & prod.	593	6.0	5.9	0.0	0.0	0.0	0.6	0.7
16	Machinery	880	5.7	5.7	0.0	0.0	0.0	0.4	0.1
17	Transport equipment	227	5.6	5.6	0.0	0.0	0.0	0.2	1.5
18	Precision equipment	242	5.6	5.6	0.1	0.0	0.0	0.3	0.0
19	Arms and ammunition	19	6.0	6.0	0.0	0.0	0.0	0.6	0.0

Table III.2 (cont'd)

		No. of lines	Average tariffs (%)						
			MFN ^a	Bolivia	Canada	Colombia	Costa Rica	Ecuador	El Salvador
20	Miscellaneous manuf	135	6.0	5.4	0.0	0.0	0.2	0.1	1.6
21	Works of art, etc.	7	6.0	6.0	0.0	0.0	0.0	0.0	0.0
		No. of lines	MFN ^a	Mercosur	Mexico	Peru	Venezuela	EU ^b	
Total		5,852	5.9	0.4	0.1	1.7	0.5	0.5	
By WTO category									
Agriculture		746	6.1	0.8	0.5	2.1	0.9	1.3	
Non-agriculture (excl petroleum)		5,090	5.9	0.4	0.1	1.7	0.4	0.3	
By ISIC sector									
Agriculture and fisheries		325	6.0	0.2	0.2	0.8	0.3	0.2	
Mining		109	6.0	0.3	0.2	0.1	0.2	0.2	
Manufacturing		5,417	5.9	0.5	0.1	1.8	0.5	0.5	
By HS section									
01	Live animals & prod.	276	6.0	0.3	0.4	2.0	1.0	0.9	
02	Vegetable products	295	6.0	0.3	0.2	1.3	0.2	0.7	
03	Fats & oils	51	5.2	2.4	2.5	3.4	3.1	1.0	
04	Prepared food etc.	231	6.6	1.2	0.5	2.7	0.7	1.5	
05	Minerals	171	6.0	0.3	0.6	0.6	0.5	0.6	
06	Chemical & prod.	943	6.0	0.2	0.0	1.2	0.4	0.6	
07	Plastics & rubber	229	6.0	0.4	0.0	2.6	0.5	0.7	
08	Hides & skins	78	6.0	0.2	0.0	2.7	0.1	0.0	
09	Wood & articles	97	6.0	0.2	0.0	1.8	2.6	0.0	
10	Pulp, paper etc.	170	5.9	0.5	0.0	3.5	0.0	0.0	
11	Textile & articles	934	6.0	0.8	0.1	1.2	0.1	0.1	
12	Footwear, headgear	59	6.0	1.4	0.0	1.7	0.1	0.0	
13	Articles of stone	162	6.0	0.5	0.0	2.1	1.1	1.8	
14	Precious stones, etc.	53	6.0	0.1	0.0	0.5	0.0	0.0	
15	Base metals & prod.	593	6.0	0.3	0.0	1.9	0.6	0.1	
16	Machinery	880	5.7	0.2	0.0	1.8	0.4	0.3	
17	Transport equipment	227	5.6	1.1	0.8	3.2	0.1	0.8	
18	Precision equipment	242	5.6	0.1	0.0	1.5	0.3	0.1	
19	Arms and ammunition	19	6.0	0.1	0.0	1.2	0.0	0.0	
20	Miscellaneous manuf	135	6.0	0.4	0.0	2.1	0.0	0.0	
21	Works of art, etc.	7	6.0	0.1	0.0	1.0	0.0	0.0	

a Using the 2003 tariff rate, applied to the lines in the 2000 tariff (in HS1996).

b EU preferential rates were provided in HS2002 classification using the lines in the 2003 tariff; consequently, the number of lines in the first column of this table do not apply for the EU.

Source: WTO Secretariat estimates, based on data from Chilean authorities.

27. With the exception of the agricultural goods subject to the price band system, the only applied rates are 6% and 0%. Since Chile's last Review in 1997, the number of goods entering duty-free has increased, from 21 to 95 tariff lines at the eight-digit level. Goods that enter at a zero tariff include fire-fighting vehicles, helicopters, aircraft, cargo and fishing vessels, various computer products, and books.

28. Used goods bear a surcharge of 50% above the relevant import duty, resulting in a combined duty of 9%. Goods exempt from this additional duty include used ambulances, armoured cars, public-road-cleaning vehicles, mobile homes, prison vans, and cement-making vehicles.

29. The customs duty payable on goods admitted under the temporary admission system is based on the number of days for which the merchandise is admitted. For temporary admission of 1 to 15 days the duty is 2.5% of the normal duty, for 16 to 30 days 5%, for 31 to 60 days 10%, for 61 to 90 days 15%, for 91 to 120 days 20% and for more than 121 days 100%. An additional tax of 10% on the customs value is levied upon application for an extension of the period.

30. Government revenue from import tariffs decreased from US\$1.6 billion in 1997 to US\$0.7 billion in 2002 (Table I.4). Fiscal revenue from foreign trade (tariffs plus VAT and specific taxes on imports) fell from over 40% in 1996 to just over 31% in 2001, increasing again to 35% in 2002.

(b) Tariff bindings

31. In the Uruguay Round, Chile bound all its tariff lines contained in Chapter 1 to 97 of the Harmonized System at a uniform rate of 25%, with the exception of various agricultural products and of six tariff lines that already had lower bound rates as a result of pre-Uruguay Round Commitments. A number of agricultural products are subject to a bound rate of 31.5% at the end of the implementation period; this list, in Section 1 of Chile's Schedule, includes: dairy products, wheat and wheat flour, oil-seeds and oleaginous fruit, vegetable fats and oils, and beet or cane sugar. Six tariff lines carry bound rates lower than 25%: one line is bound at 0% (bone ashes), one at 3% (ships over 3,500 tons or 120 metres in length), and one at 15% (various worked carving material); and three lines (various types of turbines) are bound at 23%. As at March 2003, all applied tariffs were below or equal to bound levels.

32. After the conclusion of the Uruguay Round, Chile pursued Article XXVIII renegotiations for sugar to allow it to amend its Schedule of Commitments. In September 2001, Chile notified that it had completed the process of renegotiation concerning the rectification of its Schedule, resulting in an increase in the final bound rate for sugar to 98%, up from 31.5%, together with the introduction of a 60,000 ton tariff quota with a zero tariff (section (iv)).⁶

33. Chile has on three occasions reserved the right under Article XXVIII:5 of GATT 1994 to modify its Schedule of Commitments; the most recent communication refers to the three-year period commencing 1 January 2003.⁷

(c) Tariff preferences

34. Since the previous Trade Policy Review of Chile, the importance of preferential tariffs in Chile's trade regime has continued to increase. As at June 2003, Chile granted preferential tariff treatment under free-trade agreements to imports from Canada, Costa Rica, El Salvador, the European Union, and Mexico (Table III.2). Furthermore, under LAIA partial scope agreements preferential treatment is granted to imports from Bolivia, Colombia, Ecuador, the members of MERCOSUR, Peru, and Venezuela. Chile gives preferential treatment to imports within the Global System of Trade Preferences among Developing Countries (GSTP).

⁶ WTO document G/MA/TAR/RS/82, 30 October 2001.

⁷ WTO documents G/MA/24, 8 January 1997; G/MA/91, 16 December 1999; and G/MA/126, 16 December 2002.

35. Applied tariffs vary significantly across preferential agreements and sectors, generally as a result of the specific schedules of tariff reductions and the dates of entry in force of each agreement. Tariff phase-outs for sensitive products, which are in most cases agricultural products, should be completed by 2013 for products from the EU; 2014 for goods from Canada and El Salvador, and MERCOSUR; and 2015 for products from Costa Rica. No phase-outs are pending in Chile's agreement with Mexico or in its partial scope agreements.

(d) Tariff concessions

36. Section 0 of Chile's tariff establishes tariff concessions for, *inter alia*, public entities, benevolent and educational institutions, religious communities, maritime and air transportation companies, and automotive parts.

37. Imports entering under the regulations establishing drawback and processing procedures also benefit from tariff concessions (section 3(iv) below).

(v) Price band system

38. Chile maintains a price band system (PBS) for various edible vegetable oils, sugar, wheat, and wheat flour. The system was established in 1985 and is intended to reduce the impact of international price fluctuations on internal prices of these goods. Chile's regulations on its PBS are contained in Law No. 18.525. In particular, Article 12 of the law provides the methodology for the calculation of the price bands.

39. Under the PBS, specific duties based on reference prices are added to the *ad valorem* rate to bring the import price up to the reference price. If the import price exceeds the reference price, rebates lead to a reduction of the applied tariff. Price bands are established once a year, by Presidential Decree, taking into account average international prices of the respective goods at major commodity marketplaces (Box III.1). In the context of preparations for this Review the authorities indicated that the PBS was under revision.

40. Despite the gradual reduction of Chile's *ad valorem* tariffs over recent years, specific duties can effectively keep tariffs on these agricultural products quite high. As a result of low international sugar prices, for example, effective tariff rates rose as high as 72% in 1999 and 61% in 2000, well above Chile's then bound rate of 31.5%. In March 2003, average tariffs were 6.0% for wheat, 4.2% for vegetable oils, and 40.63% for sugar.

41. In October 2000, Argentina requested consultations with Chile on the PBS; these were held without reaching a mutually satisfactory solution. At the request of Argentina, a WTO dispute settlement panel was established; it concluded that the PBS was inconsistent with Chile's obligations under Article II of GATT 1994 (on import tax limits) and with Article 4.2 of the Agreement on Agriculture (on market access).⁸ The panel's decision was subsequently challenged by Chile; the Appellate Body upheld the panel's finding that the PBS was inconsistent with Article 4.2 of the Agreement on Agriculture, but reversed its finding that the PBS was inconsistent with Article II of GATT 1994.⁹ In November 2001, Chile amended Article 12 of Law No. 18.525 so that applied rates resulting from the application of the PBS may not exceed Chile's bound rates.

⁸ WTO document WT/DS207/R, 3 May 2002.

⁹ WTO document WT/DS207/AB/R, 23 September 2002.

Box III.1 Determination of price bands, specific duties, and rebates

A time series of average monthly international prices is compiled for goods subject to the PBS, comprising 60 months for wheat and oil, and 120 months for sugar.

The international prices used are:

Wheat:	the f.o.b. price of Hard Red Winter No. 2 at the Gulf of Mexico;
Edible vegetable oils:	the f.o.b. price of raw soya in New York;
Sugar:	a weighted price constructed from two international commodity market prices, London f.o.b. (weight of 0.9) and New York f.o.b. (weight of 0.1).

These time series are deflated to correct for international inflation. The deflator used is an index calculated by the Central Bank, which takes into account inflation in Chile's major trading partners.

In order to determine the price band of wheat, wheat flour and oil, up to the lowest and highest 25 percentiles are deleted. In the case of sugar, up to the lowest and highest 35 percentiles are deleted. The value of the ceiling and the floor of the band are further determined by adding costs such as freight, insurance, import duties, unloading, etc. to the highest and lowest values.

Specific tariffs are applied when the f.o.b. price in any relevant market used as a reference price is below the f.o.b. price used for the calculation of the floor of the band. This specific tariff is determined by subtracting the import price (f.o.b.) from the floor price. Similarly, rebates are calculated by subtracting the ceiling price from the import price, and may go to a zero tariff rate.

The PBS applies to a total of 38 tariff lines. The price band for sugar applies to six tariff lines, while the price band calculated for soya oil applies to all edible vegetable oils (30 tariff lines). The tariff for wheat flour is calculated on the basis of the specific tariffs and rebates of wheat, which are multiplied by a factor of 1.56.

(vi) Tariff quotas

42. Chile maintains MFN tariff quotas only on refined sugar, with an out-of quota rate of 40% (as at March 2003) and an in-quota rate of 0%. The quota of 60,000 tons annually, is allocated on a first-come, first-served basis: 21,000 tons are reserved for Argentina, 16,700 tons for Guatemala, 9,700 tons for Brazil, and 12,600 tons for other countries. No single importer may import more than 12,000 tons. The tariff quota was introduced as a result of Chile's Article XXVIII renegotiations and entered into force in January 2002. No tariff quota was in place before that date. The authorities indicate that in both 2002 and 2003 the quota was filled within a few days.

43. In addition, Chile applies tariff quotas to certain imports under its preferential trade agreements. The respective bilateral contingents are defined in the agreements with Canada, Costa Rica, the European Union, and Mexico as well as in its partial scope agreements. The goods usually affected by tariff quotas under these agreements are meat products, oils, and vehicles. No preferential tariff quotas are used for sugar.

(vii) Other charges affecting imports

44. Chile's value-added tax is levied at a rate of 18% and applies to all goods and services unless otherwise specified. The VAT is calculated on the basis of the c.i.f. value plus the import duty. While the VAT has remained unchanged since 1997, the level of various specific taxes has been modified (Table III.3).

45. Imports of capital goods, for investment purposes, may be exempted from the VAT if they are imported under Chile's Foreign Investment Statute (Decree Law 600) of 1974, or if there is no local production or "insufficient" local production of the imported goods.

Table III.3
Taxes levied on imports and domestic goods, April 2003

Tax	Product	Rate (%)	Base	
			Imports	Domestic goods
Value-added tax	All goods	18	C.i.f. price plus import duty	Sale price at all transaction levels
Luxury tax	Articles made of gold, platinum and ivory; jewellery, synthetic or natural precious stones; fine furs; rugs and fine tapestries; motor-homes; caviar; and airguns	15	C.i.f. price plus import duty	Sale price at all transaction levels
	Fireworks	50	C.i.f. price plus import duty	Sale price at all transaction levels
Tax on beverages	Non-alcoholic beverages	13	C.i.f. price plus import duty	Sale price at all transaction levels, except for retail sales
	Alcoholic beverages			
	Wines	15		
	Beer	15		
	Spirits, pisco, whisky	27		
Tax on vehicles	Vehicles with a c.i.f. price exceeding US\$16,361.97 ^a	85	Levied on the proportion of the customs value that exceeds US\$16,361.97	Value of finished vehicle exceeding US\$16,361.97
Tax on tobacco products	Cigars	51	Final consumer price	Final consumer price
	Cigarettes	50.4 + 10 = 60.4	Final consumer price	Final consumer price
	Manufactured tobacco	47.9 + 10 = 57.9	Final consumer price	Final consumer price
Tax on fuels	Gasoline	6 UTM/m ³ (1UTM = US\$28.5)	C.i.f. price + import duty + VAT	Producer price including VAT
	Diesel	1.5 UTM/m ³ (1UTM = US\$28.5)	C.i.f. price + import duty + VAT	Producer price including VAT

a This threshold is updated annually.

Source: Government of Chile.

46. An additional airport tax of 2 % of the applied duty applies to all imports transported by air (i.e. the tax is currently 0.12 %). However, goods originating in Canada, Costa Rica, El Salvador, and Mexico are exempt from this tax, as provided by their free-trade agreements with Chile.

47. As established by Article 190 of Law No. 16,464 of 25 April 1966, a dispatch tax of 5 % on the customs value applies to merchandise that has been partially exempt from duties. The dispatch tax is not levied on goods originating in countries with which Chile has trade agreements. The authorities

indicate that due to numerous additional exceptions the tax is of little practical importance and that a draft law for its abolition is before Congress.

48. In June 1997, the European Union requested consultations on Chile's taxation regime on alcoholic beverages. As the consultations did not lead to a mutually satisfactory solution, a WTO dispute settlement panel was set up at the request of the European Union; it concluded that Chile acted inconsistently with Article III:2 of GATT 1994 (on national treatment) by according a preferential tax treatment to pisco *vis-à-vis* certain other alcoholic beverages.¹⁰ Law No. 19.716 of 9 February 2001 established a gradual adjustment of tax rates for various alcoholic beverages for a transitional period ending in March 2003; since then all spirits have been subject to the same rate of 27%.

(viii) Import prohibitions, restrictions, and licensing

(a) Import prohibitions

49. The Constitutional Organic Law of the Central Bank of 10 October 1989 establishes freedom of importation. However, Chile operates import prohibitions for the protection of human health, animal and plant life, and the environment, in compliance with domestic legislation or international commitments. Chile's import prohibitions apply equally to all its trading partners.

50. Pursuant to Article 21 of Law No. 18.483 of 28 December 1985, Chile prohibits the import of used vehicles; according to the authorities, this is for environmental reasons. Exceptions to this include used ambulances, cement-making and fire-fighting vehicles, armored cars, mobile homes, street-and highway-cleaning vehicles, and prison vans.

51. In accordance with the Convention on International Trade in Endangered Species (CITES), Chile prohibits imports of plants and animals in danger of extinction. Nevertheless, these goods may be imported with a special import permit of the National Commission of Technological and Scientific Research. Chile prohibits the importation of hazardous waste in accordance with the Basle Convention and of products containing CFC in accordance with the Montreal Protocol.

52. Article 88 of Law No. 18.840 empowers the Ministry of Finance to prohibit the importation of merchandise from countries that have imposed trade restrictions on Chile. However, according to the authorities this measure had never been imposed.

(b) Other import restrictions and licensing

53. Chile does not make use of any kind of quantitative restrictions on imports. No import licensing system exists in Chile.¹¹ Pursuant to the Constitutional Organic Law of the Central Bank, Chile's import system is based on the principle that all goods may be freely imported and anyone may engage freely in international trade transactions.

54. No import licences are required, but the importation of certain products is subject to administrative formalities (Table III.4). There is no difference between trading partners and there are no exceptions under Chile's preferential trade agreements.

¹⁰ WTO documents WT/DS87/R and WT/DS110/R, 15 June 1999.

¹¹ WTO document G/LIC/ N/3/CHL/1, 5 June 1996.

Table III.4
Products subject to administrative formalities

Goods	Approving Organism / Legal basis
I. Goods that require approval or certification prior to importation	
Firearms, munitions, explosives and chemical substances, inflammables and asphyxiates	General Directorate of Recruitment and Mobilization of the Armed Forces, Law No. 17.798
Facilities for the production, storage or deposit of firearms	General Directorate of Recruitment and Mobilization of the Armed Forces, Law No. 17.798
Enriched elements or materials, fissile or radioactive, radioactive substances, devices or tools that emit ionic radiation	Chilean Nuclear Energy Commission, Decree No. 323/1974 of the Ministry of Economy
Maps, geographical maps and others depicting international borders and borders of the national territory	Directorate of Frontiers, Decree with Force of Law No. 5/1967
Written or audiovisual material, related to martial arts for teaching purposes	General Directorate for National Mobilization, Article 5 of Law No. 18.356
II. Goods that require approval or certification for customs clearance	
Alcohol, alcoholic beverages, and vinegar	Agricultural and Livestock Service., Article 1 of Law No. 18.164
Plant products and products that may be dangerous to plants	Agricultural and Livestock Service, Article 1 of Law No. 18.164
Animals, birds, products, sub-products, and remains of animal or plant origin	Agricultural and Livestock Service, Article 1 of Law No. 18.164
Fertilizers and pesticides	Agricultural and Livestock Service, Article 1 of Law No. 18.164
Food products or sub-products of animal or vegetal origin	Agricultural and Livestock Service, Article 1 of Law No. 18.164
Food products	Health Service, Article 2 of Law No. 18.164
Toxic substances or substances that are dangerous to health	Health Service, Article 2 of Law No. 18.164
Pharmaceutical products, food for medical or cosmetic use	Health Service, Article 2 of Law No. 18.164
Narcotic drugs and psychotropic substances that cause addiction	Health Service, Article 2 of Law No. 18.164
Hydro-biological resources in any state of growth, including ornamental species	Sub-secretary of Fisheries, Decree No. 175/1980 of the Ministry of Economy.
Fish products	National Fisheries Services, Article 28 of Decree with Force of Law No. 5 /1983
Cinematographic movies and video-tapes, to be commercialized or for commercial use	Council for Movie Rating, Article 12 of Decree Law No. 679/74, modified by Law No. 18.853

Source: Chilean authorities.

(ix) Contingency measures

(a) Anti-dumping and countervailing measures

55. The Agreement on Implementation of Article VI of the GATT 1994, the Agreement on Subsidies and Countervailing Duties, Article VI of GATT 1994, and the WTO Agriculture Agreement, all apply with the force of law in Chile since the enactment of the Marrakesh Agreement by Supreme Decree No. 16 of the Ministry of Foreign Affairs of 5 January 1995 (Chapter II), Law No. 18.525 of 30 June 1986 and its further amendments, Decree No. 575 of the Ministry of Finance containing the Regulations on Article 11 of Law No. 18.525, as does the Chile-Canada Free-Trade Agreement.¹²

56. Chile's legislation on anti-dumping and countervailing measures was reviewed in the WTO Committee on Anti-Dumping Practices and Committee on Subsidies and Countervailing Measures. Argentina and Brazil asked questions to which Chile provided answers.¹³

¹² WTO documents G/ADP/N/1/CHL/1, 7 April 1995.

¹³ WTO documents G/ADP/Q/1/CHL/1-4, 26 October 2000 to 30 April 2001.

57. The various definitions contained in the WTO Agreements on Anti-Dumping and on Subsidies and Countervailing Duties apply fully, as these Agreements are an integral part of the Chilean legislation. Chile's legislation lacks a system for a prompt refund, upon request, of any duty paid in excess of the actual margin of dumping, according to Article 9.3.2. of the Agreement on Implementation of Article VI of the GATT 1994.

58. Article 10 of Law No. 18.525 allows the imposition of anti-dumping and countervailing duties for imports of goods "of which the entry into the country causes or threatens to cause serious injury to the domestic industry by entering at reduced prices as a result of artificial conditions in the respective home markets of the exporters."

59. The National Commission for Investigations on Price Distortions through Imports, created by Article 11 of Law No. 18.525, carries out investigations related to all aspects of anti-dumping and countervailing measures. The Commission is composed of: the National Economic Prosecutor's Office, who chairs it; two representatives of the Central Bank of Chile, one representative respectively of the Ministries of Finance, Agriculture, Foreign Relations, and the Economy; and the National Director of Customs. The Central Bank provides the Technical Secretariat for the Commission.

60. The Commission conducts an investigation if the complainant can provide evidence of a distortion (dumping or the existence of a subsidy) and the manner in which it causes or threatens material injury to the Chilean industry. Complaints can be submitted by any industry group or in the name of any industry group. The Commission may also conduct investigations on its own initiative when it possesses information that justifies so doing. The authorities indicate that this has not occurred since 1995.

61. After a complaint has been lodged the Commission must publish a notice of the opening and subject of an investigation in the *Official Gazette*. Within thirty days from the date of this notice, the Commission shall receive all information interested parties wish to submit, and request any reports it considers necessary. Before reaching a decision, it must also hear the arguments of interested parties, at their request. If the Commission considers that, on the basis of available information, it is possible to establish the existence of price distortions and that these distortions cause or threaten to cause material injury to the affected domestic industry, this is stated in its decision recommending the establishment of anti-dumping or countervailing duties.

62. The anti-dumping and countervailing duty proposed by the Commission must not exceed the margin of distortion, which is calculated by comparing dumped with non-dumped imports. The Commission may also recommend to the President the application of provisional duties. Anti-dumping and countervailing duties can be imposed for a maximum of one year. However, a new investigation can be initiated if the Commission considers that there is evidence for the duty to be maintained.

63. Chile does not apply its anti-dumping legislation to imports from Canada: as established by Chapter M of the Chile-Canada Agreement, all imports are excluded from anti-dumping measures since January 2003.

64. Since 1997, Chile has imposed provisional and definitive anti-dumping measures in four cases, out of nine investigations initiated, against imports from Russia and the Ukraine (Table III.5). The products affected were base metals and articles thereof. The last anti-dumping investigation ended in September 2001; no investigations or measures are currently effective (June 2003).

65. In the context of preparations for the 1999 Ministerial Conference, Chile stated that the imposition of anti-dumping duties should be exceptional, and called for a revision of various aspects of the Anti-Dumping Agreement.¹⁴ Since then, together with other Members, Chile has submitted several contributions to the Negotiating Group on Rules.¹⁵ Against the background of increasing use of anti-dumping measures, these contributions seek to clarify and improve various provisions of the Anti-Dumping Agreement. They cover, *inter alia*: duration of anti-dumping measures, facts available, constructed value, zeroing, assessment of injury, price-undertakings, lesser duty, and review of anti-dumping orders.

66. Since 1997, Chile has initiated four countervailing actions, all of which concerned powdered milk and led to the imposition of provisional measures; final countervailing measures were imposed in two cases, against the United States and the European Community (Table III.5). Both measures were in force until July 2000. No countervailing investigations or measures are currently effective (June 2003).

67. Chapter 7 of Chile's Agreement with Costa Rica and El Salvador, Article 78 of the Agreement with the EU, and Article 15 of the Agreement with MERCOSUR confirm the parties' rights and obligations under the WTO Agreement on Anti-dumping and Countervailing Measures.

Table III.5
Countervailing, anti-dumping, and safeguard measures classified by category of product, 1997-02

Category	Investigations initiated	Definitive measures			Total
		Anti-dumping duties	Counter-vailing duties	Safeguard duties	
Agriculture	5			3	3
Food	5		2	2	4
Electrical, mechanical or fuel-consuming articles	5				0
Metals and metal manufactures	6	4		1	5
Tyres, rubber and plastic	1				0
Chemicals	1				0
Textiles	1			1	1
Total	24	4	2	7	14

Source: Government of Chile.

(b) Safeguard measures

68. Chile's legal framework for safeguard measures comprises: Article XIX of GATT 1994, the WTO Agreement on Safeguards, Law No. 19.612 (amending Law No. 18.525) of 31 May 1999, and the Regulations on the Application of Safeguard Measures issued by the Ministry of Finance in Decree No. 909 of 17 June 1999. Law No. 19.612, Chile's first law on safeguard measures, establishes the National Commission (mentioned in Law No. 18.525) as the authority to initiate and conduct investigations relating to safeguard measures and to propose the imposition of safeguard measures.¹⁶

¹⁴ WTO document WT/GC/W/366, 12 October 1999.

¹⁵ WTO documents TN/RL/W/6, 26 April 2002; TN/RL/W/10, 28 June 2002; TN/RL/W/18, 4 October 2002; TN/RL/W/28/Rev.1, 22 November 2002; TN/RL/W/29, 15 November 2002; TN/RL/W/63, 12 February 2003; TN/RL/W/76, 19 March 2003; TN/RL/W/83, 25 April 2003; TN/RL/W/93, 2 May 2003; TN/RL/W/104, 6 May 2003; TN/RL/W/113, 6 June 2003; TN/RL/W/118, 12 June 2003; TN/RL/W/199, 16 June 2003.

¹⁶ WTO document G/SG/N/1/CHL/2, 24 August 1999.

69. Pursuant to Article 9 of the revised Law No. 18.525, the President of the Republic may apply *ad valorem* tariff surcharges through a Supreme Decree of the Ministry of Finance, subject to a favourable report by the National Commission. At the written request of the domestic industry or on its own initiative, the National Commission may initiate investigations to determine serious injury to the domestic industry or the threat thereof.

70. As established by the Regulations on the Application of Safeguard Measures, serious injury is understood to mean a significant impairment in the position of a domestic industry. In determining the existence of injury or threat thereof, the Commission must evaluate all relevant objective and quantifiable factors.

71. Within ninety days from the initiation of the investigation, the Commission must decide whether, the available information leads to the conclusion that imports of a product have increased in such volume and under such conditions as to cause or threaten to cause serious injury to domestic producers of like or directly competitive products. If this is the case, it must adopt a Resolution recommending the application of tariff surcharges: the Resolution, together with the background information and conclusions of the investigation, are transmitted to the President of the Republic, who takes a final decision through a Decree of the Ministry of Finance. Where, the available information does not permit the establishment of a safeguard measure, the Commission must take a resolution to end the investigation and transmit the decision to the Minister for Finance for summary and publication in the *Official Gazette*.

72. In critical circumstances where delay would cause damage that would be difficult to repair, the Commission may request the President of the Republic to apply provisional tariff surcharges within a period of thirty days from the initiation of the investigation. The Commission's decision must be based on a preliminary determination of the existence of clear evidence that the increase in imports has caused or threatens to cause serious injury.

73. The surcharges may not be applied for more than one year, including the period of provisional application of the measure. This period may be extended by the President for one further period not exceeding one year, subject to a favourable report by the Commission. The Commission may at any time recommend that the application of the tariff surcharges in effect should be modified or abolished before their expiry date. The Law does not provide for the imposition of quotas. Commission decisions are by majority of the votes cast. The approval of three quarters of the members of the Commission is required if the application of a surcharge increases the tariff in place above the bound tariff.

74. Since its adoption of legislation on safeguard measures, Chile has imposed seven definitive safeguard measures, out of eleven investigations (Table III.5). None of the measures taken is still in force.

75. Chile's imposition of safeguard measures has led to a number of consultations in the Dispute Settlement Body (Chapter II(4)(i)). Argentina requested consultations on the provisional safeguard measure on mixtures of edible oils¹⁷; Columbia, later joined by Cuba, Guatemala, Nicaragua, and El Salvador, requested consultations regarding Chile's definitive safeguard measure on sugar¹⁸; and Argentina requested consultations on the definitive safeguard measure on fructose¹⁹. The main issues raised by the complainants include the lack of a precise definition either of the like or directly competitive product and the lack of evidence of the existence of a causal link between increased

¹⁷ WTO document WT/DS226/1, 22 February 2001.

¹⁸ WTO document WT/DS228/1, 22 March 2001.

¹⁹ WTO document WT/DS278/1, 8 January 2003.

imports and serious injury or threat thereof. None of these consultations has led to the establishment of a panel or a mutually satisfactory solution so far (June 2003).

76. As a consequence of preferential agreements concluded with Canada, Mexico, and Peru, Chile has forgone the use of safeguard measures on imports from these countries. Specific provisions on safeguard measures are also contained in Article 92 of the agreement with the EU and Chapter 6 of the agreements with Costa Rica and El Salvador.

77. As a member of LAIA, Chile may apply transitional and non-discriminatory safeguard measures. Procedures for the application of these measures are stipulated in each partial scope agreement concluded by Chile. The authorities indicated, however, that Chile has not taken any safeguard measures in the context of these agreements since 1997.

(x) Standards and other technical requirements

(a) Standards and technical regulations

78. Chilean standards and technical regulations do not distinguish between foreign and domestic goods. According to the authorities, Chile's policy for the elaboration and application of standards is based on non-interference with the free operation of markets, including foreign trade, and the use of international standards as a basis for national standards. Chile's standards and technical regulations apply equally in its free-trade zones.

79. Chile has accepted the WTO Code of Good Practice for the Preparation, Adoption and Application of Standards.²⁰ The TBT national enquiry point for technical regulations, notified to Members is the Department of Foreign Trade in the Ministry of Economy, which is also responsible for the implementation of the WTO Agreement on Technical Barriers to Trade. The National Institute for Standardization (INN) is in charge of other standards-related issues.²¹ Chile is a member of the Pan-American Standards Commission (COPANT), the International Organization for Standardization (ISO), the Inter-American Metrology System (SIM), and the Interamerican Accreditation Cooperation (IAAC).

80. INN, a private foundation and affiliate of CORFO, has overall responsibility for the elaboration of (voluntary) standards. One of its stated objectives is to promote and facilitate the use of international norms at the national level. INN has a voluntary system of accreditation of laboratories, certification bodies, and certification auditors. Other institutions, such as the Superintendency for Electricity and Fuels (SEC), the Agricultural and Livestock Service (SAG) of the Ministry of Agriculture, and the National Fisheries Service (SERNAPESCA), are also involved in the process of certification.

81. Standards are adopted through consensus among parties from both the public and private sectors who are invited to participate in the consultations. The public consultation process is announced in one of the major newspapers and the text of draft standards is available to anyone upon request. Once a standard has been approved by the INN Council, it is given official status by the relevant ministry, by means of decree or resolution, and is published in one of the principal newspapers. Chile's standards cover, in particular, issues relating to health and personal safety. Chile has adopted 2,600 standards, up from 1,976 force at the time of Chile's previous Review in 1997. INN also accredits organizations that issue quality certificates attesting that export products comply with international norms.

²⁰ WTO document G/TBT/CS/N/15, 16 October 1995.

²¹ WTO document G/TBT/ENQ/21, 29 September 2002.

82. According to the authorities, about 70% of Chilean standards are equivalent to international standards. Chile considers various international standards as inadequate for national application.²² These include standards and definitions regarding the age of live bovine animals to be slaughtered; seismic designs and structures, because of local seismic conditions; the sampling of water quality; and soil analysis methods.

83. Technical regulations (mandatory) are issued by government institutions with competence in the specific area to be regulated, such as SEC, the Ministries of Health and Agriculture, the Subsecretary of Telecommunications, and SERNAPESCA. Such regulations take the form of laws, decrees or resolutions and are published in the *Official Gazette*. The authorities noted that although INN only elaborates standards, these are often taken as reference by other government institutions for the elaboration of technical regulations. Compliance with technical regulations is verified in the market.

84. According to the authorities, Chile has more than 1,500 technical regulations in force. Between July 1997 and July 2003, Chile made 107 notifications of technical regulations to the WTO Committee on Technical Barriers to Trade. Most measures are for health or safety grounds, and concern largely food, household appliances, petroleum products, drugs, and motor vehicles.²³

85. A National Commission on Technical Barriers to Trade was set up in the Ministry of Economy in 1997 in order to increase transparency and improve coordination in the area of technical regulations. The authorities indicate that the Commission is currently discussing statutes to define criteria for the elaboration of technical regulations and procedures for conformity assessments (mid 2003).

86. Chile's preferential agreements with Costa Rica, El Salvador, the EU, Mexico, and MERCOSUR confirm the parties' rights and obligations under the WTO Agreement on Technical Barriers to Trade; they also provide for the establishment of a committee to discuss issues related to technical barriers to trade. Chile has not concluded any mutual recognition agreements on technical regulations.

(b) Marking, labelling, and packaging

87. Chile has more than 20 individual legal statutes in force on marking, labelling, and packaging; most have been issued by the Ministries of Agriculture and Health and the Superintendency of Electricity and Combustibles. The various supreme decrees, decrees, and resolutions cover in particular the labelling and packaging of food products, pharmaceuticals, seeds, plants, combustibles, electric products, and pesticides.

88. The labelling of food products is regulated by Decree No. 977/1996 of the Ministry of Health and Supreme Decree No. 297/1992 of the Ministry of Economy. Imported food products for sale in Chile must display the country of origin. Packaged food must be marked to show the quality, purity, ingredients or mixture, as well as the net weight or measure of the contents. Canned or packaged foodstuffs must bear labels in Spanish for all ingredients, including additives, manufacture and expiry dates, and the name of the producer or importer. All sizes and weights of the net contents must be converted into metric units; goods that do not comply with these measurements may be imported but may not be sold to consumers until the conversion is made.

²² WTO (1997).

²³ The notified measures may be found in WTO document series G/TBT/Notif (until December 2000) and G/TBT/N/CHL/ (since January 2001).

89. The authorities are in the process of amending Decree No. 977/1996. The draft decree provides, *inter alia*, for the mandatory labelling of food products modified by biotechnological measures.

(c) Sanitary and phytosanitary measures

90. The Ministries of Agriculture, Health, and Economy, are responsible, within their own spheres of competence, for fulfilling Chile's obligations and exercising its rights laid down in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Ministry of Agriculture, through the Agriculture and Livestock Service (SAG), is responsible for all issues relating to animal and plant health, including the certification of primary export products, and has also been notified as Chile's national SPS enquiry point.²⁴ The Ministry of Health, through the Environmental Programme Department, is in charge of regulations pertaining to human health. The Ministry of Economy, through the National Fisheries Service (SERNAPESCA), is responsible for measures relating to hydro-biological resources. The National Commission for the Coordination of SPS Measures was established in March 2001 to meet growing demands for information and better compliance with international obligations.

91. All imports of animals and products thereof must be accompanied by a sanitary certificate from a competent authority in the country of origin. The certificate must contain information on the origin, destination, and state of health of the animals or products thereof in order to ensure that they are in good health and free of contagious diseases. A phytosanitary certificate issued by the competent authorities of the exporting country is required for plants or any part of a plant in its natural state or processed, capable of carrying plant pests or of being a pest in itself, as well as products that may be dangerous to plants (including plant products, living organisms, containers, agricultural equipment, and soil). Products destined for human consumption must also be accompanied by a sanitary certificate.

92. The authorities indicated that all imported animals are quarantined, regardless of their country of origin. Plants and seeds may be quarantined depending on the phytosanitary condition in their country of origin; the decision is based on a risk analysis following the procedures laid down in the International Convention on Phytosanitary Protection.

93. The Ministries of Agriculture and Health accept certificates issued by the official sanitary service in countries that follow the guidelines of international scientific organizations such as the FAO, Codex Alimentarius, the International Plant Protection Convention (IPPC), and the World Organization for Animal Health.

94. All imports of hydro-biological resources must be accompanied by a sanitary certificate. According to the authorities, SERNAPESCA recognizes all official test results and certificates provided by Denmark, Iceland, Ireland, Scotland, and the United States. Imports from other countries are quarantined.

95. Compliance with SPS regulations is verified at the border by the relevant technical institution. Chile's sanitary and phytosanitary regulations apply equally to all trading partners; no distinction is made between domestically produced and imported products.

96. Between July 1997 and June 2003, Chile notified 153 SPS regulations and emergency measures to the WTO Committee on Sanitary and Phytosanitary Measures (SPS Committee).²⁵ Most

²⁴ WTO document G/SPS/ENQ/12, 4 July 2001.

²⁵ WTO document series G/SPS/N/CHL/.

measures were for animal health reasons. Furthermore, Chile is an active participant in the WTO SPS Committee.

97. The SAG has signed institutional cooperation agreements on SPS measures with: Argentina, Australia, Brazil, Bolivia, Canada, China, Columbia, Costa Rica, Cuba, the Czech Republic, the Dominican Republic, Ecuador, France, India, Mexico, New Zealand, Nicaragua, Paraguay, Peru, the Philippines, the United States, Uruguay, Venezuela, and Viet Nam. SERNAPESCA has signed memoranda of understanding with Argentina, Brazil, the United States, and Uruguay; it is also acknowledged by the European Union as competent authority for the control and certification of exports.

98. SPS provisions are also part of Chile's preferential trade agreements. Pursuant to Chapter 7 of the agreement with Mexico, Chapter 8 of the agreement with Costa Rica and El Salvador, and to an SPS agreement annexed to the agreement with the European Union, sanitary and phytosanitary measures should be based on scientific principles and not have the objective or effect of creating unnecessary barriers to trade. The agreement with MERCOSUR confirms the parties' rights and obligations under the WTO Agreement on sanitary and phytosanitary measures.

(xi) Other measures

99. Chile does not have any countertrade arrangements. Chile has no import restrictions in place to deal with balance-of-payments problems and has never invoked Article XVIII:B of GATT. There are no export restraint agreements limiting exports from foreign countries to the Chilean market. No import cartels, monopolies or sole distributors exist in Chile. Chile maintains no import surveillance mechanisms.

(3) MEASURES AFFECTING EXPORTS

(i) Registration and documentation

100. Procedures for exports are laid down in the Customs Law (Decree Law No. 2/97 of 12 November 1997 of the Ministry of Finance). For every product to be exported, exporters must fill out a single export form (DUS), which replaces the three documents previously required, and requires the following information: address of exporter and consignee; description of the merchandise (tariff line, unit price, quantity or weight) and its f.o.b. value; code and name of the customs broker. In addition to the DUS, exporters must submit: the customs broker's mandate; transport documents; a copy of the commercial invoice; and a quality certificate, as appropriate. Since March 2001, the Central Bank no longer keeps an exporters' register, but exports above US\$10,000 must be notified.

101. The DUS must be submitted electronically by a customs broker. Once the form has been accepted by the customs authorities, exports must be shipped within 25 days.

102. The intervention of a customs broker is mandatory for all exports, except for exports from the free-trade zones. Exports may be subject to physical inspection based on the principle of reasonable doubt; according to the authorities, 6.3% of exports were physically inspected in 2002.

(ii) Export taxes, charges, and levies

103. Chile does not apply any taxes, charges or levies on exports.

(iii) Export prohibitions and other restrictions

104. Law No. 18.840 establishes that all commodities can be exported freely. Chile does not have an export licensing regime. No Chilean exports are subject to export quotas, which are prohibited by Law No. 18.840.

105. Export prohibitions or controls apply to goods whose trade is regulated by the Convention on International Trade in Endangered Species (CITES). Goods included in Appendices I, II, and III of the Convention require an export permit. This permit is granted by the National Forestry Corporation (CONAF), which follows the guidelines laid down by CITES.

106. Chile also prohibits exports of goods such as: (i) anthropological, archaeological, ethnic, historic, and paleontological objects and their parts; (ii) Chilean pine (botanical name *araucaria araucana*) and larch; and (iii) psychotropic substances and other chemicals.

(iv) Subsidies, free-trade zones, and similar arrangements

107. Chile has notified to the WTO six individual support programmes as providing subsidies²⁶: (a) tax credits for investment in certain provinces; (b) customs and tax exemptions in two free-trade zones; (c) a regional development fund; (d) a simplified drawback system; (e) a system of deferred payment of customs duties and tax benefits; and (f) the Motor Vehicle Statute. Due to their mainly regional development objective, programmes (a), (b) and (c) are described in section 4(iv) of this Chapter, while the Motor Vehicle Statute is covered in section 3(vii). Both export promotion programmes described below were modified, most notably through Law No. 19.589 of 14 November 1998, in order to bring them in line with Chile's WTO commitments.

108. Chile's legislation on subsidies was reviewed in the WTO Committee on Subsidies and Countervailing Measures. Chile provided answers to questions from Canada, Japan, Korea, Mexico, and the United States.²⁷

109. Chile does not provide agricultural export subsidies.

Duty drawbacks

110. Chile operates a general drawback system, which is available to all exporters who have used imported inputs. The legal provisions for this regime are contained in Law No. 18.708 of 11 May 1988. Exporters are reimbursed for import duties paid on all imports incorporated or consumed during the production process. Payments of surcharges and countervailing duties are not reimbursed. According to the authorities, reimbursements under this scheme amounted to US\$46 million in 2002.

111. Under Law No. 18.480 of 19 December 1985, Chile also maintains a simplified duty drawback system. The Law established a simplified refund of a percentage of the f.o.b. value of exports, depending on the enterprise's export values; until recently, these percentages and maximum export values were updated every year. Law No. 19.589 of 14 November 1998 amended Law No. 18.480 with a view to bring Chile's duty drawback system into line with the provisions of the WTO Agreement on Subsidies and Countervailing Measures. In particular, Law No. 19.589 progressively reduced the refund to a single rate of 3%. Since January 2003, the refund is granted exclusively on exports that include at least 50% of imported inputs. According to the authorities, the total amount refunded in 2002 was US\$86 million.

²⁶ WTO document G/SCM/N/71/CHL, 8 October 2001.

²⁷ WTO documents G/SCM/Q/2/CHL/1-14, 3 April 1997- 10 October 2002.

Deferred payment of customs duties and tax benefits

112. With a view to promoting technological innovation and stimulating the purchase of capital goods, Law No. 18.634 of 5 August 1987 and its Regulations allowed for the deferment of customs duties on imports of capital goods for up to seven years, payable in three instalments; purchasers of Chilean-made capital goods were entitled to a tax credit equivalent to 73% of the customs duty on the net invoice value of the goods. In both cases, the debt was subject to a market-based interest rate established by the Central Bank. The tax authorities forgave, partly or wholly, amounts due for deferred payment when the enterprise had used the capital goods to produce exports; the debt was written off at 2.5 times the export percentage of total sales on expiry of the period of the first instalment (i.e. 100%, if 40% or more of sales had been exported). For the two remaining instalments, the debt was written off at 1.66 times the export percentage of total sales (i.e. 100%, if 60% or more of sales had been exported). According to the authorities, the debt reduction for deferred payment of tariffs was US\$178 million in 2000, and the reduction for tax credits amounted to US\$15 million.

113. Law No. 19.589 of 14 November 1998 gradually eliminated the debt reductions granted under Law No. 18.634. However, under a transitional article the law retained the possibility of debt reductions for companies that requested the deferred payment of tariffs and taxes before November 1998. Further transitional provisions allowed companies to take advantage of deferred payment of tariffs or tax credits until December 2002. Under this regime, only instalments with expiry dates up to December 2005 are eligible for debt reduction.

(v) Export promotion and marketing assistance

114. The Directorate of Export Promotion and Marketing Assistance (ProChile), part of the Ministry of Foreign Affairs, was created in November 1974. ProChile operates various programmes aimed at broadening Chile's export base and increasing the competitiveness of exports.²⁸ It has 69 commercial offices and trade representations world-wide. Its activities include organizing export-related congresses, seminars, and commercial events, as well as providing specific trade information and market studies upon demand.

115. Various private-sector organizations, such as the Association of Chilean Exporters (ASOEX) and the Association of Exporters of Manufactured Goods (ASEXMA), have also developed export promotion capacity-building measures for their members. In addition, Chile has a Trade Point under the Global Trade Point Network.

(vi) Export finance, insurance and guarantees

116. According to the authorities, Chile has no publicly sponsored export finance programmes with preferential conditions. The Production Promotion Corporation (CORFO), acting as second-tier bank, operates two credit programmes (credit lines B.21 and B.22) at market rates with a view to promoting Chilean exports. Under both programmes, funds are channelled through Chilean and foreign commercial banks, which establish the specific conditions of the credit contract.

117. CORFO's credit line B.21 is geared at importers of Chilean exports of capital goods, "durable consumption" goods, and engineering and consulting services. Goods must have a local content of at least 40%; services exports must be confirmed by the National Customs Service. There is no upper limit for credits, which are denominated in U.S. dollars. The producer is paid at the moment of export

²⁸ See also ProChile online information. Available at: <http://www.prochile.cl/>.

without any direct involvement in the credit contract. This scheme is mainly used for exports to Cuba, Ecuador, and Peru; disbursements under this credit line amounted to US\$5.9 million in 2002.

118. Credit line B.22 provides financing for exporters of non-traditional goods, defined as all exports except for cellulose, copper, fish flour, fruits, and iron. The programme, which is confined to enterprises with annual sales of less than US\$30 million, finances credits of up to US\$3 million for the provision of inputs or the establishment of a commercialization infrastructure abroad. Disbursements under this credit line amounted to US\$2.4 million in 2002.

119. The Guarantee Fund for Small Enterprises provides credit guarantees for investment projects and exports by enterprises with net annual sales below 25,000 U.F. (14,000 U.F. for agricultural enterprises). The Fund guarantees up to 80% of outstanding debts up to a maximum of 3,000 U.F. per credit and 4,810 U.F. per enterprise.²⁹ Public budget allocation to this fund amounted to US\$240 million in 2002.

120. Exporting enterprises with net annual sales below US\$10 million have access to a credit insurance scheme, Cover of Bank Loans for Exporters (COBEX). This scheme, which is also operated by CORFO through commercial banks, covers up to 40% of the export credit against the risk of non-payment. The fee is US\$50 plus 0.4% of the amount to be covered.

(vii) Trade-related investment measures (TRIMs)

121. In January 1996, Chile notified to the WTO the application of trade-related investment measures in the automotive sector.³⁰ The notification concerned the Chilean Automotive Statute (Law No. 18.483 of 1985) which, in Article 3, allows exemption from customs duties for imports of CKD (completely knocked-down) and SKD (semi-knocked-down) units for vehicle assembly, to the extent that they are offset by exports of domestic components of an equivalent value, within a period of twelve months, in accordance with a programme approved by the Motor Vehicle Commission. According to the authorities, the tariff exemptions amounted to a total of US\$2.5 million in 2000. Article 9 of Law No. 18.483 also entitled end-processors (assemblers) to a tax credit in respect of the local content of vehicles produced and sold within the country to offset exports, or other exports of local components, with a ceiling of 35% of the customs value of the corresponding finished vehicle.

122. While the possibility for tax credits provided for in Article 9 of the Law expired automatically in December 1998, the Chilean Government requested an extension of the provisions contained in Article 3 until 31 December 2000 in order to complete the legislative process for dismantling this measure.³¹ Chile provided written replies to subsequent questions posed by the United States and Japan.³² In July 2001, the Council for Trade In Goods took a draft decision to extend Chile's transition period under the TRIMs Agreement until 31 December 2001.³³ In the context of this Review, the authorities indicated that the provisions have not been applied since the entry into force of the preferential trade agreement with the European Union in February 2003, and such provisions would be formally abolished with the entry into force of the draft law on miscellaneous WTO-related matters (Chapter II(2)(iii)).

²⁹ 1 Unidad de Fomento is currently about US\$23.80 (August 2003).

³⁰ WTO document G/TRIMS/N/1/CHL/1, 19 January 1996.

³¹ WTO documents G/C/W/172, 12 January 2000 and G/C/W/172/Add.1, 25 May 2000.

³² The questions posed by the United States and Japan are contained in WTO documents G/C/W/181, 26 January 2000, and G/C/W/185, 18 February 2000. Chile's replies are contained in WTO documents G/C/W/197 and G/C/W/198, 4 April 2000.

³³ WTO document G/C/W/277, 17 July 2001.

(viii) Measures applied in foreign markets

123. Chile is a beneficiary of the Generalized System of Preferences schemes of Bulgaria, Hungary, Japan, and New Zealand.

124. Chilean exports have been subject to various trade defence measures, imposed mainly by Argentina, Peru, and the United States. Since 1997, 17 anti-dumping actions have been initiated against Chile, of which nine led to the imposition of final anti-dumping duties. Of the three initiations of countervailing actions against Chile, none ended with an affirmative determination.

125. The authorities are not aware of other countries granting less than MFN treatment to Chilean exports or any export-restraint agreements limiting exports from foreign countries to the Chilean market.

(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE

(i) Competition policy

126. Chile has presented the principles of its competition policy to the Working Group on the Interaction between Trade and Competition Policy.³⁴

127. Chile's main legal instrument of competition policy is the Competition Law (Decree Law No. 211 of 1973, as revised and published as Supreme Decree No. 511 of 27 October 1980). Moreover, Article 19 of Chile's Constitution guarantees everyone the right to carry out any economic activity that is not contrary to morals or public or national security, and is in compliance with the legal rules. It also establishes that no arbitrary discrimination may be accorded by the State and its agencies in economic matters.

128. The Competition Law sets out the practices that are to be considered anti-competitive. These are described in its Article 1 as: any act that tends to hinder, or is aimed at eliminating, restricting or obstructing competition. The Law's provisions on freedom of competition apply to nationals, foreigners, and the State itself, and include activities related to foreign trade insofar they affect free competition within Chile. The State may, however, exercise monopoly control of certain activities on the basis of specific laws, but is barred from granting monopoly activity to private firms. Exceptions to these rules may apply on "national interest" grounds or under specific laws.

129. Various bodies are involved in implementing the Law and preventing and punishing infringements of free competition. The Resolutive Commission is Chile's competition court and is entitled to deal, ex officio or in response to requests by the National Economic Prosecutor's Office, with any situation it deems incompatible with free competition. The National Economic Prosecutor's Office is responsible for conducting investigations into infringements of free competition. The Central Preventive Commission, together with eleven Regional Preventive Commissions, has mostly consultative and preventive functions; it may instruct the Prosecutor's Office to investigate anti-competitive conduct and propose measures to sanction such practices.

130. The authorities have carried out several investigations in recent years, most notably in telecommunications; water and waste management; and generation, transmission, and distribution of electric energy. Particular emphasis was put on mergers and acquisitions and on the activities of formerly state-owned enterprises that had operated under monopoly conditions before their privatization.

³⁴ WTO document WT/WGTCP/W/75, 7 April 1998.

131. Without restricting the competence of the competition authorities, financial services, telecommunications, water supply, and electricity are regulated by their respective supervisory agencies: the Superintendency of Banks and Financial Institutions, the Superintendency of Securities and Insurance, the Sub-secretary for Telecommunications, the Superintendency of Water Management, and the Superintendency of Electricity and Fuels.

132. The authorities indicate that new competition legislation is before Congress. In particular, the draft law seeks to change the definition of anti-competitive conduct as well as an institutional reform involving the replacement of the Resolutive Commission by a Tribunal for the Defence of Free Competition.

133. Competition provisions are also contained in Articles 172 to 180 of Chile's PTA with the European Union, Article 14 of the PTA with Mexico, Chapter 15 of the PTAs with Costa Rica and El Salvador, Chapter J of the PTA with Canada, and a Memorandum of Understanding with Canada's Commissioner of Competition. The purpose of these provisions is to promote cooperation and coordination between the parties and to reduce the effect of potential differences in the application of competition law. The parties agree to cooperate and share information and, when pursuing enforcement activities with regard to the same or related matters, coordinate their efforts where appropriate and practicable.

(ii) Government procurement

134. Chile is not party to the plurilateral Agreement on Government Procurement. It has participated actively in the Working Group on Transparency in Government Procurement.

135. The Government Procurement Law (Law No. 19.886), of 30 July 2003, lays down the principles of public procurement for all governmental and other public institutions, including regional governments and municipalities. The provisions of the Law do not apply to public works and state-owned enterprises. The authorities outlined that the objectives of the new law were to achieve maximum transparency in public procurement, to reach significant savings for the State, and to give impetus to the use of e-commerce. Before the new law entered into force, public institutions made their purchases directly according to their own rules and procedures.

136. Law No. 19.886 makes public tendering compulsory for all contracts exceeding U.T.M. 1,000, currently equivalent to about US\$40,000 (mid-2003). The call for tender is published electronically in the Procurement Information System maintained by the Department of Public Procurement of the Ministry of Finance. In addition, it may be published in a newspaper of national circulation.

137. Pursuant to the law, public procurement takes one of three modalities, depending on the amount of the purchase: public tendering, private tendering, and direct contracting. National and foreign bidders must inscribe in the electronic Register of Suppliers of the Department of Public Procurement. The specific procedures and thresholds for the various modalities, which will be published separately in Regulations to the Law, are under elaboration. The Regulations will also specify the technical and financial criteria that suppliers have to meet. The law does not provide for different treatment of national and foreign goods, services, or suppliers.

138. The procurement information system became operational in 2002.³⁵ Chile provided information on this system in the WTO Working Group on Transparency in Government

³⁵ See Chilecompra online information. Available at: <http://www.chilecompras.cl> or <http://www.dae.cl/home.asp>.

Procurement.³⁶ It was expected that by December 2004, 10,000 enterprises would be participating in the electronic procurement system, which would lead to a saving of US\$30 million of public expenses.

139. The law has also established a tribunal for public procurement, which deals with infringements of procurement procedures, including for public works. The tribunal is composed of three lawyers designated by the President of the Republic upon suggestion of the Supreme Court.

140. Government procurement in Chile is decentralized. Each public-sector entity carries out its own planning and makes purchases based on such planning and financial resources in line with the Government Procurement Law. According to the authorities, about 600 governmental institutions engage in public procurement, of which about 200 belong to the Central Government, about 340 to municipalities, and about 60 to state-owned enterprises and other public institutions. The authorities further estimate that around 30,000 national and foreign enterprises have so far sold goods or services to the Chilean State.

141. Infrastructure-related public works are implemented by the Ministry of Public Works. Enterprises that wish to be considered for public works projects must be registered with the Ministry. The authorities indicate that public bidding is the most common method for public works contracts.

142. Three of Chile's PTAs also contain provisions on public procurement. Chapter 16 of the agreements with Costa Rica and El Salvador, and Articles 136 to 162 of the agreement with the EU establish the principle of national treatment for public procurement.

(iii) State-trading companies, state-owned enterprises, and privatization

143. Chile has notified one enterprise, Comercializadora de Trigo (COTRISA), as a state trading company.³⁷ Although COTRISA is authorized to deal in various cereals, it has in practice dealt almost entirely in wheat. It purchases wheat from Chilean producers on a non-discriminatory basis and does not usually engage in import or export transactions. According to the authorities, COTRISA bought 9,210 tons of wheat in 2001, equivalent to 0.5% of national production, and 50 tons in 2002.

144. Despite Chile's long-lasting privatization policy, a number of important enterprises remain state-owned, most notably Chile's National Copper Corporation (CODELCO), the National Mining Company (ENAMI), and the Banco Estado (see Chapter IV(3) and (6)).

145. With most sectors already in private hands in 1997, including telecommunications and electricity, since then Chile's privatization process has concentrated on water management and seaports (Table III.6).

³⁶ WTO document WT/WGTGP/M/12, 18 June 2001.

³⁷ WTO document G/STR/N/7/CHL, 10 October 2001.

Table III.6
Privatization of state-owned enterprises since 1997

State-owned interests	Sector	Action	Date
<i>Divestiture</i>			
Edelaysen S.A.	Energy	Sold to SAESA (Copec Group) for US\$43 million	1998
Esval S.A.	Water supply and distribution	45% of stock sold to Anglian Water for US\$132 million	1998
Transmarchilay S.A.	Transport	Sold to CPT Agencia Maritima for US\$5.6 million	1999
Emos S.A.	Water supply and distribution	40% of stock sold to Suez Lyonnaise des Eaux and Aguas de Barcelona for US\$670 million	1999
Essal S.A.	Water supply and distribution	51% of stock sold to Iberdrola Energía for US\$90 million	1999
Essel S.A.	Water supply and distribution	44% of stock sold to Thames Water and Electricidad de Portugal for US\$102 million	1999
Essbio S.A.	Water supply and distribution	44% of stock sold to Thames Water for US\$243 million	2000
Esaam S.A.	Water supply and distribution	Transfer of exploitation right to Thames Water for US\$180 million	2001
Emssa S.A.	Water supply and distribution	Transfer of exploitation right to Aguas Patagonia de Aysen, price to be determined	2002
<i>Concession</i>			
Portiaria Valparaíso	Seaport	Concession for 20 years to Cosmos HHLA	1999
Portiaria San Antonio	Seaport	Concession to various private enterprises	1999
Portiaria Talcahuano San Vicente	Seaport	Concession to Sudamericana Vapores and SSA for 15 years for US\$44.3 million	2000
Portiaria Iquique	Seaport	Concession to SAAM Urbaser for 20 years	1999

Source: Chilean authorities.

(iv) Regional assistance

146. Chile maintains a number of regional assistance programmes to encourage balanced growth throughout the country. The regional assistance measures in place focus on its extreme northern and southern provinces. As noted in section (3)(iv) above, three of the six programmes notified by Chile as incorporating subsidies have the objective of supporting the development of specific regions³⁸: (a) tax credits for investments in certain provinces, (b) tax exemptions in the free-trade zones, and (c) the Fund for the Promotion and Development of Remote Areas. Additional programmes provide for wage subsidies and tax credits for enterprises in specific areas.

Tax incentives

147. To promote development in the provinces of Arica and Parinacota (Region I), Law No. 19.669 of 5 May 2000, modifying and amending various previous laws, provides for tax incentives for enterprises investing in these provinces. Taxpayers with investment projects amounting to more than 2,000 Chilean monthly tax units (equivalent to about US\$91,000) for projects in the province of Arica and more than 1,000 tax units for projects in the province of Parinacota are eligible for a tax credit of up to 40% of the value of certain non-convertible assets, i.e., buildings, machinery, and equipment. Credits must be paid back by the year 2030. In 2001, the use of the tax credit totalled Ch\$4,630 million, equivalent to about US\$7.5 million.

³⁸ WTO document G/SCM/N/71/CHL, 8 October 2001.

148. Law No. 19.606 of 30 March 1999 establishes tax credits for infrastructure and construction investments undertaken in Regions XI and XII and the province of Palena. Depending on the type and volume of investment, investors are eligible for tax credits of up to 40%. Credit reimbursement is until 2030.

Direct financial assistance

149. The Fund for the Promotion and Development of Remote Areas, instituted in 1980, has as an objective to contribute to the development of various provinces in Chile's extreme north and south by providing assistance to small- and medium-sized enterprises investing there. Funds are accorded only to producers of goods and services in the construction, machinery, equipment, special animal feed, and small-scale fishing industries. Annual individual investment must not exceed U.F. 50,000, equivalent to US\$1.3 million. Funds granted under this programme may not be accepted together with any other public benefit granted for the same goods or services. Pursuant to Law No. 19.606 of 30 March 1999 the Fund contributes 20% of the cost of the investment or reinvestment in projects carried out until 31 December 2007. The amount paid out in 2002 was Ch\$1,422 million, equivalent to US\$2.3 million.

150. Wage subsidies are available to employers in certain industries in Regions I and XI, northern and central Region XII, and the Province of Chiloé. The subsidy is equivalent to 17% of monthly taxable income up to a maximum of Ch\$147,000. These wage subsidies have been regularly prolonged in the past; Law No. 19.853 of 11 February 2003 prolongs these subsidies until December 2006.

Free-trade zones

151. In order to promote exports and regional development, Chile established two free-trade zones (FTZs) in 1975: Iquique in Region I in the North, and Punta Arenas in Region XII in the South. Benefits granted to industries established in the FTZs include: (i) exemption from payment of tariffs, charges, surcharges, VAT, and other additional taxes on imports (sales and service tax, income tax on financial transactions); (ii) exemption from other import requirements (e.g. intervention of a customs broker); (iii) a duty drawback on inputs incorporated in domestically manufactured merchandise that is later exported to a free zone; (iv) exemption from payment of VAT on operations undertaken within the zone; and (v) exemption from payment of the first category income tax on capital returns.

152. The legal basis for Chile's FTZs is contained in Decree No. 341 of 8 June 1977 of the Ministry of Finance, amended on 5 May 2000. The FTZs are not considered part of Chile's customs territory. However, Chile's labour laws and environmental regulations apply equally in its FTZs. The Ministry of Finance is in charge of monitoring the fiscal regime of Chile's FTZs. With the exception of mining and fishing, all types of activities may be undertaken in the FTZs.

153. Both FTZs are administered by public-private joint ventures. As at March 2003, there were about 1,800 enterprises established in Iquique. Total exports of the Iquique FTZ decreased from more than US\$2 billion in 1997 and 1998 to US\$1.2 billion in 2002, of which US\$311 million were sold to Region I and US\$274 million to the rest of Chile's territory. More than 90% of the enterprises established in the Iquique FTZ are sales and marketing companies. No figures were available for the Punta Arenas FTZ.

154. The regions immediately surrounding Iquique and Punta Arenas, Region I and Region XII, are considered as extended duty-free zones, and goods shipped from the FTZs are subject to only 6% customs duties and no VAT. For exports into the rest of Chile's territory, duties on assembled or mounted merchandise are charged only on the imported components; no other taxes are payable.

155. In addition to the existing FTZs, Law No. 19.707 of 10 January 2001 established the free-trade zone of Tocopilla with a similar system of benefits confined to enterprises of the mining sector.

(v) Assistance for research and development

156. Chile provides public assistance for R&D activities through a variety of institutions, most notably the National Fund for Technological and Productive Development (FONTEC). Assistance provided for R&D in the agriculture sector is described in Chapter IV(2).

157. The National Fund for Technological and Productive Development, a subsidiary of CORFO, finances research and development projects proposed and implemented by private enterprises with the objective of promoting technological innovation and transfer. Between 1991 and 2002, FONTEC contributed US\$112 million to a total of 2,243 R&D projects. About 42% of the resources were allocated to projects in the manufacturing sector; the agriculture sector received about 19% of the funds.

(vi) Electronic commerce

158. Law No. 19.799 of 25 March 2002 regulates commercial operations through the use of the Internet in Chile. In particular, the law provides electronic contracts the same legal recognition and protection as traditional contracts.

159. In February 2000, Chile signed a Joint Statement on Electronic Commerce with the United States, highlighting the countries' agreement that the private sector should take the lead on the establishment of business practices related to electronic commerce.

(vii) Intellectual property rights

(a) Legal and institutional framework

160. Chile has been a member of the World Intellectual Property Organization (WIPO) since June 1975, and has signed a number of intellectual property rights (IPR) conventions (Table III.7). The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) was incorporated into Chilean law as a result of the ratification of the Marrakesh Agreement.

Table III.7
Chile's participation in international IPR agreements

Agreement, convention or treaty (latest Act in which Chile participates)	Date on which Chile became party (date it became party to an Act)
Berne Convention for the Protection of Literary and Artistic Works (Paris Act)	June 1970 (July 1975)
Convention Establishing the World Intellectual Property Organization	June 1975
WIPO Copyright Treaty	March 2002
WIPO Performances and Phonograms Treaty	May 2002
International Convention for the Protection of New Varieties of Plants	January 1996
Paris Convention for the Protection of Industrial Property (Stockholm Act)	June 1991
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations	September 1974

Source: WTO Secretariat, based on WIPO online information. Available at: <http://www.wipo.int/treaties/>.

161. Chile's Constitution (Article 19, sub-clause 24 and 25) guarantees the protection of intellectual property rights. Furthermore, Article 584 of the Civil Code establishes that productions of human talent or intelligence are the property of their author. The main dedicated domestic statutes for the protection of intellectual property rights in Chile are the Intellectual Property Law (Law No. 17.336 of 2 October 1970) and its Regulations, the Regulations on the Distribution of

Related Rights (Supreme Decree No. 4.764 of 8 January 1985), and the Law establishing Rules Applicable to Industrial Privileges and Protection of Industrial Property Rights (Law No. 19.039 of 25 January 1991) and its Regulations. These statutes cover the major areas referred to in the TRIPS Agreement (Table III.8).

Table III.8
Overview of IPR protection provided by Chile's domestic legislation, 2003

Subject	Coverage	Duration	Selected exclusions and limitations
Copyright and related rights	Original literary, artistic or scientific works, in particular books and articles, speeches and lectures, drama, compositions, dance, photography, architecture, audiovisual arts, painting, radio and television, authorized translations, computer programs, and compilations	Life of the author plus 50 years. For works created by legal persons: 50 years from the date of the first publication	No authorization is required for the reproduction of fragments of protected works for cultural, scientific or educational purposes. No authorization is required for the reproduction of speeches and lectures for informational purposes The owner retains the right to prohibit reproduction, modification, and distribution of copyrighted works
Patents	Any invention that is capable of industrial application, is novel, and has a degree of inventiveness	15 years from the date of filing, non-extendable	Products, processes and materials such as economic models and business plans, scientific theories and mathematical methods, surgical, therapeutic or diagnostic methods, plant varieties and animals No protection is granted when this may be contrary to the public order, morality or contravene other legal provisions. Compulsory licences may be granted only if a patent holder has committed a monopoly abuse, circumstance which is qualified by a special court. The compulsory licence must have a specific duration and the licensee must pay a royalty to the right holder.
Industrial designs	Designs that are novel	10 years from the date of filing, non-extendable	Apparel and clothing
Utility models	Any invention that is capable of industrial application, novel, and has a degree of inventiveness	10 years from the date of filing of the application, non-extendable	
Trade marks	Any visible symbol that serves to distinguish the products or services of one company from another Include commercial names and slogans, signs and emblems	10 years from the date of filing, renewable	Symbols used by public institutions or international organizations, technical or scientific characteristics of an object, geographical indications, symbols susceptible to confusion with existing trade marks No protection is granted when this may be contrary to the public order, morality or contravene other legal provisions.
Geographical indications	Chilean wine-growing areas and various types of Chilean alcoholic beverages	indefinite	

Note: The TRIPS Agreement and the protection provided therein also applies with force of law in Chile.

Source: WTO Secretariat.

162. Chile has notified the text of its IPR-related laws and regulations to the WTO.³⁹ Chile notified the National Customs Service to the WTO as its IPR contact point.⁴⁰

163. The TRIPS Council reviewed Chile's IPR statutes in September 2000. Chile provided answers to questions asked by five Members.⁴¹

164. The Department for Industrial Property of the Ministry of the Economy is in charge of granting industrial property rights and registering geographical indications. The Copyright Department of the Library, Archives and Museums Directorate is in charge of the Copyright Register. The Seeds Department of the Agriculture and Cattle Service administers applications for the protection of new plant varieties, while plant-breeder rights are granted by the Qualifying Committee of Plant Varieties. The number of industrial property rights each year registered has increased substantially since 1996 (Table III.9). No statistics are available on copyrights.

Table III.9
Registration of intellectual property, 1997-02

	1997	1998	1999	2000	2001	2002
Registered						
Industrial designs	139	226	190	119	236	288
Utility models	6	8	9	15	8	15
Patents	227	129	420	568	406	457
Trade marks, commercial names, and slogans ^a	20,512	30,745	26,222	29,210	28,495	38,378
Applications						
Industrial designs	26	32	284	422	327	354
Utility models	76	86	97	120	112	96
Patents	2,570	2,717	2,814	3,100	2,750	2,538
Trade marks, commercial names, and slogans ^a	26,427	35,223	34,829	41,478	30,100	39,427

a Including renewals.

Source: Department of Industrial Property.

165. Chilean legislation provides for the possibility of compulsory licensing of patents in cases of monopoly abuse. The authorities indicate, however, that there is no legal definition of monopoly abuse and compulsory licences have never been granted.

166. There is no legal provision in Chile's IPR legislation that expressly allows or prohibits parallel imports. According to the authorities, in practice it is possible to carry out parallel imports.

³⁹ The text of Law No. 17.336, its Regulations, Supreme Decree No. 4.764, Law No. 19.039 and its Regulations are contained in WTO documents IP/N/1/CHL/C/4, 5, and 6, and IP/N/1/CHL/I/4 and 5, all dated 14 September 2000. Chile has notified numerous other legal statutes relating to intellectual property rights, most notably: Law No. 18.455 of 11 November 1985 on the production, elaboration, and commercialization of alcoholic beverages and vinegar (WTO document IP/N/1/CHL/G/1), Regulations on Law No. 18.455 of 23 October 1986 (WTO document IP/N/1/CHL/G/2), Supreme Decree No.464 of 26 May 1995 on appellations of origin (WTO document IP/N/1/CHL/G/3), Law No.342 of 3 November 1994 on the rights of breeders of new plant varieties (WTO document IP/N/1/CHL/P/1), and the Competition Law (Supreme Decree No. 511 of 27 October 1980, (WTO document IP/N/1/CHL/O/1); all documents are dated 14 September 2000.

⁴⁰ WTO document IP/N/3/Rev.6, 1 March 2002.

⁴¹ Questions asked and Chile's corresponding replies are available in WTO documents IP/C/W/207, 29 September 2000; IP/C/W/208, 29 September 2000; IP/C/W/215, 3 October 2000; IP/C/W/219/Add.1, 15 November 2000; IP/C/W/222, 16 November 2000; IP/C/W/225, 22 November 2000; and IP/Q/CHL/1, 7 June 2001.

167. Together with Canada, Japan, and the United States, Chile presented a proposal for a multilateral system of notification and registration of geographical indications for wines.⁴² The proposal calls for interested Members to submit to the Secretariat a list of domestic geographical indications for covered products recognized as eligible for protection under their national legislation, thus leading to a database of all notified geographical indications. In another communication, Chile and eleven other Members presented their view of the implications of extending Article 23 of the TRIPS Agreement to geographical indications other than wines and spirits.⁴³ In their view, such an extension would not provide particular market access benefits, and would put a burden on Members with few geographical indications, those that protect geographical indications, and those that have used for many years geographic terms that originated in other countries. The twelve Members subsequently recommended the TRIPS Council to advise the Trade Negotiating Committee that the Council had completed its discussion and that no further action be taken.⁴⁴

168. Some of Chile's preferential agreements also contain provisions on IPR protection. In the agreement with Canada, both parties, taking into account the TRIPS Agreement, commit themselves to protect the geographical indications of Chilean pisco and Canadian whiskey. Chile's agreements with the European Union and Mexico confirm the parties' rights and obligations under the TRIPS Agreement and various other international IPR conventions.

169. The authorities indicate that new legislation on industrial property and copyrights is currently before Congress (mid 2003).

(b) Enforcement

170. Chile has provided WTO Members with information regarding enforcement in the context of the Checklist of Issues on Enforcement.⁴⁵

171. Law No. 19.039 establishes that persons convicted of offences against the owners of trade marks, patents, utility models, and industrial designs are required to pay costs and damages to the rightholder. Tools and implements used for falsification or copying must be destroyed and the objects produced illegally must be seized on behalf of the rightholder.

172. The Department for Industrial Property, the Arbitration Court for Industrial Property and, for issues related to plant varieties, the Agriculture and Livestock Service, are responsible for preventive and protective administrative action. There are no specific authorities for prosecuting infringements of copyrights; criminal cases related to copyrights are dealt with by ordinary courts. The National Customs Service is responsible for taking measures at the border.

⁴² WTO document IP/C/W/133/Rev.1, 26 July 1999.

⁴³ WTO document IP/C/W/386, 8 November 2002.

⁴⁴ WTO document IP/C/W/395, 10 December 2002.

⁴⁵ WTO document IP/N/6/CHL/1, 3 May 2000.