

II. TRADE POLICY REGIME

(1) OVERVIEW

1. Since its last review in 2003, Chile has not made any fundamental changes to its foreign trade policy, whose key aim continues to be to deepen Chile's participation in the international economy, by promoting export development, investment protection, competitiveness and technological change, within a framework of stable rules and policies that enhance social equity.

2. Chile is a founding Member of the WTO, where it is participating actively to bring the Doha Development Agenda (DDA) negotiations to a successful conclusion. Chile considers it essential to have a stronger multilateral trading system, and believes that the WTO is the only forum available to resolve some of the outstanding problems on the global trade agenda, such as the elimination of agricultural subsidies. Chile has submitted a large number of notifications to the various WTO bodies during the review period. It has also made use of the dispute settlement mechanism, having been involved as a respondent in four cases, as complainant in two and as a third party in 11 cases.

3. One of the most prominent features of Chile's trade policy regime is the central role given to regional trade agreements (RTAs). As at mid-2009, Chile had 21 RTAs in force with 57 trading partners; and 92 per cent of its total merchandise trade is carried out with its preferential partners. As is the case with other WTO Members that are actively involved in RTAs, the economic implications of the agreements negotiated by Chile are complex, and could either enhance or diminish economic well-being. In the specific case of Chile, possible concerns about its wide and expanding network of RTAs are allayed by its strong support for the multilateral trading system.

4. Chile grants national treatment to foreign investors, with a few exceptions for activities such as coastal shipping (cabotage), air transport, fisheries and communications media. Chile has a large number of agreements in force to promote and protect investments and to avoid double taxation.

(2) TRADE POLICY AND INVESTMENT FRAMEWORK

(i) General legal and institutional framework

5. Chile is a unitary and democratic republic governed by three powers of State: the Executive, the Legislature and the Judiciary. For administrative purposes, the country is divided into 14 regions and a metropolitan area. The regions are divided into provinces, which in turn consist of communes.

6. The President of the Republic, elected by direct universal suffrage, serves as both Head of State and Head of Government. A constitutional reform adopted in 2005 reduced the presidential term from six to four years, with no possibility of immediate re-election.¹ Ministers of State are appointed by the President. The most recent presidential election was held in December 2005, synchronized with elections for the entire Chamber of Deputies (*Cámara de Diputados*) and half of the Senate.

7. Legislative power rests with the National Congress, consisting of the House of Representatives and the Senate. The Chamber of Deputies is composed of 120 deputies directly elected for a four-year term. The Senate consists of 38 members directly elected by senatorial

¹ Article 25 of the Political Constitution of the Republic of Chile of 1980 (O.J. 24.10.1980), amended by Constitutional Reform Law No. 20.050 (O.J. 26.08.2005).

constituencies representing the country's regions. Senators serve eight-year terms and are renewed alternately every four years.² The 2005 constitutional reform abolished seats for appointed senators, which were awarded to former representatives of the various State bodies including the armed forces, along with lifetime Senate seats given to former Presidents of the Republic.

8. Judicial power is vested in the Supreme Court of Justice, which consists of 21 judges appointed by the President and confirmed by a two-thirds majority in the Senate. Hierarchically, below the Supreme Court, there are regional appeal courts distributed throughout national territory; their members are appointed by the President from short lists proposed by the Supreme Court. Appeal court judges can be assigned to civil, criminal, family and labour law cases depending on the appeal court in question. There are also regional electoral tribunals and military tribunals.

9. The President of the Republic has the power to conclude, sign and ratify international treaties, which must be submitted for approval by the National Congress³, along with information on their content and scope. The President also has the exclusive right to denounce or withdraw from a treaty, but must obtain the opinion of both legislative chambers if the treaty has been approved by Congress.⁴ The National Congress has the right to approve or reject international treaties presented by the President of the Republic before ratification. It may also formulate reservations and interpretative statements in respect of international treaties, provided they are in accordance with the provisions of the treaty itself or international law. Congressional approval is not required for measures adopted by the President or agreements reached to implement a current treaty, unless they concern specific legal issues; nor is such approval required for treaties adopted by the President in exercise of his or her legal powers.⁵

10. Legislative procedures in Chile distinguish between laws that interpret the Constitution, organic constitutional laws (LOCs), qualified quorum laws, ordinary laws, decrees with force of law (DFLs), and decree laws. Laws interpreting the Constitution clarify the meaning or scope of a concept or an expression contained in the Constitution, and require a three-fifths majority of currently serving deputies and senators to be approved, amended, or repealed. LOCs relate to certain issues that are expressly stipulated in the Constitution, and require a four-sevenths majority of currently serving deputies and senators for their approval, amendment or repeal. Laws interpreting the Constitution and LOCs must be submitted for constitutional review by the Constitutional Court before they are enacted. Qualified quorum laws are approved, amended and repealed by an absolute majority of currently serving deputies and senators. Ordinary laws require a simple majority of the votes cast by members of Congress present at the time of voting. DFLs concerning specific legal matters are issued by the President of the Republic on the basis of laws enacted by Congress delegating certain powers to the President. Decree laws were issued by the Executive on matters pertaining to a specific law at times when Congress was barred from fulfilling its functions. The Constitution takes precedence over all other laws.

11. Deputies, Senators and the President of the Republic may all propose draft laws. The Constitution gives the President of the Republic the exclusive right to propose draft laws on issues concerning changes to the country's political or administrative organization, the annual budget, taxes and tariffs. Laws are published in the Official Journal (*Diario Oficial*) and enter into force on the day of publication, unless otherwise stated.

² Articles 47 and 49 of the Political Constitution of 1980, amended by Law No. 20.050.

³ Article 32 of the Political Constitution of 1980.

⁴ Article 54 of the Political Constitution of 1980, amended by Law No. 20.050.

⁵ Article 54 of the Political Constitution of 1980, amended by Law No. 20.050.

12. International treaties are incorporated into Chilean legislation. Once the National Congress has approved a treaty, the Executive issues a Supreme Decree officially informing the nation of its existence and ordering compliance therewith. The WTO Agreements were integrated into national legislation through Supreme Decree No. 16 issued by the Ministry of Foreign Affairs on 5 January 1995; they have the same status as ordinary laws and may be invoked before the Chilean courts. WTO Agreements take precedence over domestic legislation if they contain a greater degree of specificity, when covering the same subjects, or if they establish a new set of rules covering subjects not dealt with by domestic legislation, or when they regulate institutions or subjects setting rules whose legal significance and effects are in contradiction with the significance and effects of prior domestic legislation. Moreover, in cases where the WTO Agreements were enacted after the relevant domestic legislation, the principle of tacit derogation applies.

13. In October 2003, Law No. 19.912 was passed for the purpose of adapting various provisions of Chilean legislation to the WTO Agreements, in areas such as customs valuation, technical regulations, taxation, intellectual property and trade-related investment measures in the automotive sector.

14. The Law on Access to Public Information (Law No. 20.285) entered into force in April 2009, with the aim of regulating the principle of civil service transparency. Among other issues, the law establishes the principles of freedom of information, openness, maximum disclosure and no-fee access. It also requires the Government to keep certain information, including documents that have been published in the Official Journal, up to date and permanently available to the public through its Internet sites. The law also creates the Transparency Council (*Consejo de Transparencia*) to promote transparency, enforce regulations on transparency and guarantee the right of access to information. This legislation was enacted partly in response to a 2006 ruling by the Inter-American Court of Human Rights, which found Chile guilty of denying access to information possessed by the Foreign Investment Committee concerning an investment in the Magallanes region (see also section (3) below).⁶

(ii) Trade policy formulation and objectives

15. There have been no fundamental changes in the direction of Chile's foreign trade policy since 2003, the aims of which continue to be to deepen the country's engagement in the international economy, combining export development with investment promotion and protection; promoting competitiveness and the dissemination of technological change, within a framework of stable rules, monitoring of unfair competition, and policies to enhance social equity.⁷

16. During the period under review, Chile has accorded a fundamental role to concluding RTAs in the framework of its trade policy, while seeking to ensure that these are also consistent with multilateral rules. Chile has also played an active role in WTO negotiations, where it is endeavouring to ensure a successful conclusion of the Doha Round.

17. Foreign trade policy is formulated by the Government. The Directorate-General of International Economic Affairs (DIRECON), in the Ministry of Foreign Affairs, takes the lead role in international trade negotiations and export promotion. Other institutions involved in trade policy are the Ministries of Finance, Economic Affairs and Agriculture, and the Secretariat General of the Office of the President, grouped together in the Interministerial Committee for International Economic

⁶ The legislative history of Law No. 20.285 may be viewed at: <http://www.bcn.cl/ley-transparencia>

⁷ DIRECON online information. Viewed at: <http://www.direcon.cl>

Relations, chaired by the Minister of Foreign Affairs. DIRECON holds regular consultations with the National Congress on trade policy issues.

18. With the aim of supporting the Interministerial Committee, the Private Sector Participation Committee was set up in 1992, to keep the private sector informed of the progress of trade negotiations and to obtain the sector's points of view. The Committee is chaired by the Ministry of Economic Affairs and consists of the Ministries of Foreign Affairs, Finance and Agriculture, the Secretariat General of the Office of the President and the Director-General of DIRECON, together with two representatives from the private sector, two labour union representatives and three experts in the field of international trade negotiations.

19. The Government holds permanent consultations with the private sector, business associations and civil society generally. The most important private-sector participation mechanisms include the Public-Private Council for Export Development, which brings together entrepreneurs from the Confederation of Production and Commerce (CPC) and officials from public institutions involved in trade policy formulation and administration. The Council's basic objective is to enhance Chile's export capacity. Its main areas of work are trade facilitation; promotion of productive and technological development and quality; international integration; promotion of exports, investment and tourism; and transport and logistics. Another mechanism for dialogue between the private sector and the authorities is the International Negotiations and Foreign Trade Council, set up by the Industrial Development Society (SOFOFA). The private sector in Chile also participates in the Business Advisory Council of Asia-Pacific Economic Cooperation (APEC) forum.

20. The authorities state that dialogue is also maintained, on the various trade negotiations Chile has been involved in, with the Unitary Workers Congress (CUT) and other union organizations. Civil society participates in the discussion of trade policy issues through non-governmental organizations, professional bodies, academic entities, indigenous organizations, personalities from the cultural domain and other stakeholders.⁸

(3) FOREIGN INVESTMENT

(i) Legal framework

21. The authorities consider that the capacity to attract foreign investment is essential to Chile's economic growth and forms an integral part of its open trade policy. It also believes that Chile's comparative advantages for attracting foreign investment flows include a clear and stable legal framework, free-market policies and export-led growth.⁹

22. Chile has no general law on investments. The legal bases for bringing foreign investment into Chile are Chapter XIV of the Central Bank's Compendium of Foreign Exchange Regulations and the Foreign Investment Statute (Decree Law No. 600 of 1974, hereinafter DL No. 600).¹⁰ Foreign investors may choose between these two instruments to bring their capital into the country: in 2003-2008, 46 per cent of foreign investment in Chile entered under DL No. 600.

23. Chile generally grants national treatment to foreign investors and allows them to hold up to 100 per cent of the equity of an enterprise in the vast majority of economic sectors. Nonetheless,

⁸ DIRECON online information. Viewed at: <http://www.direcon.cl>

⁹ Foreign Investment Committee. Viewed at: <http://www.inviertaenchile.cl>

¹⁰ Decree Law No. 600, amended on 16 December 1993 and 16 June 2005 by Law No. 20.026, in turn amended by Law No. 20.097 of 8 April 2006.

specific laws limit national treatment or market access in certain areas of activity, including coastal shipping, air transport, fisheries and communications media (see Table AII.1). In some cases, the restrictions are subject to the principle of international reciprocity. In addition, land owned by the State, within a distance of ten kilometres from the borders and five kilometres from the coast, cannot be sold to foreigners.¹¹

24. Some activities are reserved to the State, such as the exploration and exploitation of lithium, oil or gas deposits located in maritime zones under national jurisdiction, or in areas legally classified as important for national security; and nuclear power production. However, both national and foreign firms can participate in these sectors in certain circumstances, subject to presidential authorization.

25. Any foreign natural or legal person, and Chilean citizens with residence and domicile abroad, can invest under DL No. 600. The investment may take the form of freely convertible foreign exchange, physical assets, various forms of technology, loans associated with a foreign investment, capitalization of foreign loans and debts, and capitalization of profits.

26. Pursuant to DL No. 600, foreign investors wishing to invest in projects worth more than US\$5 million¹² must file an application¹³ with the Foreign Investment Committee¹⁴, which is responsible for reviewing and approving each application, as appropriate. The Committee did not reject any application during the review period. The Committee consists of the Ministers of Economic Affairs (Chair), Finance, Foreign Affairs, Planning and Cooperation, the Minister for the sector related to the investment application, and the Governor of the Central Bank.

27. For some foreign investment projects, additional information must be provided to the sector authorities, who in turn submit a report to the Foreign Investment Committee. Thus, the Supervisory Authority for Banks and Financial Institutions issues reports on investment projects in the banking and finance area; and the Securities and Insurance Supervisory Authority does so with respect to operations involving investment and insurance funds (see also Chapter IV(7)(iii)). The Chilean Copper Commission files a report on every mining investment project; while the Fisheries Secretariat issues reports on fisheries investment projects (see also Chapter IV(3) and (4)). The National Environment Commission assesses the environmental impact of projects.

28. Authorization for a foreign investment under DL No. 600 takes the form of a contract of indefinite duration between the Chilean State and the foreign investor, which may not be unilaterally amended by the State. The contract, which is cost-free to the investor, sets a deadline for the investor to bring capital into the country, which may not exceed eight years for investments in the mining sector and three years in other sectors. The Committee may extend the deadline to 12 years in the case of mining investments that require prior exploration, and up to eight years for non-mining projects worth US\$50 million or more, when the nature of the project so requires.¹⁵

¹¹ Decree Law No. 1939 of 10 November 1977, and DFL No. 4 of the Ministry of Foreign Affairs of 10 November 1967.

¹² When the investment consists of physical assets, technology and the capitalization of profits or loans, the minimum amount is US\$2.5 million.

¹³ Foreign investment application forms are available at <http://www.invierta.enchile.cl>

¹⁴ Article 16 of DL No. 600. The following also require authorization from the Committee: foreign investments relating to activities normally undertaken by the State, or investments to be made in public utilities or mass communications media, as well as those undertaken by a foreign State or foreign legal entity established under public law.

¹⁵ Article 3 of DL No. 600.

29. Under Article 9 of DL No. 600, foreign investment and the enterprises involved are covered by the legal regime applicable to national investment and may not be subject to discrimination.

30. DL No. 600 entitles foreign investors to repatriate invested capital after one year and profits as soon as they are generated, as well as guaranteeing access to the formal foreign exchange market.¹⁶ Foreign investors covered by DL No. 600 also have the right to include in their contract a clause establishing the invariability of value-added tax and customs duties on imported capital goods for the period authorized for effecting the investment. This provision applies to goods that are not produced in Chile and that figure on a special list.¹⁷

31. Foreign investors covered by DL No. 600 may opt for a Special Tax Invariability Regime, whereby the firm's income is taxed at a fixed rate of 42 per cent for up to ten years (Article 7 of DL No. 600). The invariability period can be extended to 20 years for industrial and extractive projects worth at least US\$50 million (Article 11*bis*). Investors may waive their rights under this option, on a once-only basis, and ask to be subject to ordinary tax laws.

32. In January 2006 Law No. 20.026, amending DL No. 600, entered into force. Under this law, new mining investments worth US\$50 million or more are guaranteed invariable tax rates for a 15-year period on income earned specifically from mining activity, as well as other taxes, including royalties or similar charges, and mining exploration and production patents. To be eligible for this special regime, foreign investors with current contracts must not be covered by the invariability regimes mentioned in Articles 7 and 11*bis* of DL No. 600, or else they must renounce them when they are admitted to the special regime (Article 11*ter* of DL No. 600).

33. To simplify procedures and eliminate certain restrictions previously contained in DL No. 600, in December 2006 foreign investors were allowed to reinvest up to 100 per cent of their profits (eliminating the previous limit of 65 per cent), and were offered the possibility of reinvesting such profits in other companies (not only in the firm that generated the profits in question, or its subsidiaries). In addition, the requirement to submit official translations of documents accompanying authorization applications filed with the Foreign Investment Committee was abolished.

34. Chapter XIV of the Central Bank's Compendium of Foreign Exchange Regulations sets out the rules applicable to international exchange operations in respect of loans, deposits, investments and capital injections from abroad. Under the terms of this instrument, while the Central Bank cannot reject a foreign investment, it can set conditions for the transfer of funds to and from Chile to ensure stability of the currency and the normal functioning of domestic and external payments. Foreign capital entering Chile under Chapter XIV receives national treatment, but it is ineligible for the benefits of DL No. 600, including the tax invariability facilities. Moreover, such capital must be registered with the Central Bank, which can be done at any commercial bank before its conversion into Chilean pesos. There are no restrictions on the repatriation of capital entering Chile under Chapter XIV.

35. Law No. 19.840, published in November 2002, encourages multinational companies to use Chile as a regional platform for investing in third countries. The law provides a special tax regime whereby companies established in Chile under this law can make investments abroad without being liable in Chile for taxes on the income generated by those investments.¹⁸ In addition, Law No. 19.840 contains provisions aimed at preventing the use of Chile as a tax haven, or the misuse of this regime

¹⁶ Article 4 of DL No. 600.

¹⁷ Article 8 of DL No. 600.

¹⁸ Article 41 D of the Income Tax Law.

by domestic firms to avoid paying domestic taxes. Firms covered by this regime are required to file reports and are not covered by the rules on banking secrecy and confidentiality. They also have to accept stricter controls by the tax authority in relation to transfer prices. The authorities reported that 22 firms had joined this regime as of March 2009.

(ii) International investment agreements

36. Chile has adopted investment disciplines in most of the preferential trade agreements it has signed. In general, the investment chapters included in these agreements contain disciplines on sector liberalization (through negative lists), national treatment, MFN treatment, minimum standard of treatment, performance requirements, free transfer of capital, expropriation and compensation, and dispute settlement (including investor-State arbitration).

37. Chile also has a large number of investment promotion and protection agreements (IPPAs) in force (35 as at mid-2009)¹⁹, although it has not negotiated this type of agreement in recent years, preferring to include investment disciplines in its trade agreements.

38. Since 1991, Chile has been a signatory of the Washington Convention (1965) which set up the International Centre for Settlement of Investment Disputes (ICSID). It is also a member of the Multilateral Investment Guarantee Agency (MIGA) and the Overseas Private Investment Corporation (OPIC). Chile has also ratified Inter-American Convention on International Commercial Arbitration and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In September 2004, it promulgated the Law on International Commercial Arbitration (Law No. 19.971).

39. During the period under review, Chile concluded a large number of agreements to avoid double taxation. As at mid-2009, agreements of this type were in force with 20 countries; it had also signed agreements with five countries that have yet to enter into force²⁰; and it had completed negotiations for an agreement with another country. At the same date, Chile was negotiating agreements with a further 14 countries.²¹

(4) INTERNATIONAL TRADE RELATIONS

(i) World Trade Organization

40. Chile is a founding Member of the World Trade Organization; and it took part in the negotiations on telecommunications and financial services after the Uruguay Round. The Fourth and Fifth Protocols to the General Agreement on Trade in Services (GATs) entered into force for Chile on 16 June 1998. Chile is not a signatory to the WTO Information Technology Agreement or the Plurilateral Agreements. It grants MFN treatment to all its trading partners. Chile's mission to the WTO is under the Ministry of Foreign Affairs.

41. Chile participates actively in the work of the WTO and supports the successful conclusion of the Doha Development Agenda negotiations, within which it has submitted a large number of proposals either individually or in conjunction with other Member countries. Chile has participated

¹⁹ The list of IPPAs signed by Chile may be viewed at: <http://www.inviertaenchile.cl>

²⁰ Argentina, Brazil, Canada, Croatia, Denmark, Ecuador, France, Ireland, Republic of Korea, Malaysia, Mexico, Norway, New Zealand, Paraguay, Peru, Poland, Portugal, Spain, Sweden and the United Kingdom.

²¹ Current double taxation agreements, negotiated and signed by Chile, may be viewed at: <http://www.sii.cl/pagina/jurisprudencia/convenios>

with special interest in the negotiations on agriculture, pursuing the elimination of export subsidies and a substantial reduction in trade-distorting domestic support and other market access barriers. It is also working to ensure the elimination of tariff escalation on industrial products; and it is lobbying for improvements in trade rules, particularly to prevent the abuse of anti-dumping measures; the elimination of fishery subsidies; and reforms to the dispute settlement provisions. In the services area, Chile is pursuing greater market access for professional services, maritime and air transport, and information technology services.²²

42. Chile believes there is a fundamental need for a stronger multilateral trading system, with full legitimacy and clear principles and rules on global trade. It also sees the WTO as the only forum capable of resolving certain problems that bilateral or regional agreements have been unable to settle, such as the use of anti-dumping measures for protectionist purposes, and the abolition of agricultural subsidies.²³

43. The Chilean authorities are pursuing a trade strategy that simultaneously involves unilateral market opening, multilateral negotiations and liberalization negotiated through broad-scope bilateral or regional agreements that are consistent with WTO rules.²⁴

44. During the period under review, Chile submitted a large number of notifications in the framework of the various WTO Agreements. Table A.II.2 contains a selection of these.

45. Chile recognizes the importance of the WTO dispute settlement mechanism and has participated in it actively. Since January 2003, Chile has been involved as a respondent in four cases and as a complainant in two²⁵ (Table II.1). It has also been a third party in 11 disputes, mostly relating to various restrictions applied to agricultural products.

46. Two of the cases in which Chile was a respondent concerned the application of initially provisional and subsequently definitive safeguard measures on certain milk products. Argentina requested the establishment of a panel in both disputes, but then asked for the panel's work to be suspended when Chile abolished the measure.²⁶ Another case concerned steps taken by Chile to fulfil recommendations made by the Dispute Settlement Body in relation to a dispute with Argentina on Chile's price band system for certain agricultural products. In the fourth case, Argentina requested consultations on anti-dumping measures imposed by Chile on imports of wheat flour from Argentina. No panel had been set up as this report was being written.

47. Cases in which Chile acted as a complainant related to safeguard measures applied by Ecuador on medium density fibreboard and by the European Communities on salmon. In neither case was a WTO panel established.

²² Presentation by Foreign Minister Alejandro Foxley in the WTO on 24 July 2008, Geneva.

²³ WTO document WT/MIN803)/ST/47 of 11 September 2003. See also WTO document TN/C/W/39 of 24 April 2006.

²⁴ DIRECON online information. Viewed at: <http://www.direcon.cl>

²⁵ This report only takes account of dispute settlement cases initiated since 2003, i.e. those in which the request for consultations was submitted in that year or later.

²⁶ Exempt Decree (*Decreto Exento*) No. 740 of the Ministry of Finance, published in the Official Journal on 28 July 2007.

Table II.1

WTO dispute settlement cases involving Chile, January 2003-June 2009^a

Matter	Defendant/ complainant	Status	WTO documents
Complaints filed against Chile			
Price band system and safeguard measures relating to certain agricultural products.	Chile/Argentina	Request for consultations pursuant to Article 21.5 of the DSU (May 2004); Request for establishment of a WTO compliance panel (December 2005); Constitution of the Panel (April 2006); Distribution of the Panel report (December 2006); Appeals by Chile and Argentina (February 2007); Distribution of the Appellate Body report (May 2007). Adoption of the reports of the Appellate Body and the WTO Panel (May 2007)	WT/DS207/17 WT/DS207/18 WT/DS207/19 WT/DS207/RW and Corr.1 WT/DS207/22 and 23 WT/DS207/AB/RW WT/DS207/26
Provisional safeguard measure on certain milk products	Chile/Argentina	Request for consultations (October 2006); Request for the establishment of a panel for disputes DS351 and DS356 (March 2007); Constitution of the WTO Panel (June 2007); Suspension of the work of the WTO Panel (July 2007). Lapse of authority for the establishment of the Panel (August 2008)	WT/DS351/1 WT/DS351/2 WT/DS351/3 WT/DS351/4 WT/DS351/5
Definitive safeguard measures on certain milk products	Chile/Argentina	Request for consultations (December 2006); Request for the establishment of a panel for disputes DS351 and DS356 (March 2007); Constitution of the Panel (June 2007); Suspension of the work of the Panel (July 2007); Lapse of authority for the establishment of the Panel (August 2008)	WT/DS356/1 WT/DS356/2 WT/DS356/3 WT/DS356/4 WT/DS356/5
Anti-dumping measures on imports of wheat flour from Argentina	Chile/Argentina	Request for consultations (May 2009). As at late June 2009, no. panel had been set up, nor had a settlement been notified.	WT/DS393/1
Complaints filed by Chile			
Definitive safeguard measure on imports of medium density fibreboard	Ecuador/Chile	Request for consultations (November 2003) No panel has been set up, nor has a settlement been notified.	WT/DS303/1
Definitive safeguard measure on salmon	European Communities/ Chile	Request for consultations (February 2005); In May 2005, Chile formally withdrew its request for consultations, thus putting an end to the dispute, since the contested measure had been discontinued in April 2005.	WT/DS326/1 WT/DS326/4

a. This table only covers dispute settlement cases initiated since 2003, i.e. those in which the request for consultations was submitted in that year or later.

Source: WTO Secretariat.

(ii) Regional Trade Agreements

48. With the aim of expanding its export markets and ensuring stable trade rules, Chile has intensified its strategy of negotiating regional trade agreements (RTAs) in which the parties grant reciprocal trade preferences, rather than deepening agreements reached under the auspices of the Latin American Integration Association (LAIA). Since 2003, Chile has signed new RTAs with the following countries: the Republic of Korea, the United States, the European Free Trade Association (EFTA) (Iceland, Liechtenstein Norway and Switzerland), China, Panama, Peru, Colombia, Australia, Japan and Turkey, as well as a Trans-Pacific Strategic Economic Partnership Agreement with New Zealand, Singapore and Brunei Darussalam (P-4), and a partial scope agreement with India. All of these agreements were in force in June 2009.

49. Chile also has RTAs in force with Canada, Mexico and Central America (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua)²⁷, and an Economic Partnership Agreement with the European Community. In addition, it has Economic Complementarity Agreements (ECAs) under LAIA with the Plurinational State of Bolivia, Ecuador²⁸, the Bolivarian Republic of Venezuela and MERCOSUR (Argentina, Brazil, Paraguay and Uruguay), as well as a partial-scope agreement with Cuba.

50. With a current total of 21 RTAs signed with 57 trading partners, Chile has one of the largest number of agreements and preferential partners in the world. In 2003, it had signed eight RTAs with 39 trading partners; and, as a result of the significant increase between then and 2008, the proportion of Chile's total merchandise trade (imports and exports, both MFN and preferential) with its preferential partners has increased from 52 per cent to 92 per cent.²⁹ No information is available on the value of Chile's imports or exports covered by RTAs.

51. As is the case with other WTO Members actively involved in RTAs, the economic effects of Chile's network of agreements are complex. In the case of Chile, concerns about its wide and expanding network of regional trade agreements are allayed by its strong support for the Transparency Mechanism for RTAs, the Doha Round, and the multilateral trading system.³⁰

52. As of mid-2009, Chile was involved in negotiations, in various stages of progress, to conclude RTAs with Malaysia, Thailand and Viet Nam. Its wide-ranging programme of trade negotiations also includes closer ties with Hong Kong, countries in the Middle-East, Israel, Russia and the Gulf Cooperation Council.

53. Table AII.3 summarizes the key features of Chile's RTAs in force as at January 2009 (excluding both ECAs and partial scope agreements).³¹ As the table shows, the RTAs signed by Chile are generally of broad scope, including provisions on goods and services trade and covering issues such as investment, intellectual property, competition policy, government procurement, transparency and dispute settlement, among others.

54. The timetables set in the RTAs for complete elimination of tariffs vary between six and 18 years, although, in the vast majority of cases, the bulk of tariff lines were liberalized when the agreement concerned entered into force or else during its first few years. Products excluded from tariff reduction by Chile also vary between agreements, but generally relate to agricultural products, mainly those subject to the price band system (wheat, wheat flour and sugar), and a number of headings in respect of chemicals, minerals, wood, textiles and clothing, footwear and electrical appliances.

55. The RTAs contain traditional disciplines on merchandise trade, such as market access, rules of origin, customs procedures, technical regulations, sanitary and phytosanitary measures, and trade

²⁷ Bilateral protocols signed by Chile with Costa Rica, El Salvador and Honduras were in force in June 2009, within the framework of the Chile-Central America FTA. The bilateral protocol with Guatemala had been signed but was not yet in force; and the bilateral protocol with Nicaragua had not yet been signed.

²⁸ Chile and Ecuador signed a new ECA (2008), which had not yet entered into force in mid-2009.

²⁹ Table AII.3 shows the total value of Chile's trade with selected preferential trading partners.

³⁰ Detailed information on the RTA transparency mechanism can be viewed at: http://www.wto.org/spanish/tratop_s/region_s/region_s.htm

³¹ Chile's ECAs with the Plurinational State of Bolivia, Ecuador, the Bolivarian Republic of Venezuela and MERCOSUR were described in the Secretariat reports of Chile's previous reviews. See WTO (1997 and 2003).

defence measures, among others. On the issue of anti-dumping measures, several RTAs merely refer to the WTO Agreement (e.g. the P-4 and the agreements with the United States and China), whereas others provide for the elimination or non-application of such measures (the RTAs with Canada and EFTA), or otherwise do not address this area at all (the agreement with Japan). With regard to subsidies, several RTAs provide for the non-application of agricultural export subsidies (the agreements with Canada, Mexico and the P-4), whereas others omit any reference to the subject (the agreements with the United States, Central America and the European Community), or else merely restate commitments undertaken in the framework of the respective WTO Agreement (the agreement with China).

56. In general, the RTAs signed by Chile contain the usual provisions on cross-border trade in services, such as market access, non-discrimination (national and MFN treatment), local presence, denial of benefits, non-conforming measures and reservations, among others. Although most of the agreements also have chapters and/or annexes with provisions on telecommunications, professional services and temporary entry for business persons, this is not true of financial services. For example, whereas several RTAs contain chapters on financial services (the agreements with Japan, Australia, the United States and the European Community), others call for future negotiations to include such services (the RTAs with Korea, the P-4, EFTA, Colombia, Peru and China) or else exclude them altogether (the RTA with Central America).

57. The scope of investment disciplines also varies between the different RTAs. Those with the European Community and EFTA are restricted to granting national treatment to the establishment of investors of the other party in designated sectors, although their scope is augmented by reciprocal investment protection agreements signed by Chile with those countries on a bilateral basis. The RTA with the United States and other similar agreements include commitments on sector liberalization, national treatment, MFN treatment, minimum standard of treatment, performance requirements, expropriation and compensation, and dispute settlement (including investor-State arbitration), among others.

58. The Chilean authorities attach great importance to proper administration of the country's RTA network and they believe that the high technical level and continuity of the personnel that negotiate and administer the agreements have made it possible to achieve this objective.

(iii) Other agreements and arrangements

59. Chile has been a member of the Asia-Pacific Economic Cooperation Forum (APEC) since 1994, and was the forum's host economy in 2004. The developed-country members of APEC have undertaken to liberalize trade in goods and services in the Asia-Pacific region in 2010, while developing members will do so by 2020. Chile has undertaken to liberalize its goods and services trade by 2010 in line with the developed members of the forum.³² In relation to this review, the authorities have confirmed that these targets will be fulfilled thanks to the trade agreements signed by Chile, which have resulted in an average preferential tariff of roughly 1.3 per cent, and because Chile maintains open regimes for services trade and investment, with very few exceptions.

60. Chile also participates in the Latin American Pacific Basin (Pacific Rim) Initiative. This is a forum for coordination and cooperation on economic and trade issues, involving 11 Latin American

³² The list of APEC members may be viewed at http://www.apec.org/apec/member_economies.html

countries that have Pacific Ocean coastlines and desire to strengthen their relations with the economies of the Asia-Pacific region.³³

61. Chile has also participated in negotiations to establish the Free Trade Area of the Americas (FTAA), an initiative embarked upon in 1994 with a view to progressively removing barriers to goods and services trade between 34 western hemisphere nations. As at early 2009, however, the process had been suspended without reaching a conclusion.

62. Chile is a beneficiary of the Generalized System of Preferences (GSP); and, in the period under review, it received preferences in the framework of the respective schemes operated by Japan, New Zealand and Switzerland. According to figures provided by the authorities, during the period 2005-2008, Chile issued around 28,000 certificates of origin for exports of products covered by preferences in the GSP framework. Although Chile also forms part of the Global System of Trade Preferences among Developing Countries (GSTP), the authorities have stated that no certificates of origin had been extended for exports covered by this scheme. Chile has participated in the third round of GSTP negotiations which began in 2004.

63. Chile is currently negotiating its admission to the Organisation for Economic Co-operation and Development (OECD), which is expected to occur in late 2009 or early 2010.

³³ The member countries of the Latin American Pacific Basin Initiative are: Colombia, Costa Rica, Chile, Ecuador, Guatemala, Honduras, El Salvador, Mexico, Nicaragua, Peru and Panama.