

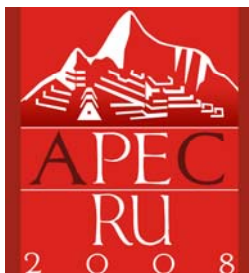


**Asia-Pacific
Economic Cooperation**

2008/SOM3/013anx2
Agenda Item: IV

Chile - Individual Action Plan 2007 Study Report

Purpose: Consideration
Submitted by: APEC Secretariat



**Third Senior Officials' Meeting
Lima, Peru
22-23 August 2008**

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Chile

Individual Action Plan 2007 Study Report

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July 2008

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1 Introduction and overview

Chile's pursuit of an outward-orientated development path has been widely considered as a showcase of successful transformations. It began in the 1970s and has been sustained across major political transformations. Successive governments have maintained a commitment to market-oriented policies, strengthening the regulatory framework and institutions while also placing greater emphasis on social policies. The early adoption of liberal trade and investment policies has been followed up with complementary macroeconomic policies and further structural reforms.

Chile's reforms are well documented (and were summarised in the 2004 IAP peer review study report), but it is instructive to briefly revisit them, because they provide an important context for assessing the current IAP.

Chile's market-oriented reforms

A key feature of Chile's early reforms is that they started with a rapid, unilateral transition to a low and uniform tariff, a determination not to resort to non-tariff measures to distort trade, liberalisation of the capital account and a commitment to welcome and avoid discrimination against foreign investment. Open trade and investment policies were accompanied by a commitment to fiscal and monetary discipline, sweeping financial sector reforms and privatisation, and introduction of laws to promote competition in the domestic market.

Economic crisis in the early 1980s, associated in part with attempts to maintain a fixed exchange rate, rigidities in the labour market and inadequate financial sector supervision led to some reversal of trade liberalisation and nationalisation of parts of the banking system. A return in the mid-1980s to market oriented policies was sustained after the restoration of democracy, and was followed by key institutional reforms such as constitutional change to make the Central Bank independent. Chile has since sought to lock in its market opening reforms with strong support for multilateral commitments as a member of the WTO, by negotiating trade agreements with major partners, and support to the open regionalism of APEC. More recently, adoption of a rules-based approach to fiscal policy, inflation targeting and a floating exchange rate regime have placed Chile at the forefront of maintaining price stability in Latin America. Because Chile's fiscal rules, legislate for 'above normal' mineral revenues to be sequestered in foreign exchange assets, Chile has also been very successful in avoiding a 'Dutch disease' problem during the current boom in mineral

prices. As a consequence, while minerals dominate export values, the non-mineral traded sector has continued to thrive.

Implications for achieving the Bogor goals

Because Chile has for some considerable time had very open trade and investment policies, and has been an early achiever in privatisation, sectoral liberalisation and establishing strong institutions for pursuing regulatory reform, the Bogor goals are well within reach. In fact, Chile has indicated that it intends to eliminate tariffs on most imports by 2010, well in advance of the target for developing economies.

As Chile's 2007 IAP makes clear, while Chile remains committed to the multilateral system, its strategy for achieving the Bogor goals is based on a combination of continued unilateral reforms and the pursuit of bilateral and regional trade agreements to lock in reforms and seek complementary commitments from its major trading partners. Chile has been in the vanguard of the wider Asia Pacific's FTA trend, and its agreements to date cover 54 trading partners and over 80 per cent of its total trade. As a consequence, a large component of its international trade and foreign invested is affected by FTA/RTA determined rules and regimes.

Because Chile started its pursuit of bilateral and regional trade agreements from a base of a very liberal MFN trade and investment regime, the risks of trade and investment diversion from this strategy are relatively low. In the absence of progress on the next round of multilateral negotiations, Chile's strategy has the effect of increasing the credibility of its commitment to open trade and investment, by locking this commitment in to binding legal agreements. There are, of course, risks associated with this strategy if negotiations lead to fragmentation or complexity in the rules affecting Chile's trade and investment relations with the world. In an ideal situation, it would be sensible economic strategy for Chile to multilateralise the most liberal commitments it makes in its network of agreements: but this can be difficult given the logic that underlies the negotiation of these agreements. Nevertheless, it is clear that Chile has been seeking to align its approach to trade agreements with good practice as reflected in APEC's model measures for trade agreements.

Chile offers a compelling example in the APEC region of the benefits that pursuit of the Bogor goals can deliver, and demonstrates that it is possible for developing economy members to put in place the strong institutions that some of the more complex reforms require. Chile's record also demonstrates that when there is a strong commitment to liberal trade and investment, and to market oriented solutions to the challenges of economic growth and development, multi-tracked approaches to achieving the Bogor Goals can be successful.

Specific elements of Chile's IAP

Tariffs

Chile has announced its intention to eliminate tariffs on most imports by 2010. Having reduced most favoured nation (MFN) tariffs to a (nearly) flat 6 per cent, it will achieve the elimination goal through the pursuit of trade agreements with its trading partners as a complement to multilateral commitments.

Non-tariff measures (NTMs)

Chile has virtually no NTMs in force. Quantitative import restrictions and licensing, surveillance mechanisms and cartels are prohibited. The only forms of import licensing are those required for human and animal health and safety purposes. Very little stands in the way of Chile meeting the Bogor goals with respect to NTMs.

Services

Chile has been an early liberaliser of trade in services, and the strength of its finance and telecommunications sectors in particular reflect the benefits of this strategy. Chile has voluntarily committed to remove service market access restrictions by 2010, and is using its negotiations of trade agreements to lock in market access reforms.

Investment

Chile's investment regime is liberal, open and transparent. The constitution guarantees equal protection under law for all investors, national or foreign, and provides an assurance that all investors shall not be subject to arbitrary discrimination. Private property rights are fully protected under the constitution, and property can only be expropriated pursuant to specific constitutional provisions. There are no economic activities reserved for the State, and the Constitution guarantees to all individuals, national or foreign the right to develop any economic activity, provided that applicable legislation is observed. Investors can choose to enter into a binding contract with the state which constrains the government's ability to modify conditions of investment. Chile is seeking to cement its commitments to APEC principles for investment through agreements with trading partners. Chile proposes to examine any remaining limits to the application of these principles with a view to reducing them.

Standards and conformance

Chile's approach to standards and conformance reflects its broader commitment to minimise interference with the operations of the market, consistency with international standards and transparency of government processes. Chile has

legislated new procedures for the development of technical regulations that significantly improve transparency and assessment of impacts. Chile continues to lock in its commitment to good practice by including commitments on standards and conformance in its trade agreements with regional and international partners (including many APEC economies),

Customs procedures

Chile had already implemented a significant range of APEC's collective action priorities in 1996. Since then it has moved to implement most of the outstanding actions.

Intellectual property (IPRs)

Chile has strengthened its intellectual property system through amendments to key laws that seek to improve the capacity of public institutions and to increase levels of protection for IPRs in a manner consistent with the principles of the TRIPS Agreement. In addition, it has created a specialised unit to investigate IPR infringements, and has ratified additional IPR conventions.

Competition policy

Chile has complemented its policy of exposing domestic producers of goods and services to international competition with a robust framework to defend competition and take action against anticompetitive conduct. Chile's competition law applies to sectoral regulators and other parts of Government, as well as private entities, so helps to ensure that Government policies and practices do not unnecessarily restrict competition.

Government procurement

Chile has an internationally recognised e-commerce platform that provides the backbone of the government procurement system, and has in the last five years introduced a stronger legal framework for public procurement.

Deregulation and regulatory review

Chile has been a leader amongst developing economies in opening up the financial sector, network industries and infrastructure to competition and private participation. It is now working on major reforms to the pension system to raise benefits, increase returns to saving and encourage participation in the formal labour market.

Implementation of WTO obligations (including ROOs)

The IAP indicates that Chile has fully implemented all of its WTO obligations, and that no further action is required

Dispute mediation

Chile has constitutional guarantees of rights to appeal against arbitrary actions of the administration, and Chile is a party to key international agreements on dispute settlement, and is building mechanism for settling disputes in the network of trade agreements that it is becoming party to.

Mobility of business people

Chile has been active in promoting the ABTC, and is committed to participating in multilateral efforts to establish common criteria for visa regimes and consulting with the business community to facilitate mobility to support open trade and investment.

FTA/RTAs

Free and regional trade agreements are now a key vehicle for Chile to lock in and extend its already exceptionally liberal approach to trade and investment. Chile's active FTA/RTA policy is indicative overall of its strong advocacy of economic liberalisation within all regional and multilateral economic fora in which it participates. It forms a crucially important part of Chile's multi-track approach to advancing trade and investment liberalisation in the Asia Pacific and beyond.

Trade facilitation

Chile has achieved an impressive record of implementing the APEC Menu of Options to Trade Facilitation, and is encouraged to complete pending items and to commit to new items from the Menu.

APEC Food System

As a major exporter of food to APEC markets and the rest of the world, Chile has a large stake in further liberalisation of food trade, and appropriate application of sanitary and phytosanitary measures, food safety and environmental standards and protection of intellectual property. Public-private cooperation has been a key part of Chile's approach to facilitating food trade

Transparency

Chile's long-standing commitment to a market based approach to economic development has been accompanied by strong efforts to make policy making

processes transparent, as well as providing a wide range of information to facilitate efficient private sector decision making.

2 *General issues*

Macroeconomic performance

Over the last decade and a half, Chile has been one of the strongest economic performers in Latin America. Real GDP has grown at an average rate of 5.5 per cent per annum since 1990, and the proportion of the population living in poverty has more than halved¹. The authorities have achieved a high degree of price stability, with inflation averaging just over 3 per cent a year since 1999, when the transition to inflation targeting with a floating exchange rate was completed. Investors have given Chile's commitment to prudent macroeconomic management and market oriented structural policies, with real investment growing on average by nearly 12 per cent a year over the last five years.

Strong institutions and sound economic policies have underpinned this performance. There has been a long-standing commitment to four institutional and policy pillars: central bank autonomy; responsible and predictable fiscal policy; adequate regulation and supervision of the financial system; and integration with international markets through trade openness and free movement of capital.

The combination of rules-based fiscal management (box 2.1), inflation targeting and a flexible exchange rate has delivered macroeconomic stability, declining public indebtedness and generally low inflation in the face of unprecedentedly high prices of copper, the main export commodity. The authorities have successfully anchored inflation expectations within a target range of 2 to 4 per cent, centred on 3 per cent, and the strength of Chile's commitment to sound macroeconomic management has led to the sovereign risk on Chile's foreign debt being the lowest in Latin America for the last seven years. The quality of Chile's economic management is reflected in the lifting of its sovereign credit rating to A+ in 2007, and in the invitation extended by the OECD to join the organisation in the same year.

The Fiscal Responsibility Law of 2006, which enshrined the structural budget surplus rule in legislation, established the Economic and Stabilisation Fund to replace the Copper Stabilisation Fund as a means of saving 'above normal' mineral revenues as foreign currency denominated assets.

¹ According to the Economic Commission for Latin America and the Caribbean, the proportion of the population with incomes less than twice the cost of a basic food basket fell from 27.6 per cent in 1994 to 13.7 per cent in 2006 (ECLAC, 2008).

1 Chile's structural balance policy

Chile's fiscal policy has, since 2001, been based on the structural budget surplus rule, which has called for a central government surplus of 1 per cent of GDP (reduced to 0.5 per cent for the 2008 budget) net of the effect on revenues of business and mineral (copper and molybdenum) price cycles.

The policy tries to target government expenditure to underlying government revenue. The government makes an estimate of the revenue that would be collected if the prices of copper and molybdenum were to be at reference (long run) levels and real GDP at its estimated potential (that is, if the output gap was zero).

An independent panel of experts publicly advises the government on these aggregates.

The rule targets a surplus as a response to three risk factors: the negative net worth of the Central Bank as a result of actions taken to resolve a banking sector crisis in 1983; contingent fiscal liabilities, including those arising from pension reforms and a minimum pension guarantee; and vulnerability to exchange rate changes with respect to external debt.

The policy rule is that, given the estimate of underlying revenues, expenditures must result in a structural surplus of 1 per cent² of GDP, of which:

- up to 0.5 per cent is saved offshore to fund future pensions liabilities in the Pension Reserve Fund; and
- up to 0.5 per cent is to recapitalise the Central Bank.

When there are *actual* fiscal surpluses above and beyond 0.5 per cent, these are saved into an offshore stabilisation fund (the Social and Economic Stabilisation Fund) in liquid sovereign and high-grade corporate bonds. When the actual fiscal surplus is below 1 per cent, the stabilisation fund is run down to permit the one per cent rule to be met. The rule is now enshrined in law (the Fiscal Responsibility Law, which came into force in 2006), so that, in setting the Budget, the government must either reduce expenditure or raise taxes to meet the target for the structural surplus.

At the end of 2007, the Pension Reserve Fund stood at \$1.46 billion and the Social and Economic Stabilisation Fund (which absorbed the pre-existing Copper Income Stabilisation Funds) stood at US\$ 14 billion. Together, these funds represented savings equivalent to 9.6 per cent of 2007 GDP.

² In May 2007, the President announced that the target would be reduced to 0.5 per cent effective from 2008.

This has meant that, while Chile's export trade remains strongly affected by movements in international prices of copper, molybdenum, iron ore and silver (the main mineral exports), the authorities have avoided 'Dutch disease' effects on the competitiveness of the non-mineral trade sector. While copper prices quadrupled between 2003 and 2007, driving copper exports to 57 per cent of Chile's export trade and underpinning an 87 per cent improvement in the terms of trade, the real effective exchange rate appreciated by only 15 per cent (table 2). This has enabled Chile's non-mining export oriented sectors, particularly agriculture, have continued to grow strongly.

2 Basic economic indicators, 2003–07

	<i>Unit</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
Gross domestic product (GDP)						
Current GDP (local currency units)	Ch\$b	51156	58303	66193	77652	85640
Current GDP	US\$b	74.0	95.7	118.2	146.4	163.9
Per capita GDP	US\$	4639	5933	7256	8911	9815
Real GDP	2003 Ch\$b	51156	54247	57263	59749	62793
Growth rates						
Real GDP	%	4.0	6.0	5.6	4.3	5.1
<i>Total domestic demand</i>	%	4.9	7.5	10.4	6.4	7.8
Consumption	%	4.0	7.0	7.1	6.4	7.4
Private	%	4.2	7.2	7.4	6.5	7.7
Public	%	2.5	6.1	5.9	5.8	5.8
Investment	%	8.4	10.0	23.9	2.9	11.9
<i>Exports of goods and services</i>	%	7.6	13.3	4.3	5.5	7.8
<i>Imports of goods and services</i>	%	8.6	18.4	17.2	10.5	14.3
Fiscal indicators						
Revenue	% of GDP	20.8	22.0	23.7	25.9	26.6
Expenditure	% of GDP	21.0	19.9	19.1	18.2	17.9
Overall balance	% of GDP	-0.2	2.1	4.6	7.7	8.7
Trade indicators						
Exports of goods and services	US\$b	26.7	38.6	48.4	66.3	76.4
Imports of goods and services	US\$b	-23.6	-29.7	-38.2	-44.4	-53.9
Money and prices						
Consumer price index end of period	% change	2.8	1.1	3.1	3.4	4.4
M3	% change	3.6	10.6	12.0	11.4	14.3
Exchange rate	CH\$/US\$	691.4	609.5	559.8	530.3	522.5
Real effective exchange rate	1990=100	97.1	92.5	86.4	82	82.8
Interest rates ^a	% pa	2.8	1.8	3.5	4.8	5.2
Memo items						
Population	Million	16.0	16.1	16.3	16.4	16.7
Terms of trade	2003=100	100	122	136	178	185
Gross international reserves	US\$b	15.9	16.0	17.0	19.4	16.9
Copper price	US\$/lb	0.81	1.30	1.67	3.05	3.23

^a Nominal interest rate on 90 day Central Bank Promissory Notes.

Source: Central Bank of Chile, IMF (2007b).

Recent development in trade and investment

Trade plays an important role in the economy of Chile. In 2007, Chile's exports of goods and services amounted to US\$76.4 billion, around 47 per cent of GDP, and imports were \$US44 billion, 33 per cent of GDP. The mining sector dominates exports, and accounted for around two thirds of the value of goods exports. Copper, in turn, accounts for almost 90 per cent of mining exports, with molybdenum, iron ore and silver accounting for most of the remainder. Non mining merchandise exports are split between manufacturing (mainly chemicals) and agriculture (mainly fresh fruit and vegetables and fish). Imports are dominated by manufactures and oil (accounting for 70 per cent and 15 per cent of total imports respectively).

The dominant role of copper in trade means that the economy experiences large fluctuations in export revenue arising from changes in world copper prices. Copper exports were equivalent to 23 per cent of the value of GDP in 2007, having risen from 9 per cent in 2002.³ This creates large fluctuations in government revenue via the government-owned CODELCO Corporation, which dominates copper mining. (CODELCO operates the giant Chiquicamata mine in northern Chile.⁴) However, the government's policies for managing these flows have been very successful in de-linking the domestic economy from international price movements. The International Monetary Fund estimates that the correlation between GDP growth and copper price has declined quite markedly: the correlation coefficient for the period 2000–06 was 0.35, down from 0.59 for the period 1985–2000 (IMF 2007b).

The sustained surge in commodity prices over the past five years, the associated improvement in Chile's terms of trade, and the government's handling of mineral revenues has brought about large and growing current account surpluses. In 2007, the surplus was over US\$22 billion, around 13 per cent of GDP (table 3). A counterpart to this is the rapid expansion of outward portfolio investment: as the table shows, net outflows of portfolio investment have grown from US\$2.6 billion to US\$15.8 billion between 2003 and 2007, even as inflows of direct investment have grown from US\$4.3 billion to US\$14.5 billion.

Composition of trade

Chart 4 illustrates the dominant role of copper and other minerals in Chile's exports of goods. In 2007, copper accounted for 57 per cent of the total value of exports, with other minerals accounting for an additional 9 per cent. Agriculture, forestry, fisheries and food products accounted for a further 15 per cent, reflecting Chile's significant role as a supplier of horticultural, viticultural and marine products to the world.

³ Measured at current prices.

⁴ This mine also produces most of Chile's countries molybdenum which is found in the same ore and accounts for around 8 per cent of mining exports.

Chile has become a very significant exporter of horticultural products, competing with South Africa as the major southern hemisphere suppliers into the American and European markets. Chile is now the world's largest exporter of table grapes, and the largest southern hemisphere exporters of grapes, apples, plums, peaches, nectarines, pears, berries and avocado (OECD 2007).

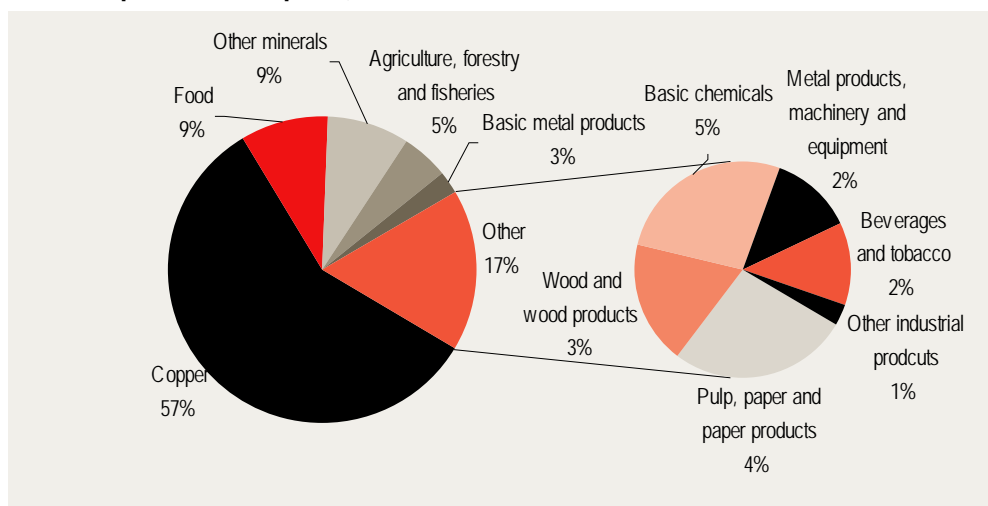
Chart 5 shows the functional composition of Chile's imports in 2007: oil, fuels and lubricants accounted for 24 per cent of the value of imports, and capital goods and non-fuel intermediates, another 55 per cent.

3 Balance of payments, 2003–07

	2003	2004	2005	2006	2007
	\$USm	\$USm	\$USm	\$USm	\$USm
Balance on current account	-778.7	2 074.5	1 448.9	6 838.2	7 199.7
Exports	21 664.2	32 520.3	41 266.9	58 485.5	67 643.8
Imports	-17 941.2	-22 935.2	-30 492.3	-35 898.6	-43 990.9
<i>Balance on goods</i>	3 722.9	9 585.2	10 774.6	22, 586.9	23 652.9
Services	-618.0	-745.9	-621.4	-628.1	-1 161.6
Services receipts	5 069.5	6 033.7	7 134.0	7 824.3	8 785.5
Services payments	-5 687.5	-6 779.6	-7 755.5	-8 452.4	-9 947.1
<i>Balance on services</i>	-618.0	-745.9	-621.4	-628.1	-1 161.6
<i>Balance on goods and services</i>	3 105.0	8 839.3	10 153.1	21 958.9	22 491.4
Net employee remuneration	-3.5	-3.6	-3.2	-3.2	-3.2
Net income from foreign direct investment	-3 959.3	-7 279.7	-10 353.3	-18 869.7	-19 747.4
Net income from portfolio investment	-367.8	-546.3	-167.2	307.3	1 142.9
Net income from other investment	-158.1	-7.1	36.6	147.4	342.2
<i>Balance on factor payments</i>	-4 488.7	-7 836.7	-10 487.1	-18 418.2	-18 265.5
<i>Net current transfers</i>	605.0	1 071.9	1 782.9	3 297.5	2 973.8
Balance on capital account	0.0	5.1	41.2	13.3	15.7
Balance on financial account	1 511.1	-1 810.0	-166.1	-7 054.1	-6 222.3
<i>Direct investment</i>	2 701.2	5 609.6	4 801.1	4 482.1	10 627.0
Outflows	-1 606.3	-1 563.1	-2 182.7	-2 875.6	-3 830.3
Inflows	4 307.4	7 172.7	6 983.8	7 357.7	14 457.3
<i>Net portfolio investment</i>	-2 645.3	-3 308.5	-2 832.9	-10 074.4	-15 763.1
<i>Net financial derivatives</i>	117.8	-84.0	-62.5	303.8	511.1
<i>Other investment assets</i>	971.8	-4 217.9	-356.0	231.9	-4 811.4
Errors and omissions	-732.3	-269.6	-1 324.1	202.6	-993.1
Change in reserves	365.6	190.8	-1 715.7	-1 997.4	3 214.1

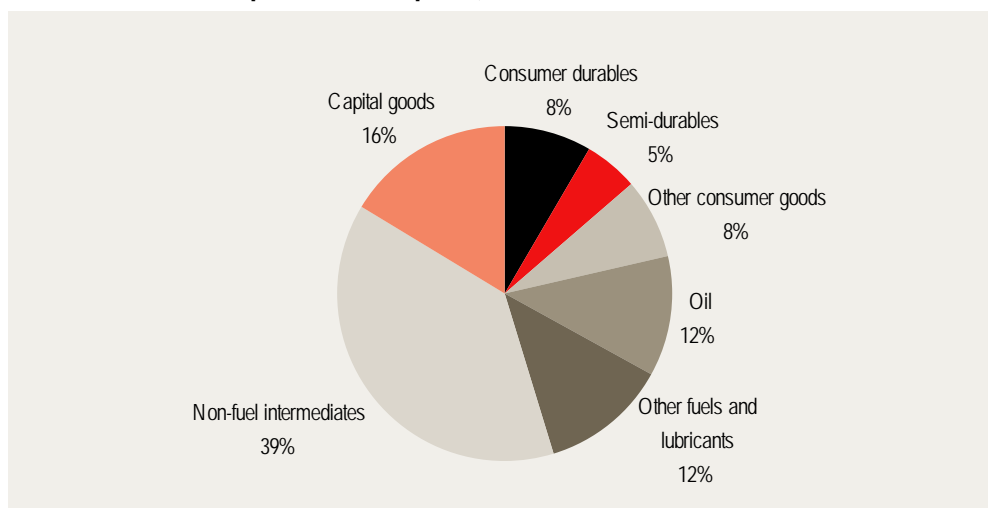
Source: Central Bank of Chile.

4 Composition of exports, 2007



Data source: Central Bank of Chile.

5 Functional composition of imports, 2007

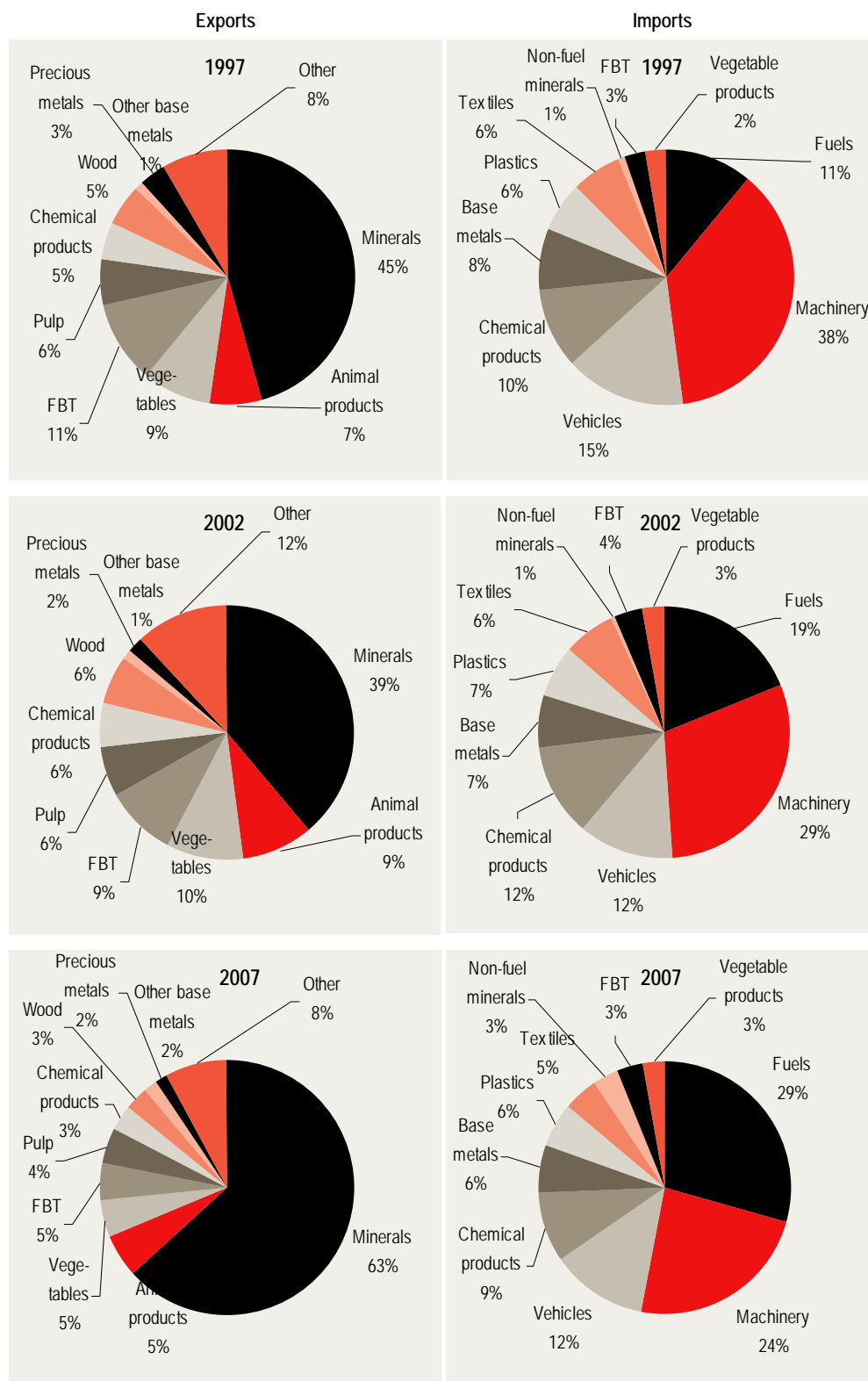


Data source: Central Bank of Chile.

The composition of Chile's exports and imports has been strongly affected by movements in commodity prices. Chart 6, which illustrates changes over the last ten years in the share of export and imports using the Standard International Trade Commodity (SITC) classification, shows that the share of minerals in exports has changed from 45 per cent in 1997, to 39 per cent in 2002 and 63 per cent in 2007, while fuels have grown from 11 to 29 per cent of imports over the same period.

The pronounced change in the value of mineral exports in the last five years is largely a price phenomenon since copper export volumes grew relatively slowly due to disruptions in 2005 and 2006, while agricultural and industrial export volumes were growing at average rates of around 7 and 10 per cent (IMF 2007b).

6 The impact of fluctuating mineral and fuel prices



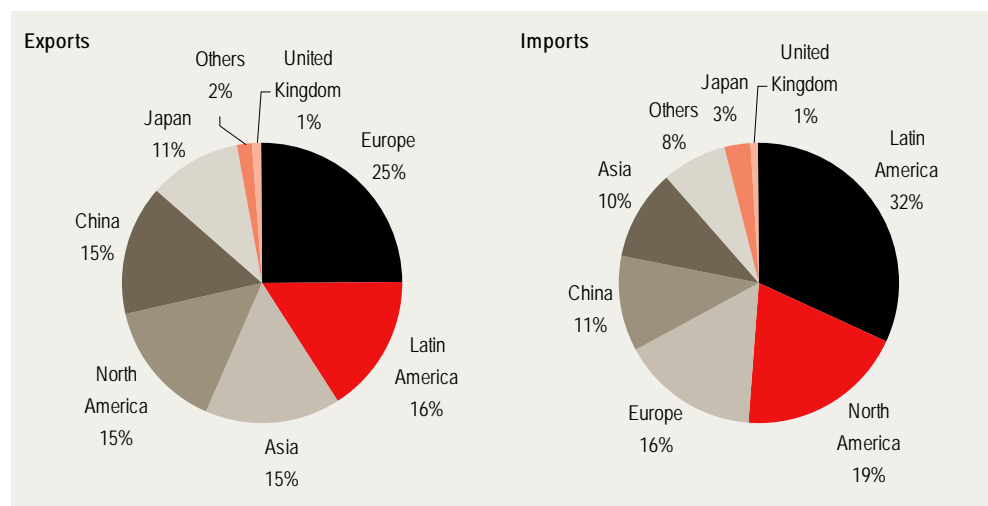
Note: FBT = food, beverages and tobacco.

Data source: Global Trade Atlas.

Direction of trade

In 2007, Chile was exporting goods to a range of European, North American and Asian markets. Together with the United Kingdom, The European Union was the destination for 26 per cent of Chile's exports (chart 7). Chile's Latin American neighbours were an important source of imports, accounting for 32 per cent of the total value. In 2007, 57 per cent of Chile's exports were destined for APEC economies, and 52 per cent of its imports originated in APEC economies.

7 Direction of trade 2007



Data source: Central Bank of Chile.

Over time, as table 8 shows, China has become the largest single economy market for Chile's exports at the same time as it has become the second largest source of imports. China now accounts for over 20 per cent of Chile's copper and ore exports, and India has also become one of the top ten markets for these products.

Foreign direct investment

Between 1990 and 2007, foreign direct investment (FDI) inflows into Chile have totalled US\$59.6 billion (including associated credit – equity inflows amounted to \$US 46.1 billion). Inflows peaked in 1999 at \$US9.2 billion (chart 9). The United States was the main source of this investment, closely followed by Spain: these economies accounted for 25 and 22 per cent respectively of total flows over the period (chart 10).

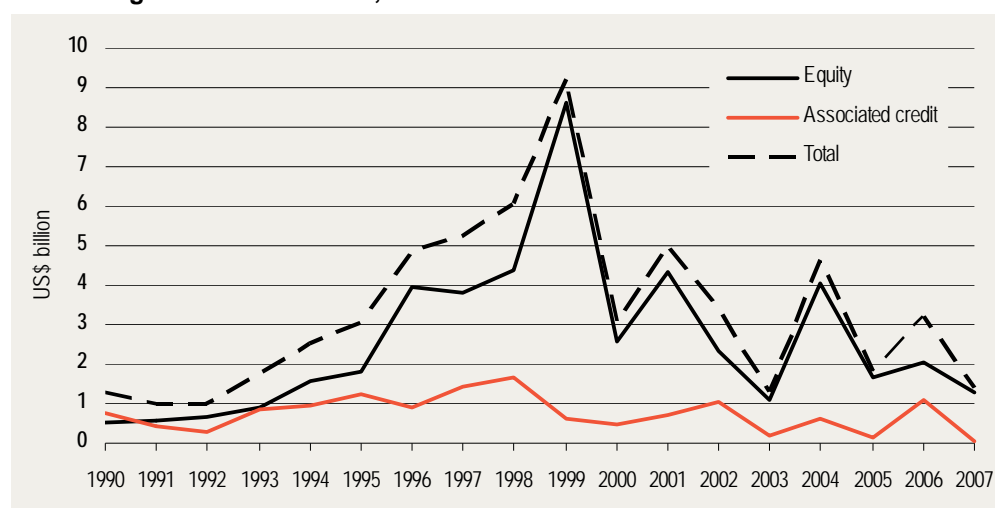
While the mining and quarrying sector has, not surprisingly, been the major sectoral target for this investment, some 22 per cent of the inflows have been in the electricity gas and water sectors, and 11 per cent in telecommunications, reflecting the impact of regulatory reforms and privatisation policies on investor interest (chart 11). The deepening of financial markets in Chile, and the economy's strong ratings with regard to sovereign risk and financial sector regulation has also attracted significant investment in financial services.

8 Direction of trade: top ten destinations and sources 1997, 2002 and 2007

<i>Economy</i>	<i>Share Economy</i>	<i>Economy</i>	<i>Share Economy</i>	<i>Economy</i>	<i>Share</i>
	%		%		%
Exports					
	1997		2002		2007
Japan	16.1	United States	19.8	China	15.1
United States	14.6	Japan	10.9	United States	12.8
United Kingdom	6.2	China	8.0	Japan	10.8
Korea	5.9	Mexico	7.0	Netherlands	5.9
Brazil	5.9	Italy	5.2	Korea	5.9
Argentina	4.7	United Kingdom	4.9	Italy	5.3
Chinese Taipei	4.6	Korea	4.5	Brazil	5.1
Germany	4.5	Brazil	4.1	France	3.6
Italy	3.0	France	3.9	Mexico	3.6
France	2.7	Netherlands	3.6	India	3.4
Imports					
	1997		2002		2007
United States	24.0	Argentina	19.4	United States	17.0
Argentina	10.1	United States	16.6	China	11.4
Brazil	6.9	Brazil	10.3	Brazil	10.5
Mexico	5.9	China	7.2	Argentina	10.1
Japan	5.8	Germany	4.7	Korea	7.2
Germany	4.7	France	4.1	Peru	3.9
Italy	3.9	Japan	3.5	Japan	3.7
China	3.6	Mexico	3.1	Germany	3.7
Spain	3.4	Korea	2.8	Mexico	3.2
Korea	3.2	Spain	2.7	Canada	2.3

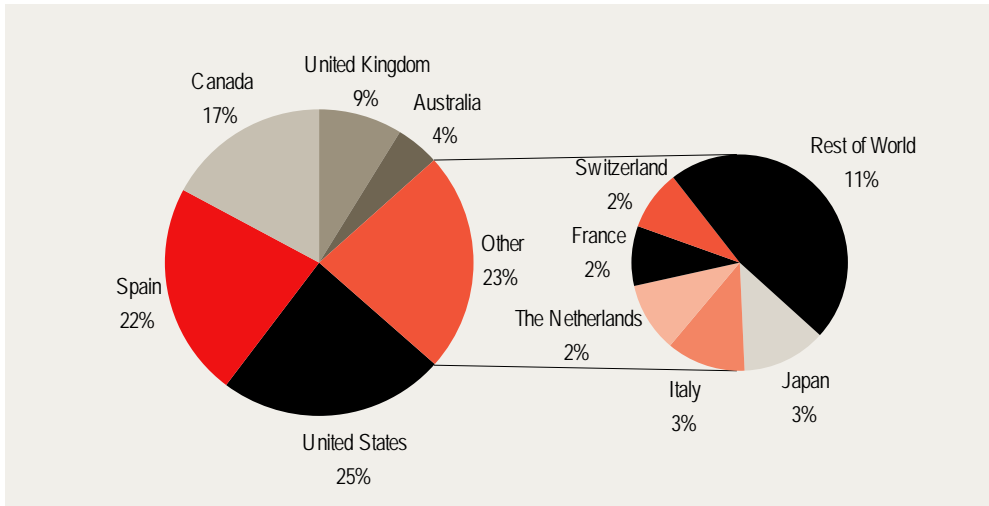
Source: Global Trade Atlas.

9 Foreign direct investment, 1990–2007



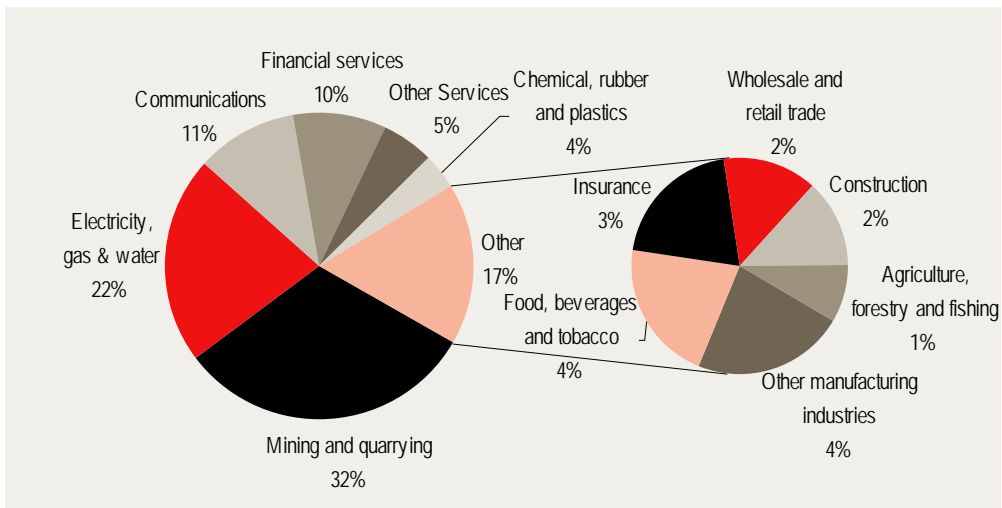
Data source: Foreign Investment Committee.

10 Foreign direct investment by country of origin, 1990–2007



Data source: Foreign Investment Committee.

11 Foreign direct investment by sector, 1990–2007



Data source: Foreign Investment Committee.

3 *Chile's Individual Action Plan*

I. *Tariffs*

APEC objective

APEC economies will achieve free and open trade in the Asia Pacific region by:

- progressively reducing tariff measures
- ensuring the transparency of APEC economies' respective tariff measures.

Chile has announced its intention to eliminate tariffs on most imports by 2010. Having reduced MFN tariffs to a (nearly) flat rate of 6 per cent, it will achieve the elimination goal through the pursuit of trade agreements with its trading partners as a complement to multilateral commitments.

Chile's approach to tariffs

Chile has long been at the forefront of best practice on tariff policy. It has applied a uniform tariff rate to nearly all imports since the 1970s and has systematically reduced the MFN rate so that it now stands at 6 per cent. Because of the wide trading partner coverage of the trade agreements that Chile has negotiated since the early 1990s, the average applied tariff rate on all imports has now fallen to around 1.6 per cent (Central Bank of Chile 2008).

Table 12 summarises key features of Chile's applied and bound MFN tariff rates. Over 99.7 per cent of all tariff lines attract an MFN duty of 6 per cent. Chile has indicated that the rate on the only lines (covering selected poultry products) that exceed 6 per cent will be reduced to the standard rate by 2012. Chile bound all of its tariff rates as part of its Uruguay Round commitments: nearly all rates are bound at 25 per cent, with the only exceptions being sugar and a selection of dairy products, wheat, wheat flour, vegetable oils, oilseeds and residues.

The only exception to the uniformity of taxation of imports arises from the operation of the Price Band System (PBS), which provides for the application of specific duties to imports of designated goods (sugar, wheat and wheat flour) to reduce the impact of international price fluctuations on domestic prices. The PBS, which in its original form also applied to vegetable oils, involves the application of additional specific

12 Chile's applied and bound MFN tariff rates

<i>Category</i>	<i>Tariff rate</i>	<i>Frequency</i>	<i>Coverage</i>
Applied rates			
	0%	0.1%	This rate applies to fire-fighting vehicles, helicopters, aircraft, cargo and fishing vessels, selected nuclear industry equipment armoured fighting vehicles and warships.
	6%	99.7%	Applies to the majority of tariff lines.
	18%(2007)	0.1%	This rate applies to fresh, chilled and frozen cuts of Chicken and turkey: The rate will be reduced to 6 per cent in 2012.
	15.6% (2008)		
Average	6.0%		
Coefficient of variation	8		
Bound rates			
	25%	98.7%	Applies to the majority of tariff lines.
	31.5%	1.3%	This rate applies to selected dairy products, wheat, wheat flour, vegetable oils, oilseeds and residues.
	98%	0.1%	This rate applies to sugar: it was increased from 31.5 in 2003.
Average	25.1%		
Coefficient of variation	8		

Source: Chile IAP, WTO (2007).

duties, or rebates, from the MFN rate when prices in reference markets fall below floor or above ceiling prices established by law (total duties should not exceed the bound tariff). Price floors and ceilings provided by the law diminish annually until 2014, in which year the mechanism is expected to come to an end⁵.

As a consequence of the steady reduction in MFN tariffs and the widening coverage of Chile's trade agreements, the government's reliance on import trade tax revenues has continued to fall. (The IMF estimates that the share of trade with countries that have a trade agreement with Chile jumped from 16 percent in 2002 to 81 percent in 2006 (IMF 2007a). As table 13 shows, import duties now account for little more than 2 per cent of total central government revenues, compared with around 11 per cent in 1997. Specific taxes (excises) on petroleum products and tobacco have made up some of this reduction, but overall the share of revenues derived from taxes on imports (including VAT on imports) has also fallen.

⁵ The PBS, in its original and amended forms has, at the request of Argentina, been the subject of hearings by the WTO Dispute Settlement Body, and found to be in contravention of Article 4.2 of the Agreement on Agriculture (WTO 2006).

13 Trade-related revenues 1997 and 2003–07

Year	Unit	1997	2003	2004	2005	2006	2007
Tariffs	US\$m	1 615	493	460	554	650	653
VAT on imports	US\$m	3 591	3 263	4 325	5 714	6 681	8 193
Specific taxes on imports	US\$m	172	228	293	422	523	929
Total trade-related fiscal revenue	US\$m	5 261	4 052	5 168	6 723	7 813	9 574
Total fiscal revenue	US\$m	13 543	12 827	14 925	21 183	24 939	30 872
Share of trade-related revenue in total fiscal revenue	%	38.8	31.6	34.6	31.7	31.3	31.0
Tariff duty share of revenues	%	11.9	3.8	3.1	2.6	2.6	2.1

Source: Chilean Customs Service.

Tariff preferences

As indicated above, Chile has been steadily putting in place trade agreements with its main trading partners, leading to a situation where a very large proportion of its imports enter economy at preferential rates of duty.

Tariff quotas

Chile maintains MFN tariff quotas only on refined and some mixed sugar products. The out of quota tariff rate is the 6 per cent (plus the specific rate duty resulting from application of the PBS), and the in-quota rate is zero. The 60 000 tonne quota is allocated on a first-come, first-served basis. Chile also has some preferential tariff quotas, introduced under like-for-like commitments in trade agreements with MERCOSUR, Bolivia, Canada, the United States of America, the European Union, Japan and some Central American countries.

Looking forward

Chile has indicated that it intends to eliminate most tariffs on imports by 2010, ten years ahead of the target for developing economy members of APEC. This goal will be met by furthering the coverage of preferential tariffs under trade agreements, rather than further reducing MFN tariffs. Because Chile's MFN tariff is already low and almost completely uniform, the risks of trade diversion from pursuing this strategy are relatively low.

II *Non-tariff measures*

APEC objective

APEC economies will achieve free and open trade in the Asia Pacific region by:

- progressively reducing NTMs
- ensuring the transparency of APEC economies' respective NTMs.

Chile has virtually no NTMs in force. Quantitative import restrictions and licensing, surveillance mechanisms and cartels are prohibited. The only forms of import licensing are those required for human and animal health and safety purposes, consistent with WTO agreements. Very little stands in the way of Chile meeting the Bogor goals with respect to NTMs.

Chile's approach to NTMs

Chile is a very open economy, and makes very limited use of NTMs to manage trade or provide protection to local producers. Chile's IAP indicates that there are no market access restrictions, quantitative restrictions or national treatment limitations with the exception of a prohibition on importation of some used motor vehicles. Three export subsidy programs that had been notified to the WTO were eliminated by 2003. In 2003, Chile also revised its simplified duty drawback system to eliminate the small subsidy component implicit in its earlier workings: the rebate is now restricted to 3 per cent of the fob value of exports, and is only granted for exports made from at least 50 per cent imported materials.

III Services

APEC objectives

APEC economies will achieve free and open trade in the Asia Pacific region by:

- progressively reducing market access restrictions;
- providing for, inter alia, most favoured nation (MFN) treatment and national treatment;
- providing, in regulated sectors, for the fair and transparent development, adoption and application of regulations and regulatory procedures; and
- recognising the role that e-commerce plays in the supply and consumption of services.

Chile has been an early liberaliser of trade in services, and the strength of its finance and telecommunications sectors in particular reflect the benefits of this strategy. Chile has voluntarily committed to remove service market access restrictions by 2010, and is using its negotiations of trade agreements to lock in market access reforms.

Chile's service sector plays a large role in the economy, and liberalisation of key service industries such as financial and telecommunication services, combined with strong and pro-competitive regulation has facilitated the development of robust and efficient delivery of key inputs into economic development. As table 14 shows, services accounted for around 73 per cent of total employment in 2007, and 61 per

14 Overview of the service sector

	<i>Unit</i>	1997	2003	2004	2005	2006	2007
Current GDP	Ch\$b	34 723	50 954	57 906	64 549	77 652	85 640
Real GDP (1996 prices) ^a	1996 Ch\$b	33 301	39 130	41 542	44 179	59 749	62 793
Real GDP rate of growth	%	6.6	3.9	6.2	6.3	4.3	5.1
GDP share of services sector, current prices	%	71.0	68.0	64.3	62.9	60.7	61.0
GDP share of services sector, (1996 prices) ^a	%	70.5	70.5	70.1	70.9	71.1	71.7
Employment share of services sector	%	67.7	70.7	70.9	72.0	72.7	73.2
Services exports	US\$m		5 070	6 034	7 134	7 824	8 786
Services imports	US\$m		5 688	6 780	7 756	8 452	9 947
Services net exports	US\$m		-618	-746	-622	-628	-1 162

²⁰⁰³ prices for 2006 and 2007.

Note: Services sectors include the all sectors except for agriculture, fishing, mining and manufacturing (electricity, gas and water, construction, commerce, hotels and restaurants, transport and communications, financial services, real state, private, personal services, public administration, other. Also note that a new methodology has been used for preparation of statistics for 2006 and 2007

Source: Central Bank of Chile.

cent of GDP (the fall in share of GDP since 1997 is entirely a function of the surge in minerals prices: in real terms, the share of services in GDP has risen to around 72 per cent.

As table 15 shows, there has been quite a strong shift in the composition of the services sector in the last ten years, as transport and communications and financial services have grown faster than construction and electricity gas and water.

15 Composition of the service sector: shares of service GDP and employment

		1997	2003	2004	2005	2006*	2007*
		%	%	%	%	%	%
Electricity, gas and water	▪ GDP	4.0	4.5	4.4	4.5	4.6	4.4
	▪ Employment	1.0	0.6	0.6	0.5	0.7	0.8
Construction	▪ GDP	13.8	11.5	11.6	12.4	10.2	11.3
	▪ Employment	12.6	11.3	11.4	11.5	11.6	11.5
Transport and communications	▪ GDP	9.0	10.6	10.6	10.3	12.2	11.8
	▪ Employment	11.4	11.8	11.2	11.1	11.4	11.4
Financial services	▪ GDP	17.6	19.5	19.5	18.8	21.9	21.1
	▪ Employment	10.2	11.5	12.0	12.3	11.9	12.1
Others	▪ GDP	55.7	54.0	53.8	54.0	51.1	51.4
	▪ Employment	64.8	64.7	64.8	64.6	64.4	64.2

Source: Central Bank of Chile.

As with other parts of the economy, Chile has been liberalising trade and foreign participation in its services sector since the early stages of the implementation of its outward-oriented development strategy.

Chile's approach to services liberalisation

Chile is aiming for a NAFTA-like approach to services, which is a gradual approach to enhance market access, rather than just to preserve it. When this is not possible, Chile adopts a GATS-like approach to negotiating services agreements (examples are the Chile-EU and Chile-China agreements).

The Chilean Government is currently engaged in bilateral negotiations on services access as part of its FTA strategy. Much of the detail of Chile's short and medium term commitments on services will be determined as an outcome of these negotiations, where Chile is applying the principle of non-discrimination. Chile holds Mutual Recognition Agreements (MRAs) for professional degrees with some Latin American countries, including Peru and Mexico (the APEC economies). However, it is not current policy to negotiate this kind of agreement.

Under most circumstances, there are no restrictions on foreign professionals to provide services in Chile other than normal recognition procedures. In operation, professional Services Providers shall register at the internal Revenue Service (Servicio de Impuestos Internos, SII), and obtain a Tax Identification Number or RUT (Ro Unico Tributario) for tax purposes. Furthermore, a certificate for 'initiation of activities' is required for a 'natural person resident'. For those non-resident service providers who seek to provide a service under temporary entry status, 'initiation of activities' is not mandatory.

Business services

Legal services

Legal services providers should possess a University Law Degree granted by an accredited university. No additional professional examinations are in existence.

Only Chilean individuals and foreign national with residence in Chile who have completed the totality of their legal studies in Chile shall be authorised to practice as lawyers (abogados)

Only Chilean nationals can be appointed as Public Defenders, Public Notaries under civil law, Custodians, Archivists, Licensed Attorneys, Court Clerks, Arbitrators, Receivers in Bankruptcy, Public Auctioneers, and Customs Brokers or Agents.

Some drafting documents are exclusively reserved for lawyers (abogados): drafting articles of incorporation and amendments thereto; mutual termination of obligations or liquidation of corporations; liquidation of community property between spouses, distribution of property, articles of incorporation of juridical persons, associations, water canal members (asociaciones de canalistas), and cooperatives associations, agreements governing financial transactions; corporate bond issuance agreements;

and sponsoring applications for legal representation made by corporations and foundations.

Accounting and auditing services

Currently, foreign auditing firms are required to register in the Registry of External Auditors kept by the Superintendency of Banks and Financial Institutions (Superintendencia de Bancos e instituciones Financieras) and the Superintendency of Securities and Insurance (Superintendencia de Valores y Seguros).

Furthermore, foreign auditors of financial institutions must be legally incorporated in Chile as partnerships (sociedades de personas) or associations (asociaciones). If the partnership or association's main line of business is auditing services, they may be inscribed in the Registry.

Other professional services

In most circumstances, foreign professionals have no restrictions to provide services in Chile, other than normal recognition procedures. The 'resident natural person' will need to obtain a certificate for 'initiation of activities'. For non-resident service providers who seek to provide a service under temporary entry status, 'initiation of activities' is not mandatory.

Few restrictions applied to foreign professional services providers in the area of research and development (which is listed below under 'Construction and related engineering services').

Communication services

Legal framework

Postal and telecommunications services are regulated by:

- Law 18,838 on the National Council on Television (1989);
- Law 19,733 on Liberties of Opinion and Information and the Exercise of Journalism (2001);
- Decree N° 45 Regulating Services for Amateur Radio Communications (1984); and
- Law 18,168 on General Law of Telecommunications (1982).

Postal and courier services

Chile has, in practice, outpaced what the legal decrees dictated to be a state monopoly in postal services more than 20 years ago. The postal monopoly has not been applied for the past 20 years due to the free market economic policies that have been in force. In reality, there are neither restrictions nor discriminatory measures

applied against the provision of postal or express delivery services by the private sector.

Under Decreto Supremo N°5037 of the Ministry of Internal Affairs (1960), and Decreto con Fuerza de Ley N°10 of the Ministry of Transportation and Telecommunications (1982), only the State of Chile may exercise, through the Empresa de Correos de Chile (www.correos.cl), a monopoly on the admission, transport and delivery of postal items. Postal items shall mean: letters, simple and postage-paid postcard, business papers, newsletters and printed matters of all kinds, including printed matter in Braille, merchandise samples, small packages up to one kilo and special postal service consisting of the recording and delivery of sound messages.

Chile is currently undertaking some necessary steps so to modify the current legal framework, and meet the new challenge of free trade and commitments as a member of the Universal Postal Union.

Telecommunication services

Chile's approach to telecommunication liberalisation involves working towards 'WTO Plus', but applying the principle of reciprocity. Suppliers of services will be subject to evaluation by the Under-Secretariat of Telecommunications (Subsecretaría de Telecomunicaciones) and the National Council on Television (Consejo Nacional de Televisión) in which they must certify compliance with the requirements.

Telecommunications services licensing

A concession granted by Supreme Decree issued by the Ministry of Transportation and Telecommunications (Ministerio de Transportes y Telecomunicaciones) shall be required for the installation, operation, and exploitation of the following telecommunications services: public telecommunication services; intermediate telecommunication services; and radio broadcasting telecommunications services.

A concession granted by a Resolution issued by the National Council of Television (Consejo Nacional de Televisión) shall be required for television broadcasting telecommunications services.

A permit issued by the Undersecretariat of Telecommunications (Subsecretaría de Telecomunicaciones) shall be required for the installation, operation, and development of limited telecommunications services.

An official decision referred to compliance with the technical standards and non-alteration of the essential technical features of networks issued by the Undersecretariat of Telecommunications shall be required to render Complementary Telecommunications Services (value added services).

Juridical requirements

Only juridical persons duly constituted in Chile with domicile in the country may be the titleholders or make use of concessions for television broadcasting telecommunications services.

Natural persons and juridical persons duly constituted in Chile with domicile in the country, may be the titleholders, or make use of permits, for limited telecommunications services.

Only juridical persons duly constituted in Chile with domicile in the country may be the titleholders or make use of permits for limited television services.

Nationality requirements

In general, full national treatment and market access is provided. Some special limitations are applied in consideration of national security and public interests:

- Maritime and aeronautic telecommunications which are reserved to the Chilean Navy and the Aeronautic Civil Board, respectively.
- For radio broadcasting concessions, only Chilean natural persons may be presidents, managers, administrators, or legal representatives of the juridical persons at stake. Also, the majority of the members of the Board of Directors must be Chilean natural persons.
- On the public radio broadcasting concessions, a foreign juridical person shall be granted the current 10 percent capital holding only if proof is previously provided verifying that similar rights and obligations as those that an applicant will enjoy in Chile are granted to Chilean nationals in the applicant's country of origin.
- On public (open) television broadcasting, the National Council on Television (Consejo Nacional de Television) may establish as a general requirement that programs broadcast include up to 40 percent of Chilean production.
- Only Chilean and foreign individuals with permanent residency in Chile may obtain amateur radio aficionado licenses. This license can also be obtained by amateur radio individuals from countries where Chile maintains reciprocity agreements, and foreign individuals with temporary residency in Chile previously qualified by the Undersecretary of Telecommunications.
- The owner of a social communication medium such as sound and image transmissions or a national news agency, shall, in the case of a natural person, have a duly established domicile in Chile, and in the case of a juridical person, shall be constituted with domicile in Chile or have an agency authorized to operate within the national territory.
- In the case of social communication media — such as newspapers, magazines, or regularly published texts whose publishing address is located in Chile, or a

national news agency -- only Chilean nationals may be president, administrators, or legal representatives of the juridical person.

- In the case of limited cable television or microwave television services, only Chilean nationals may be president, directors, managers, administrators and legal representatives of the juridical person.
- In the case of the owner of a concession of television broadcasting, both open air and cable services, must be a Chilean juridical person with domicile in Chile.

The general Council on Television (Consejo Nacional de Television) may establish, as a general requirement, programs broadcast through public (open) television channels include up to 40 percent of Chilean production.

Suppliers of services will be subject to evaluation by the Under-secretariat of Telecommunications (Subsecretaria de Telecomunicaciones) and the national Council on Television (Consejo Nacional de Television) in which they must certify compliance with the requirements that ensure competent performance in the sector.

The main regulations in this area are established in:

- Law 18,838 on the National Council of Television (1989);
- Law 19,733 on Liberties of Opinion and Information and the Exercise of Journalism (2001); and
- Law 18,168 on the General Law of Telecommunications (1982).

Construction and related engineering services

Legal frameworks in these areas are transparent and well documented. Information can be found via www.minvu.cl and www.conama.cl. An amendment to Supreme Decree No. 135 of the Ministry of Housing and Urbanism (1978) is currently under study. In principle, a special university-accredited degree from Chile is required unless a Mutual Recognition Agreement is in existence with Chile from the contractor's country of origin.

Service providers require an accredited University Architecture Degree. In the case of degrees obtained abroad or studies done abroad, the qualification mechanisms are handled by the University of Chile via its School of Architecture and Urban Development. However, for a degree acquired in a country that holds a MRA with Chile, the recognition procedure is handled by the Ministry of Foreign Affairs. No additional professional exams exist.

A bilateral MOU was negotiated between Canada and Chile for the engineering sector. Preferential treatment is granted where there is membership to one of CCPE's (Canadian Council of Professional Engineers) constituent associations or in the CICH (Colegio de Ingenieros de Chile).

For Canadian engineers in Chile, licensing requires a minimum of seven years of experience after graduation, including a minimum of two years in charge of significant engineering work. Chilean engineers in Canada, and Canadian engineers in Chile, are required to pass the Professional Practice Exam, which is administered by CICH on local codes.

Some restrictions exist for foreign professional suppliers in the area of research and development services.

- Foreign natural or legal persons intending to carry out excavations, surveys, probing and/or collect anthropological, archaeological and paleontological material, must apply for a permit before the Consejo de Monumentos Nacionales (Council of National Monuments). As a precondition for granting such permit, the person in charge of research must belong to a reliable foreign scientific institution and be working in collaboration with a Chilean state-owned scientific institution or a Chilean university.
- Foreign natural or legal persons intending to conduct research in the 200-mile maritime zone under national jurisdiction must obtain an authorisation from the Instituto Hidrografico de la Armada de Chile (Hydrographic Institute of the Chilean Army), in accordance with the relevant regulation.

Furthermore, national treatment limitations include the following.

- The Ministry of Public Works may authorise the participation of foreign professionals in certain contracts that involve total or partial financing by a foreign country or by international banks or organisations, when the conditions for granting the credit are so required.
- Business people or contractors hired for the execution of port works must be Chilean or naturalised citizens.
- State-owned foreign companies cannot enter into arrangements relating to integral irrigation projects financed by the state.
- Concessions to provide electric services can only be granted to Chilean citizens and juridical persons constituted under Chilean laws. Contractors of a concession must comply with the same requirements as the owner of the concession.
- Only consultants registered at the Ministry of Housing's National Board of Consultants may execute works such as studies, advice and projects required by the Ministry.
- A legal representative in Chile is required for construction services.
- To establish, build and work public services destined to produce and to distribute potable water, to collect and to dispose waste water, it is necessary to have a concession – these concessions will be granted only to legal entities that are constituted as corporations and dedicated exclusively to the provision of services.

Distribution services

There is no discriminatory treatment in distribution services. However, in addition to the certificate for 'initiation of activities', special requirements in zoning and planning laws can be demanded at the local level.

Energy services

The Chilean Constitution establishes that the state has absolute domain, which is exclusive, irremovable and does not end, over charcoal deposits, hydrocarbons and all other fossil substances among others. It points out, in particular, that substances contained in the hydrocarbon deposits are not to be used to gain concessions for exploration or exploitation. This means that these activities can only be executed directly by the state or its enterprises, or by administrative concessions or special operation contracts, with the requisites and under the conditions fixed by the President of the Republic, which is done in each case by a Supreme Decree.

The exploration, exploitation and treatment ('beneficio') of lithium can be the object of administrative concessions or special operating contracts. However, the term 'beneficio' shall not include the storage, transportation or refining of the energy material.

The production of nuclear energy for peaceful purposes may only be carried out by the Comision Chilena de Energia Nuclear or, with its authorisation, jointly with third persons.

The State of Chile has adopted the policy of promoting Petroleum Operation Contracts, where the National Enterprise of Petroleum (ENAP) can participate (or not) with the private enterprises interested in these kinds of contracts.

Chile is a net importer of hydrocarbons. Chile's economic policy entails liberty to invest, import and export solid, liquid and gas hydrocarbons.

The liquid hydrocarbons sector is formed by the National Petroleum Enterprise (ENAP) and branches that participate in petroleum exploration and exploitation, refining, storage services and transportation.

Chile has three oil refineries, all of which belong to ENAP and have a capacity of 32,600-m³/day. Besides this, there are six companies that distribute liquid fuels, six companies that distribute liquid gas, one company that distributes liquid fuels through pipes and a company that commercialises liquid gas.

The installation, operation and exploitation of electric distribution public service facilities may require a final concession granted by the Ministry of Economy and a provisional concession granted by the Superintendencia de Electricidad y Combustibles.

The use of street electricity lines and national public goods related to transport and distribution lines for electric energy that are not under a concession are subject to an authorisation granted by the corresponding municipality.

Environment services

Environmental services are completely open to competition for both national and foreign service providers. Investment projects and/or supply of services that may cause environmental impact must comply with the legal framework; inter alia, the Environment Law (LBMA, Law N°19, 300) and Environmental Impact Evaluation System Rules (SEIA) of CONAMA (Supreme Decree N° 30/98).

There are a few minor market access limitations (see www.siss.cl). Concessions to establish construct and work public services destined to produce and distribute potable water, and to collect and dispose waste water, will be granted to corporations only. These legal entities must be constituted under Chilean law for the exclusive purpose of rendering such services.

The Environmental Base Law (LBMA) and Environmental Impact Evaluation System Rules (SEIA) CONAMA (Supreme Decree N° 30/98) established that investment projects in Chile must be evaluated from the environmental point of view prior to their execution (See <http://www.cne.cl>, <http://www.minmineria.cl>, <http://www.enap.cl> and <http://www.conama.cl>.)

Education services

Under current regulations, for-profit foreign investment in education services may be licensed in a range of secondary and tertiary training activities.

There are few minor market access limitations.

- State universities, professional institutes and technical institutes can only be created by law.
- Private universities must follow an accreditation process under the Higher Education Council and must be constituted as non-profit institutions.

Currently, the Congress is analysing the Law Project on Education Quality Assessment from the Ministry of Education, which will assure that all higher education institutions comply with certain quality standards. This law will create a Coordination Committee with the purpose of information, licensing, institutional accreditation, and career and program accreditation.

Financial services

Chile signed the Fifth Protocol to the GATS on Financial Services, thus making market access and national treatment commitments in the banking, insurance and other financial services.

Foreign banking institutions may only operate through shareholdings in Chilean banks established as corporations, subsidiaries and branches. A representative office cannot supply banking services.

Banking establishments (including banks, subsidiaries and branches of foreign banks) are subject to the same capital requirements, credit limits, asset classification requirements, and transparency obligations. According to the General Banking Act, founding shareholders of a bank must meet the requirements of solvency and integrity. Minimum required paid-in capital is UF800 000 (approximately US\$22.3 million in March 2004).

The Chilean financial services sector is partially compartmentalised. Authorised institutions, domestic and foreign, may not encroach on the insurance and securities business and vice versa. However, subject to authorisation from the Superintendency of Banks and Financial Institutions, domestic and foreign banks operating in Chile may set up subsidiaries, with their own capital, to supply other financial services in addition to their main line of business.

Insurance

In Chile, there is a local presence requirement to provide financial services, with the exception of reinsurance activities.

The insurance business in Chile is divided into two groups: companies that ensure goods and property against the risk of loss or damage; and companies that provide personal insurance or guarantee (within or at the end of a certain term), a capital sum, a paid-up policy or an income for the insured or his beneficiaries. No insurance company may cover both categories of risk in its business. Credit insurance companies, even though classified in the first group, must be established as corporations with the sole purpose of covering this type of risk — that is, loss of or damage to the property of the insured as a result of the non-payment of a money debt or loan — being also permitted to cover guarantee and fidelity risks. The minimum required paid-in capital is UF90 000 (approximately US\$2.5 million in March 2004).

Banking services

The main business of banks is accepting or receiving money from the public on a regular basis and granting money credits represented by securities or negotiable instruments, or any other credit instrument.

Foreign banking institutions may only operate through shareholdings in Chilean banks established as corporations, subsidiaries and branches. They can also operate in Chile through a representative office, but such offices cannot supply banking services.

Health related and social services

Private health services are completely open to competition for both national and foreign services providers. The legal framework for these services is established in:

- Law No. 18,933 (1990); and
- Supreme Decree No. 570, which regulates services for persons with mental disabilities, including specific requirements related to the facilities in which these persons ought to be treated (2000).

Private Health Insurance Companies (ISAPRES) must be Chilean legal registered entities, with a minimum capital (subscribed and paid) of UF5000 (financial unit) expressed in Chilean pesos. It reflects the variation on the general level of prices (inflation). (Note: One UF equals to approximately US\$37)

Public health institutions for people with mental disabilities must be directed by a medical doctor of a state university. Further details are available at <http://www.sisp.cl>.

Recreational, cultural and sporting services

For the production and execution of pyrotechnical shows, the presence of at least an expert fireworks handler registered with the Direccion General shall be required.

Those who own guns, explosives or similar substances must register with the appropriate authority in its domicile, which submits a request to the Direccion General de Movilizacion, Ministerio de Defensa Nacional.

The Supervisory Authority (Autoridad Fiscalizadora) shall only authorise pyrotechnical shows if a report is available regarding the installation, development, and security measures for the show, which must be signed and approved by a fireworks programmer registered in the national registries of the Direccion General de Movilizacion Nacional or by a professional certified by said Direccion General.

Transport services

Maritime transport

International maritime transport operates on the basis of reciprocity.

The maritime transport services sector has been fully privatised with the exception of one state-owned TRANMARCHILAY, which operates solely in the fjords of Chile.

Cabotage is reserved to Chilean vessels. This is the transportation of passengers and cargo on seas, rivers and lakes between points on the national territory and between such points and naval artefacts installed in territorial waters or in the Exclusive Economic Zone.

Foreign merchant vessels may undertake cabotage when the cargo exceeds 900 tonnes and they have participated in a public tender, convened by the user with due anticipation. When the volume of cargo is equal to or less than 900 tonnes, and no vessels flying the Chilean flag are available, the Maritime Authority shall authorise the loading of that cargo onto foreign merchant vessels. The requirement that cabotage be carried out by Chilean vessels is not applicable to cargo from or bound for the province of Arica.

The Under-Secretary of Transportation regulates and surveys international transport and cabotage. The Merchant Marine Commission is in charge of ensuring that the principle of reciprocity is enforced. The General Directorate of the Marine Territory and Merchant Marine is in charge of safety at sea and grants licenses to crew members.

Foreign vessels shall be required to use pilotage, anchoring and harbour pilotage services when the maritime authorities require it. In tugging activities or other manoeuvres performed in Chilean ports, only tugboats flying the Chilean flag shall be used.

Ship Captains ('patron de nave') shall be Chilean nationals. The Ship Captain is the natural person who, pursuant to the corresponding title awarded by the Director, is empowered to exercise command on smaller vessels and on certain special larger vessels.

Only Chilean nationals shall be authorised to act as fishing boat captains, machinists, machine operators, sea-faring fishermen, small-scale fishermen, industrial or maritime trade technical employees or workers, and as industrial and general ship service crews on fishing factories or fishing boats.

Air transport services

Chile has negotiated many air transport agreements with many countries on the basis of reciprocity. The aim of these negotiations has been to obtain open sky agreements.

Only a Chilean natural or juridical person may register an aircraft in Chile. A juridical person must be constituted in Chile with principal domicile and real effective seat in Chile, with majority local ownership.

A foreign registered aircraft may not remain in Chile more than 30 days from its date of entry into Chile, unless authorised by the General Directorate of Civil Aeronautics (Dirección General de Aeronautica Civil www.dgac.cl).

Foreign aviation personnel shall be allowed to work in that capacity in Chile provided that the license or authorisation granted by a foreign country is validated by Chilean civil aviation authorities. A Chilean license and appropriate permits are required to enable them to perform aviation duties.

Rail transport services

The Public Concessions Law (N°19, 068) of the Ministry of Public Works (MOP) establishes a legal framework for the provision of concessions in railways, through contracts signed after a competitive bidding process. More details can be found at www.mop.cl.

The State Railways Enterprise (Empresa de Ferrocarriles del Estado, EFE) is an autonomous enterprise of the state, with its own capital. It is related to the government through the Ministry of Transport & Telecommunications. The EFE intends to establish, develop, maintain and exploit passenger transport services as well as railway cargo services, similar systems or complementary transport services (including all necessary related activities to fulfil its purposes). More details can be found at www.efc.cl.

Suppliers of services will be subject to evaluation by the Under-Secretary of Transport. There are no limitations to foreign capital entry in this sector. Investors must comply with all rules and regulations established on public tender basis and applicable laws. See Law 1157 (General Railways Law), Decree 900 (Concessions Law, MOP) and Organic Constitutional Law of EFE (DFL-1, 1992 & 1993).

There is no discrimination between foreign and local companies. The institutions in charge vary for each service.

Road transport services

There are no market access or national treatment limitations to international cargo or passenger land transportation in Chile. However, only companies with actual and effective domicile in Chile and organised under the laws of Chile, Argentina, Bolivia, Brazil, Peru, Uruguay or Paraguay can be authorised to provide international land transportation services between Chile and these countries. Furthermore, for foreign juridical persons to obtain an international land transport permit, more than 50 per cent of the corporate capital and effective control shall be held by nationals of Chile and these countries.

Ground transportation service providers must be registered in the National Registry (Registro Nacional) through an application submitted to the Regional Ministerial

Secretary for Transport & Telecommunications. In the case of urban services, the request must be submitted to the Regional Secretary of the area where the services are to be rendered and, in the case of rural and inter-city services, in the region where the applicant resides.

The main regulations are established in Supreme Decree 212 (1992); Decree 163 (1985); Supreme Decree 257 (1991); Law 18.290 (1984); Supreme Decree 485 (1960). More details can be found at www.mtt.cl/subtrans/leyes/buscador_leyes.htm.

Looking forward

Chile's openness to foreign service providers is extremely high: there are a few minor restrictions, and sectors that are perceived to be highly sensitive in other economies are completely open to foreign investment. The main area for action in the future will be reflecting this level of openness in the trade agreements that Chile is negotiating and amending. In general, this level of openness is already reflected in the Free Trade Agreements negotiated by Chile.

IV Investment

APEC objectives

APEC economies will achieve free and open investment in the Asia Pacific region by:

- liberalising their respective investment regimes and the overall APEC investment environment by, inter alia, progressively providing for MFN treatment and national treatment and ensuring transparency; and
- facilitating investment activities through, inter alia, technical assistance and cooperation.

Chile's investment regime is liberal, open and transparent. The constitution guarantees equal protection under law for all investors, national or foreign, and provides an assurance that all investors shall not be subject to arbitrary discrimination. Investors can also choose to enter into a binding contract with the state which constrains the government's ability to modify conditions of investment. Chile is seeking to cement its commitments to APEC principles for investment through agreements with trading partners. Chile proposes to examine any remaining limits to the application of these principles with a view to reducing them.

Chile's approach to investment

Chile has long maintained a liberal, open and transparent investment regime. The Chilean constitution guarantees equal protection under law for all investors, national or foreign, and provides an assurance that all investors shall not be subject to arbitrary discrimination. Private property rights are fully protected under the constitution, and property can only be expropriated pursuant to specific constitutional provisions. There are no economic activities reserved for the State, and the Constitution guarantees to all individuals, national or foreign the right to develop any economic activity, provided that applicable legislation is observed. As the IAP points out, Chile's investment regime provides for the entry of capital either through Chapter XIV of the Compendium of Foreign Exchange Regulations of the Central Bank or Decree Law N° 600. The Central Bank's Constitutional Organic Act allows it to impose foreign exchange restrictions on the inward and outward transfer of funds should considerations of currency stability or financing of balance of payments so require.

In addition, Chile has a special and voluntary regime established under Decree Law N° 600, under which investors can enter into a legally binding contract with the Chilean State which cannot be subsequently modified unilaterally by the State. The Law guarantees the investor the right to repatriate capital one year after its entry, and to remit profits at any time. Once all taxes are paid, investors are assured access to freely convertible foreign currency without any limits. Repatriation of invested capital (up to the amount of the original materialised investment) is free of tax, duty or charges. Regarding credits associated with a foreign investment under Decree Law N° 600, the general rules, interest and other aspects involved in the negotiation of foreign loans, as well as the surcharges on the total costs to be borne by the borrower for use of the foreign credits, including commissions, taxes and all expenses should be those currently authorised. Further, while the Law does not provide for tax breaks, it does allow investors to lock in the tax regime prevailing at the time of the investment. The authorities estimate that over 60 per cent of foreign investment into Chile takes advantage of the provisions of the Law.

In recent years, Chile has sought to cement its commitment to investment liberalisation by incorporating investment provisions in Free Trade Agreements which give effect to the key principles of national treatment, most favoured nation treatment, minimum standard of treatment, the absence of performance requirements, no restrictions on the appointment of senior management and directors, regulation of expropriation and compensations, and a possibility of resolving disputes by international arbitration. Chile has 51 bilateral investment agreements to promote and protect investment, of which 37 are currently in force.

Looking forward

The IAP indicates Chile's intention to examine any limits and exemptions to these principles, with a view to reducing them where appropriate. In particular, the Chile has expressed its willingness to undertake a full transparency exercise on the existing non-complying measures and, with some minor exceptions, to grandfather those measures. The IAP identifies specific area where measures may restrict the application of these principles: privatisation, aboriginal affairs, oceanfront land ownership, telecommunications, transport networks and services radio communications and submarine cables, fisheries, government finance (securities) minority affairs and social services.

V Standards and conformance

APEC objectives

APEC Economies will, in accordance with the Declaration on APEC Standards and Conformance Framework and with the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures attached to the WTO agreement:

- align their domestic standards with international standards;
- endeavour to actively participate in international standardisation activities;
- promote good regulatory practice for the preparation, adoption and application of technical regulations in the APEC region
- achieve recognition of conformity assessment including mutual recognition arrangements in regulated and voluntary sectors
- promote cooperation for technical infrastructure development to facilitate broad participation in mutual recognition arrangements in both regulated and voluntary sectors; and
- ensure the transparency of the standards and conformity assessment of APEC economies.

Chile's approach to standards and conformance reflects its broader commitment to minimise interference with the operations of the market, and to pursuing consistency with international standards and transparency of government processes. Chile has legislated new procedures for the development of technical regulations that significantly improve transparency and assessment of impacts. Chile continues to lock in its commitment to good practice by including commitments on standards and conformance in its trade agreements with regional and international partners (including many APEC economies),

Chile's approach to standards and conformance

Chile's approach to the preparation, adoption and application of standards, technical regulations and conformity assessment procedures is based on principles of: non-interference with the free operation of markets and freedom of trade; non-discriminatory treatment between domestic and foreign products; the use of international standards as a basis for national standards, when possible; and transparency.

Chile signed the Agreement on Technical Barriers to Trade resulting from the Tokyo Round in 1980, and the WTO Agreement on Technical Barriers to Trade came into force as law in Chile in May 1995. In 1997, the Government established the National Commission on Technical Barriers to Trade (TBT) to coordinate across the agencies that issue technical standards and regulations to improve enforcement of the TBT agreement and to promote a national quality system for the economy. In 2004, the Government passed into law new procedures developed through the Commission to improve transparency and stakeholder participation in the development of technical regulations (Decree 77/2004). These procedures mandated a 60 day period of public consultation, and involved some improved impact assessment requirements. Chile is now working to establish a public-private National Commission on TBT.

Chile's policy is to use international standards wherever possible. Decree 77/2004 explicitly requires that standards must be based on the relevant international standard, or if this is not possible on the relevant regional standard. There are some cases, such as seismic designs and structures, where international standards are considered to be inadequate for national circumstances.

Chile has no mutual recognition arrangements for accreditation with respect to voluntary standards. However, the National Standardisation Institute (INN), the main body in charge of the preparation of voluntary standards is working on international recognition for testing and calibration laboratories, quality certification bodies and environmental management systems. On completion of this work, INN will request peer review for the Mutual Recognition Agreement on product certification bodies.

In Chile's successful horticulture sector, private initiative has played a pivotal role in the adoption of voluntary standards to meet environmental and food safety requirements in importing economies. In the fruit industry, industry associations and not-for-profit private agencies have driven the adoption of a Good Agricultural Practice program to meet requirements in the European and United States markets. They have also developed a Chilean standard (ChileGAP) incorporating the main elements of Europe's EurepGAP and the United States' PROSAFE. ChileGAP has been benchmarked by EurepGAP and a US firm certified by PROSAFE, so that fruit complying with ChileGAP are also deemed to meet the requirements of these key markets. The Government played a small but direct supportive role, helping with

development of norms and regulations where required, providing information about imported chemicals, and helping small producers share in the benefits of the growth of exports which compliance with GAP has facilitated (OECD 2007).

In the area of mandatory technical regulations, Chile participates in a number of recognition arrangements, including Part I of the APEC MRA on Conformity Assessment of Electrical and Electronic Equipment (EEMRA) and the Arrangement for Exchange of Information in Toys Safety. Chile is assessing legislative requirements with regard to participating in Parts II and III of EEMRA. The Superintendence of Electricity and Fuels recognises test results and certification issues by organisations in a number of North American and European economies, and there are recognition agreements pertaining to exports of Chilean fishery, agriculture and cattle product into selected trade partners. In addition, Chile is evaluating its participation in the Sectoral Food MRA of APEC. (Chile has participated in or attended a number of APEC sponsored meeting and seminars.)

Chile has actively pursued international cooperation opportunities to assist in building technical infrastructure, particularly with respect to development of its National Metrology Network and accreditation system.

All Chilean standards are made publicly available through a Library and a website maintained by a documentation centre operated by INN (www.inn.cl); and all technical regulations and conformity assessment procedures on products are available at a single web site: www.reglamentostecnicos.cl.

Chile has also sought to further its pursuit of the principles underlying APEC's approach to standards and conformance by incorporating commitments in regional and bilateral trade agreements. A number of these agreements, for example with the United States, Korea, P4 (Brunei, New Zealand and Singapore), China, Peru and Japan, and the recently signed agreement with Australia, have chapters on TBT, and other agreements with regional partners include commitments on standards issues.

Looking forward

Chile is planning to create a public-private National Commission on TBT. It will also seek a peer review for the MRA on product certification bodies, and INN plans to become a signatory to a number of plurilateral recognition arrangements, including IAAC, ILAC and IAF. Chile is also continuing to expand its metrology infrastructure with additional physics and chemical laboratories. Chile also plans to further improve the website which presents all Chilean technical regulations and conformity assessment procedures and related information. Chile also expects to have chapters on TBT and SPS in the trade agreements it is negotiating with Malaysia and Vietnam, and is considering developing some recognition arrangements under its agreement with China.

VI *Customs procedures*

APEC objectives

APEC economies will facilitate trade in the Asia Pacific region by:

- simplifying and harmonising customs procedures
- encouraging the use of technologies and e-commerce as productivity tools in keeping with the developments of the new economy, and
- enhancing cross-border cooperation in the movement of goods and services to counter terrorism.

Chile had already implemented a significant range of APEC's collective action priorities in 1996. Since then it has moved to implement most of the outstanding actions.

Chile's approach to customs procedures

Chile has been continuously working to streamline and improve the transparency of customs procedures. There have been considerable refinements to the system for electronic processing of customs declarations: the Integrated System of Customs Operation allows declarations with respect to air, courier, land and sea cargo through the internet, and in the system for identifying high risk goods. The Customs authorities introduced an advance publication procedure in 2007, in which all proposed regulations are published on the Customs website for comment prior to coming into force (The website presents a range of relevant information in English as well as Spanish, and was reconstructed in 2007.)

Since the last IAP, Chile has: incorporated the ATA convention to provide for temporary importation into the customs legislation, become a contracting party to the Harmonised System Convention and incorporated the HS 2007 notation in its legislation. While Chile has not adopted the Principles of the Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, it has confirmed that its principles are included in existing national provisions. Chile has also implemented laws and customs resolutions to ensure implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). With respect to implementation of WCO Guidelines on Express Consignment Clearance, Chile has been further refining regulations for the sector, and implemented new Courier rules in January 2008 to simplify the system, fulfil some trade agreement obligations, improve enforcement and reduce operational costs. And Chile has implemented an advance classification ruling system, incorporating relevant rules into its trade agreements with the United States, Korea, China, Japan, New Zealand, Singapore and Brunei, and in the agreement with Panama which entered into force on January 14 2008. (Official Gazette Decree 25).

Chile implemented the WTO Agreement on Customs Valuation in 2002, and continues to take advantage of international training opportunities with respect to customs valuation.

Looking forward

Chile Customs is working on implementing WCO Guidelines on Authorised Economic Operators, and will continue to improve its risk management systems and the website used to provide customs information to traders.

VII Intellectual property rights (IPRs)

APEC objectives

APEC economies will:

- in conformance with the principles of the TRIPS Agreement:
 - ensure adequate and effective protection, including legislation, administration and enforcement of intellectual property rights,
 - foster harmonization of intellectual property rights systems in the APEC region, promote transparency strengthen public awareness activities,
 - strengthen public awareness activities, and
 - promote dialogue on emerging intellectual property policy issues; with a view to further improve intellectual property rights protection and use of the intellectual property rights systems for the social and economic benefit of members.
- address the challenges for intellectual property rights arising from the rapid growth and developments of the New Economy by:
 - establishing legal frameworks to promote creative endeavour and encourage on-line activity.

Chile has strengthened its intellectual property system through amendments to key laws that seek to improve the capacity of public institutions and to increase levels of protection for IPRs in a manner consistent with the principles of the TRIPS Agreement. In addition, it has created a specialised unit to investigate IPR infringements, and has ratified additional IPR conventions.

Chile's approach to intellectual property rights from 2004 to 2008

During the past 5 years legal, Chile has been implementing a range of administrative and institutional reforms, with the result that Chile now fulfils the standards of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS

Agreement) of the World Trade Organization (WTO) and also the standards of the major World Intellectual Property Organization (WIPO) treaties.

Chile is member of the following multilateral intellectual property agreements: Berne Convention for the Protection of Literary and Artistic Works (Paris Act); Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations; Convention Establishing the World Intellectual Property Organization; Paris Convention for the Protection of Industrial Property (Stockholm Act); TRIPS Agreement of the WTO; Convention for the Protection of New Varieties of Plants (UPOV 1978); WIPO Copyright Treaty; WIPO Performances and Phonograms Treaty.

Recently, a new institutional framework for industrial property administration was established (Law N°20,254, 14 April 2008). The refurbished National Institute of Industrial Property (INAPI) will have greater human and financial resources than the registry it supercedes. This will facilitate improved registry services and expand INAPI's ability to promote the understanding and use of industrial property rights and to conduct capacity building activities.

In November 2003 the Miscellaneous Law to implement specific World Trade Organization provisions, Law 19,912 was enacted. This law introduced border measures for the suspension of release into the channels of commerce of goods suspected of infringements of IPR granted in accordance with the Industrial Property Act and the Copyright and Related Rights Act. These border measures are applicable to importation and exportation, as well as to transit of suspected goods. Additionally, this law authorizes custom agencies to adopt actions ex officio in cases related to suspected counterfeit trademarks or pirated copyright goods.

In 2005, Law 19,996 enacted the widest and most significant amendment to the industrial property law (Law N° 19,039) since its entry into force in 1991. The amendment implemented pending commitments under the TRIPS Agreement and simultaneously incorporated provisions to protect non-disclosed information of pharmaceutical and agrochemical products. In addition, it introduced a special registry for geographical indications and appellations of origin, rules for damages appreciation related to industrial property infringements and new civil actions and precautionary measures that provide right holders more tools to protect their rights in Court (through the most expeditious procedure in the Chilean civil legislation). In 2007, the Industrial Property Act was amended once again by Law N° 20,160. This revision recognised and protected sound, collective and certification trademarks marks, and introduced a patent term extension to compensate for unjustified delays in the granting process.

In 2007, a bill to amend the Copyright and Related Rights Act, Law N° 17.336, was submitted to the Chilean Congress. The amendments seek to provide new civil and criminal actions related to IPR infringements, as well as to strengthen associated

penalties. They also adopt specific provisions related to Internet Service Providers' liability, and establish new exceptions and limitations to copyright and related rights in order to ensure proper balance between stakeholders. The referred bill constitutes a thorough revision of the Copyright and Related Rights Act and is still under parliamentary discussion. The bill has been approved by the Chilean House of Representatives and is currently being discussed by the Chilean Senate.

In early 2008 Chilean Police created a new specialized unit (BRIDEPI) devoted to investigating and prosecuting intellectual property infringements. This new unit is in charge of all issues related to piracy and crimes linked to industrial and intellectual property. One of the goals of BRIDEPI is to identify and disarticulate any criminal organisation related to piracy, counterfeit and related crimes. This improvement in the Chilean system for IPR enforcement complements a number of other initiatives being pursued by other Chilean agencies, such as the Chilean National Customs Service and the Office of the National Prosecutor. The creation of a specialized unit exclusively devoted to investigate every Intellectual or Industry Property Rights infractions is expected to become a cornerstone of the Chilean national system for IPR enforcement.

Chile's trade agreements with the United States, the European Union, South Korea, Central American countries, Mexico, Canada, Japan, China, New Zealand, Singapore, Brunei and EFTA have components dealing with IPR standards. These components stress the economy's commitment to the protection of IP rights, and to maintaining an equal balance between the interests of right holders and society at large.

Looking forward

Chile is in the process of acceding to additional multilateral intellectual property treaties such as the Patent Cooperation Treaty. Furthermore, Chile is in the early stages of accession to further agreements such as the Convention for the Protection of New Varieties of Plants (1991); the Budapest Treaty on International Recognition of the Deposit of Microorganisms for Purposes of Patent Procedures; the Trademark Law Treaty; and the Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite.

Furthermore, Chile intends to cooperate with international organisations such as WIPO, the WTO or the World Health Organization (WHO) in the development of programs and seminars for public education and awareness related to IP.

VIII *Competition policy*

APEC objectives

APEC economies will enhance the competitive environment to increase consumer welfare in the Asia Pacific region, taking into account the benefits and challenges of globalisation, developments in the New Economy and the need to bridge the digital divide through better access to ICT, by:

- introducing or maintaining effective and adequate competition policy and/or laws and associated enforcement policies;
- promoting cooperation among APEC economies, thereby maximising, inter alia, the efficient operation of markets, cooperation among producers and traders and consumer benefits; and
- improving the ability of competition authorities, through enhance capacity building and technical assistance, to better understand the impact of globalisation.

Chile has complemented its policy of exposing domestic producers of goods and services to international competition with a robust framework to defend competition and take action against anticompetitive conduct. Chile's competition law applies to sectoral regulators and other parts of Government, as well as private entities, so helps to ensure that Government policies and practices do not unnecessarily restrict competition.

Chile's approach to competition policy

Chile's long-established commitment to openness with respect to international trade and investment has provided a key lever to ensuring competition in the domestic market and associated benefits to consumers and the economy overall. This overall approach is complemented by a legal and institutional framework to defend free competition and to prevent and take action against anticompetitive conduct by any individual or enterprise (regardless of ownership).

The legal basis for Chile's competition policy was established with Decree Law N° 211 of 1973, (amended in 1980 by Decree N° 511). The Law created the National Economic Prosecutor's Office (FNE) as the enforcement agency, and regional and central Preventative Commissions and a Resolutive Commission which supervised the application of the Law and the operation of the Preventative Commissions. The law was subject to important revisions in 2003, which replaced the Commissions with an independent Competition Tribunal.

The Tribunal has judicial powers, and has five members. Its President, who must be a lawyer, is appointed by the President from nominees proposed by the Supreme Courts through public competition. The other members (two lawyers and two

economists) are either chosen directly by or selected by the President from nominations from the Central Bank identified by public competition.

The Law identifies a comprehensive range of prohibited anticompetitive behaviours, including horizontal and vertical restraints, abuse of dominant position and anticompetitive mergers. Its norms apply to anticompetitive behaviour that takes place outside of Chile which has domestic repercussions. An important feature of the Law is that it can be applied to sectoral regulators or other parts of Government. Further, the Law does not have any express exclusions for conduct that is required by law, including private action that is authorised by government regulation or official decisions. While statutory monopolies do exist, and some laws do create exclusive rights, abuse of these rights is still subject to the Competition Law.

The current arrangements do not provide for mandatory notification or consultation on mergers and acquisitions, but FNE is empowered to petition the competition Tribunal to prohibit a merger. FNE has released its guidelines for the analysis of horizontal concentration operations, and most mergers and acquisitions do seek approval from the Tribunal.

Looking forward

The Government has recently submitted a bill to Congress for further revisions to the law, including re-introduction of criminal sanctions (removed in the 2003 amendments to address a concern that competition cases might be heard by criminal judges with no experience in competition law), to strengthen the judicial independence of the Competition court and to enhance FNE's powers to gather information.

Chile is also keen to include a comprehensive competition policy chapter in all trade agreements that it negotiates.

IX Government procurement

APEC objectives

APEC economies will:

- develop a common understanding on government procurement policies and systems, as well as on each APEC economy's government procurement practices;
- achieve liberalisation of government procurement markets throughout the Asia Pacific region in accordance with the principles and objectives of the Bogor Declaration, contributing in the process to the evolution of work on government procurement in other multilateral fora;
- increase the use of electronic means to conduct government procurement and in so doing seek to promote the uptake of e-commerce more broadly; and
- implement and maintain standards consistent with the APEC Leaders' Transparency Standards.

Chile has an internationally recognised e-commerce platform that provides the backbone of the government procurement system, and has in the last five years introduced a stronger legal framework for public procurement.

Chile's approach to government procurement

Chile's public procurement system is regulated by the Procurement Law N° 19.886, enacted on July 2003. The Procurement Law provides the contractual framework for the purchase of goods and services and establishes the electronic procurement platform named 'Chile Compras' for all public agencies, regional and provincial governments, municipalities, armed forces and the justice sector. The procurement of public works and concessions continues to be ruled by existing and independent regulations.

The new rules on public procurement are based on the following strategic orientations.

- Open market: the system is transparent, promoting equal opportunities with no restrictions.
- Open tendering: this is the default procedure for tendering.
- The use of the electronic system is compulsory for all public entities.
- The use and operation of the system is free and non-discriminatory.
- Support and permanent training to public entities.

- Flexible legal framework: law with general rules and principles, complemented by robust regulations that cover specific issues, with a uniform ruling for all public entities.
- Autonomy and responsibility of all public entities in the procurement process.

Chile has an e-commerce platform called ChileCompra (www.chilecompra.cl), a virtual marketplace where demand meets supply with low transaction costs and high levels of transparency. This tool, designed to do business with the state, constitutes the backbone of the reformed public procurement system. Use of this platform replaces traditional one-to-one relationships, and encompasses solutions to communications, work and common forms.

In 2006, ChileCompra consolidated its operation, with:

- US\$3.5 billion traded;
- 460 000 business opportunities published;
- 1.23 million purchasing orders;
- US\$205 million traded and 180 000 purchasing orders by ChileCompra Express (e-catalogue);
- 900 purchasing entities registered;
- 65 000 suppliers sending offers;
- 43 000 suppliers awarded; and
- 1 145 million monthly average visits to ChileCompra.

In 2007, ChileCompra consolidated its operation, with:

- US\$4.5 billion traded
- 450 023 business opportunities published
- 1 491 054 purchasing orders
- US\$446 millions traded
- 285 000 purchasing orders by ChileCompra Express (e-catalogue).

During 2007, public agencies issued 1,491,054 purchase orders using the ChileCompra system, a 21 per cent increase from 2006.

ChileCompra has also received many national and international awards as a result of its support to transparency and efficiency in public procurement, such as:

- United Nations Public Service Awards 2007, in the category: 'Improving Transparency, Accountability, and Responsiveness in the Public Service';
- Excel GOB Award 2007, for transparency in electronic government, from the Latin American and the Caribbean Electronic Government Leaders' Network (RED GEALC); and
- Best Probity Practices Award 2007, from the Chilean Government.

Looking forward

Chile is well prepared to further improve transparency and widen access to government procurement information, to enhance value for money, to facilitate open and effective competition, and to institute accountability and due process. The highlights of the planned efforts include: the National Electronic Registry of Suppliers' expansion of 'Programa Acceso' to new regions and cities, improvements in 'Probidad Activa' (Active Probity), and achieving 100 per cent procurement through the ChileCompra System Platform.

*X Deregulation/regulatory review***APEC objectives**

APEC economies will facilitate free and open trade and investment in the Asia Pacific region by, inter alia:

- enhancing the transparency of regulatory regimes; and
- eliminating domestic regulations that may distort or restrict trade, investment or competition and are not necessary to achieve a legitimate objective.

Chile has been a leader amongst developing economies in opening up the financial sector, network industries and infrastructure to competition and private participation. It is now working on major reforms to the pension system to raise benefits, increase returns to saving and encourage participation in the formal labour market.

Chile's approach to deregulation and regulatory review

Chile's constitutional commitment to free and open markets has been reflected in its approach to privatisation, deregulation, and ongoing review and reforms of the regulatory environment. Most public utilities have been deregulated and privatised, and Chile has been actively developing and refining its pro-competitive regulatory framework to encourage private investment in all forms of infrastructure and service delivery (frequently through a system of concessions). In general, there are no direct barriers to private investment that arise from regulatory regimes, such regulations as are in place are primarily concerned to improve competition, avoid distortions to free and open trade and investment, and to ensure that prudential requirements are met and that monopoly powers are not abused.

Chile has had three major rounds of privatisation that were at the forefront of its transition from an economy with extensive state intervention. The banking and manufacturing sectors were privatised in the 1970s, telecommunications, electricity

and steel in late 1980s; and air and railroad transportation, mining and electricity in the 1990s.

Currently, all electricity utilities are in private hands, and the process of transferring water utilities to private investors (through auctions of fixed term concessions) was completed in 2004 (one small company remains in the public sector). Telecommunications have been fully privatised – Chile was, in fact, one of the first economies in the world to liberalise telecoms, and most of Chile’s transport sector is in private hands (Chile also operates, on a reciprocal basis, an open skies policy with respect to air transport).

Chile’s privatisation initiatives have been accompanied by deep changes in the legal and regulatory framework. One stream of these changes has been the development of the legal and institutional framework for pursuit of competition policy objectives. Another has been the changes undertaken to ensure efficient regulation of natural and state sanctioned monopolies. This has involved progressive changes starting in the 1970s, and involved: elimination of price fixation and controls, and creation of a Consumers’ National Service to replace the body that was formerly responsible for price controls; elimination of legal restrictions to investment and enterprise operation; liberalisation of entry and competition by international suppliers; and creation of the concession and price regulation regimes for electricity, telecommunications, water and infrastructure services.

Chile’s reform of regulation of network industries has attracted considerable interest around the world. It was guided by three key principles (Galetovic and de Mello, 2005).

- Price should reflect social opportunity costs:
 - where competition is feasible, the market should be liberalised; and
 - where competition is not feasible, prices should be regulated to emulate competition using the so-called ‘efficient firm’ standard.
- Utility providers should be privatised or face a hard budget constraint and have tariffs that cover costs.
- Access of the needy to services should be met by means-tested transfers rather than price subsidies.

Chile’s concern to minimise unwarranted regulatory constraints on competition and market operations is also reflected in the 2004 decree on technical regulations (Decree 77/2004), which established that technical regulations must not restrain trade more than is necessary to achieve legitimate objectives and must treat imported and locally produced products the same. It also requires that new regulations must be accompanied by descriptions of their potential impact on the domestic market, including costs of implementation and compliance.

Looking forward

Chile plans to continue reviewing all regulatory frameworks to make them more pro-competitive, and will continue to share its experiences on the APEC deregulation website. It also plans to develop regulation of unbundling and resale in the telecommunications sector, and to develop appropriate regulations for IP telephony. It is also working on additional capital market reforms to, among other things, improve access to the local market for foreign institutional investors, and improve laws regulating private sector corporate governance. And a further major reform is to the pension system, to extend a safety net while retaining the essentially privatised management of the pension system, promote gender equity, increased investor flexibility for pension funds and increase competition in the account management industry.

XI *Implementation of WTO obligations and rules of origin***APEC objectives**

APEC economies will:

- ensure full and effective implementation of Uruguay Round outcomes within the agreed timeframe in a manner fully consistent with the letter and the spirit of the WTO Agreement.

On rules of origin (ROOs), APEC economies will:

- ensure full compliance with internationally harmonized rules of origin to be adopted in relevant international fora; and
- ensure that their respective rules of origin are prepared and applied in an impartial, transparent and neutral manner.

The IAP indicates that Chile has fully implemented all of its WTO obligations, and that no further action is required

Chile's approach to the implementation of WTO obligations (including ROOs)

Chile ratified the Uruguay Round agreements and became a founding member of the WTO on January 1, 1995. Since then, Chile has introduced several adjustments to its legislation in order to make it fully compatible with Chile's WTO commitments, including the new Law No19.039, and the Omnibus Bill.

Chile has fully implemented all its WTO obligations contained in Annex 1A (Goods) and Annex 1B (Services) or what is referred to as GATS, Annex IC (IPR) and Rules of Origin.

On the WTO plurilateral agreements, Chile is not a member, and no further implementation is planned.

XII Dispute mediation

APEC objectives

APEC economies will

- encourage members to address disputes cooperatively at an early stage with a view to resolving their differences in a manner that will help avoid confrontation and escalation, without prejudice to rights and obligations under the WTO Agreement and other international agreements, and without duplicating or detracting from WTO dispute settlement procedures;
- facilitate and encourage the use of procedures for the timely and effective resolution of disputes between private entities and governments, and disputes between private parties in the Asia Pacific region; and
- ensure increased transparency of government laws, regulations and administrative procedures with a view to reducing and avoiding disputes regarding trade and investment matters in order to promote a secure and predictable business environment.

Chile has constitutional guarantees of rights to appeal against arbitrary actions of the administration, and Chile is a party to key international agreements on dispute settlement, and is building mechanism for settling disputes in the network of trade agreements that it is becoming party to.

Chile's approach to dispute mediation

Chile's constitution creates a legal right of action to any juridical or natural person affected by any arbitrary measures against the constitutional guarantees adopted by any administrative authority. Article 19 No. 14 of the Constitution establishes 'the right of petition' guaranteeing a full access to Chilean administrative authorities. In addition, there are legal remedies available to foreign investors contest discriminatory legal provisions. The Constitutional Organic Central Bank Law establishes a resource to attack the measures adopted by the Central Bank before the Court of Appeals. Also, the Decree Law 600, Foreign Investment Statute grants that any foreign investor who has invested through the Decree Law 600 mechanism or any recipient enterprise of an investment made through this law, may request that the Foreign Investment Committee, take the appropriate administrative measures to eliminate discriminatory legal provisions.

Disputes between governments have been managed through the following methods.

- Instituting dispute settlement chapters in Free Trade Agreements (FTAs).
 - Chile has entered into FTAs with member economies such as Canada, Korea, Mexico, the United States, and Peru. The FTA with Peru was signed on 22 August 2006, which replaced the Economic Complementary Agreement of 1988.
 - Chile recently enacted a Free Trade Agreement with China (on 1 October 2006), the Trans-Pacific Strategic Economic Partnership with Brunei Darussalam, New Zealand and Singapore (also known as 'P4', enacted on 8 November 2006) and an FTA with Japan in March 2007.
 - The FTA between Chile and the US has special rules on environment-related and labour-issue-related disputes (chapters 18 and 19).
- Adhering to WTO Dispute Settlement Procedures, Chile reserved its right to participate in the following WTO panel proceedings as a third party.
 - United States – Anti-Dumping Measure on Shrimp from Ecuador.
 - United States – Anti-Dumping Measure on Stainless Steel from Mexico.
 - India – Additional and Extra-additional Duties on Imports from the United States (wines and distilled products).
- Utilising diplomatic or commercial consultations.
- Subscribing to Bilateral Investment Promotion and Protection Agreements (BITs), which contain dispute settlement provisions.
- Subscribing to other agreements that contain dispute settlement provisions.
 - Chile has subscribed to the Multilateral Agreement on the Liberalisation of International Air Transportation in the framework of APEC.
 - Chile has also subscribed to the air transportation agreements with Mexico, New Zealand, Korea, Russia and China.

Disputes between governments and private entities have been managed using the following methods.

- Subscribing to international conventions.
 - Chile is party to the International Convention for Settlement of Investment Disputes between States and Nationals of other States (ICSID) and a member of the Multilateral Investment Guarantee Agency (MIGA).
 - Chile is also party to the InterAmerican Convention on International Commercial Arbitration of 1975 (Panama Convention) in the context of the Organisation of American States (OAS).
- Building into FTA Provisions.
 - Chile adheres to investment chapters in the FTAs with member economies such as Canada, Korea and Mexico.

- Furthermore, the FTA with the US contains dispute settlement rules between governments and private entities.
- Signing Bilateral Agreements. Chile has signed BITs with some APEC member economies (see Chile's IAP Investment – General Annex (XX)) and Latin America. These agreements and the Chilean policy establish a dispute settlement procedure between private parties and governments.

Disputes between private parties are managed in accordance with the following.

- An Arbitration and Mediation Center was established in the Santiago Chamber of Commerce to facilitate the settlement of commercial disputes between private parties. It is also part of the 'Chilean Chapter' of the International Chamber of Commerce (CCI).
- The new law on International Commercial Arbitration (Law N°19.971) in 2007 establishes a new legal framework for international private disputes following the UNCITRAL model.

Ensuring transparency

All Chilean laws and regulations including those related to dispute mediation are published in the Chilean Official Gazette. An updated version of all Chilean legislation and draft laws is available through Chilean Congress database.

Article 19 N° 14 of the Constitution establishes 'the right of petition', guaranteeing full access to Chilean administrative authorities.

Looking forward

Chile expects to continue building in provisions with FTAs partners on the issue of dispute mediation in the future.

XIII Mobility of business people

APEC objectives

APEC economies will

- enhance the mobility of business people who are engaged in the conduct of trade and investment activities in the Asia Pacific region; and
- enhance the use of information and communication technology (ICT) to facilitate the movement of people across borders, taking into account the Leader's Statement on Counter Terrorism.

Chile has been active in promoting the ABTC, and is committed to participating in multilateral efforts to establish common criteria for visa regimes and consulting with the business community to facilitate mobility to support open trade and investment.

Chile's approach to mobility of business people

Regulatory regime

Chilean migration laws are contained in Decree Law No. 1094 (1975) on foreign citizens and regulations are established in Executive Decree No. 597 (1984). The requirements for short-term visas and temporary residences are provided on the Business Mobility Group website in the Travel Handbook. Chile holds visa waiver arrangements with the following APEC economies: Australia, Brunei Darussalam, Canada, Hong Kong China, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Peru, Singapore, Thailand, and the United States.

Implementation of APEC Leaders' Transparency Standards on Business Mobility

Regulations on immigration are included in a government website:
www.extranjeria.gov.cl.

- Verification of application status: www.//consultas.extranjeria.gov.cl.
- Requirements and application forms: www.extranjeria.gov.cl.

Short-term business entry

There are two parallel categories:

- procedures for short-term visas (Tourist Visa); and
- procedure for mid-term visas (Temporary Resident Visa):
 - additionally, implementation of APEC Business Travel Card (ABTC) – in 1998 Chile joined the ABTC pilot project and, as of August 1998, Chile acceded to the ABTC scheme on a permanent basis, which is manifested in the Exempt Decree No1101 (1999) and Exempt Decree N° 1477 (2000). Chile's National Chambers of Commerce are in charge of qualifying business persons for the ABTC.

Business temporary entry

Chile has incorporated a chapter on 'Temporary Entry for Business Persons' in the FTAs to which it has become a party. Chile is to enhance and streamline application and processing procedures for temporary residency for business people (intra-company transfers of executives and managers and specialists) on a best endeavours basis and in accordance with internal legislation.

Chile is meeting the 30 days service standard through overseas Chilean Consulates and Department of Migration in Chile.

Technical cooperation and training

Chile has participated in technical assistance and training in visa and border management systems by the Technical Cooperation Groups within APEC. Specifically, Chile received adulterated documentation training by the US between 1999 and 2004. In 2005, US Customs and Border Protection experts conducted technical training on the use of CAPERS in Santiago, Chile.

Chile's efforts in promoting mobility of business people are commendable.

Looking forward

In the future, Chile plans to enhance and streamline the application and processing procedures for Intra company transferees and specialists who apply for temporary residency in Chile, while continuing to promote the ABTC scheme among Chilean business persons.

XIV FTAs/RTAs

Free and regional trade agreements are now a key vehicle for Chile to lock in and extend its already exceptionally liberal approach to trade and investment. Chile's active FTA/RTA policy is indicative overall of its strong advocacy of economic liberalisation within all regional and multilateral economic fora in which it participates. It forms a crucially important part of the economy's multi-track approach to advancing trade and investment liberalisation in the Asia-Pacific and beyond.

Chile's approach to FTAs/RTAs

Chile has signed more Free Trade Agreements (FTAs) and Regional Trade Agreements (RTAs) than any other APEC member economy, with the possible exception of Mexico. Chile's 19 agreements signed to date cover 56 trading partner nations and more than 85 percent of the economy's total trade. Consequently, a good majority of its international trade and foreign investment is governed by its FTA/RTA determined trade rules and regimes. In the initial phase of its FTA/RTA policy, Chile signed a number of so called Economic Complementation Agreements (ECAs) with neighbouring Latin American countries from the early 1990s onwards (table 16).

Chile's ECAs aimed to 'establish an economic zone extended between two countries, to intensify the economic and commercial relations, and to stimulate the investments', as well as establish 'a juridical frame for the development of an economic cooperation in areas of mutual interest', and formed part of a semi-

16 Chile's trade agreements

<i>Type of agreement</i>	<i>Economy</i>	<i>Year of signing</i>
Economic Complementation Agreement	Argentina	1990
	Mexico	1991
	Bolivia	1993 (entry into force)
	Venezuela	1993
	Colombia	1994
	Ecuador	1995
	MERCOSUR group	1996
	Peru	1998
	Cuba	1998
Free Trade Agreement with APEC economies	Canada	1997
	Mexico	1999
	Korea	2004
	United States	2004
	Singapore, New Zealand and Brunei (Pacific-4)	2005
	China	2006
	Japan	2007
Free Trade Agreement with non-APEC economies	Central American Common Market (CACM) group	2002
	European Union	2003
	European Free Trade Area	2004

coordinated network of like agreements amongst Latin American countries. Starting with partial trade liberalisation coverage, they gradually expanded to cover relatively wide-ranging liberalisation in goods trade but still lack the breadth of Chile's more recently signed FTAs. According to officials of the General Directorate of International Economic Affairs (DIRECON) at the Ministry of Foreign Affairs, these ECAs are essentially goods agreements, although those with Ecuador, Peru and Columbia have been negotiated as comprehensive agreements including other trade disciplines. Chile is currently involved in services negotiations with Mercosur.

Chile was at the forefront of the wider Asia Pacific's new FTA trend that took off from the late 1990s onwards. A number of FTAs have been signed with other APEC member economies during this period (table 16) and negotiations have recently been completed on an agreement with Australia. Chile has also signed FTAs with non-APEC economies such as members of the Central American Common Market (CACM) group, the European Union and states of the European Free Trade Agreement

In addition, Chile has a preferential trade agreement with India (entered into force in August 2007), and with Panama (January 2008) Chile is currently negotiating FTAs with Malaysia, Vietnam and Thailand. Furthermore, it has promoted the development of both the Free Trade Area of the Americas (FTAA) and Free Trade Area of the Asia Pacific (FTAAP) regional trade initiatives.

Chile's active FTA/RTA policy is indicative overall of its strong advocacy of economic liberalisation within all regional and multilateral economic fora in which it participates. It forms a crucially important part of the economy's multi-track

approach to advancing trade and investment liberalisation in the Asia Pacific and beyond.

APEC model measures on FTA/RTA practice

With Asia Pacific trade now governed by an expanding number of different FTA/RTA arrangements, APEC has sought to establish some degree of harmonised or congruent FTA/RTA practice amongst its member economies through the adoption of 'model measures'. The following paragraphs assess the FTA/RTA chapter of Chile's IAP across the ten model measures agreed to date.

Trade in goods

Chile has sought comprehensive coverage in terms of trade liberalisation in FTA/RTA negotiations, thus seeking to minimise the trade diversion and maximise the trade creation effects of its agreements. However, comprehensive liberalisation in these agreements has often proved difficult to achieve with FTA partners that retain relatively protectionist trade policies on agriculture. Around a third of Chile's exports are farm products. Regarding its main Western trade partners, both the EU and United States have offered immediate tariff liberalisation on a large majority of product lines, although long tariff liberalisation phase-ins and tariff quota arrangements also apply in these cases on sensitive product lines.

The FTA with South Korea was the rare exception where Chile sought to exempt certain manufacturing sectors (refrigerators and washing machines) from MFN tariff liberalisation, and this being based on infant industry arguments. These sectors have in the meantime prospered, assisted by joint ventures with foreign partner firms.

With no stated plans to reduce its MFN tariff rate further, Chile is looking to achieve its Bogor Goals primarily through its FTA/RTA policy.

Technical barriers to trade (TBTs)

Most of Chile's agreements note that their TBT provisions will be 'governed by each party's rights under the WTO'. Many go into a great amount of detail concerning how the agreement will address TBT issues. A few elaborate on 'cooperation, technical assistance and capacity-building' (from APEC's 2006 model measures document) aspects. According to Chilean government officials, close cooperation in this area has been particularly achieved in FTAs with the United States, Pacific-4 countries, EFTA and especially the EU. Under the Chile-EU agreement, both sides have developed a website 'portal' that provides information for firms on how to comply with technical standards in the Chilean and EU market. According to the same officials, this has proved very popular with Chilean companies, and is perhaps an area of best practice for other APEC member economies to consider.

Transparency

Transparency related issues are explicitly covered to varying degrees across Chile's FTAs/RTAs, especially in its agreements with more developed economy trade partners such as the US, EU, EFTA, Canada and Japan.

Many of Chile's FTA/RTA texts and associated documentation are currently only available in Spanish, although the DIRECON website notes that some texts and documents will soon be also available in English. Chile has apparently been asked by some outside the economy to translate the Mexico and Peru agreements into English. While the costs of preparing legally valid translations are significant, there are transparency gains from translating agreements into English, especially for other APEC stakeholders. Given the growing significance of FTAs/RTAs to Asia Pacific trade and investment, it might be advisable for APEC to adopt such a policy, incorporated into the 'Transparency' model measure framework.

Government procurement

Many of Chile's FTA/RTAs adhere to the 'core principles of non-discrimination and national treatment' regarding government procurement. Similar to 'Transparency' above, the economy's more developed trade partners have particularly called upon Chile to incorporate substantial government procurement provisions into its trade agreements. This especially applies to those trade partners with significant investment interests in Chile, such as Japan, the United States and the European Union. Government procurement has a low or zero profile in Chile's agreements signed with developing economy trade partners like China, and has been omitted in current FTA negotiations with Malaysia. However, while many FTA/RTAs initially exclude government procurement provisions, Chile looks to include them where it can in revised and upgraded agreements, an example being current talks underway with Uruguay.

Cooperation

While not all of Chile's FTAs to date include chapters on economic cooperation, many have cooperation provisions, and Chile is increasingly moving towards including formal provisions on cooperation where the trade partner concerned is amenable. The agreement with Japan, for example, an APEC economy that has a strong demonstrative preference for 'economic partnership' style agreements in which promoting closer economic cooperation between signatory parties is afforded similar priority to trade and investment liberalisation, does not have a cooperation chapter, but does have cooperation provisions. (Further, since both Parties had pre-existing channels for cooperation, it was decided to continue with these channels rather than develop a channel subject to the agreement.) Chile's FTA with China, European Union and the Pacific-4 agreement, all cover a generally wide range of areas for economic cooperation, especially the first two of these. Other agreements

mention cooperation with respect to helping implement various technical aspects (e.g. on SPS) of the agreement rather than seeking to advance broad economic cooperation.

In Chile's FTA with China, both sides have committed themselves to promoting bilateral cooperation under Chapter XIII of the agreement in the following fields: economic (general); research, science and technology; education; labour and social security; environment; small and medium-sized enterprises; culture; intellectual property rights; investment; mining and industrial cooperation. A special commission has been created to oversee this aspect of the agreement. A whole part (Articles 17-54) of Chile's 'Association Agreement' with the EU is devoted to 'cooperation', and economic cooperation provisions make the substantive element of this. Meanwhile, Chapter 16 (entitled 'Strategic Partnership') of the Pacific-4 agreement seeks to advance cooperation among the participating economies specifically with respect to: research, science and technology; education; culture; primary industries.

With all the above taken into account, it appears that Chile is increasingly moving towards a position of including cooperation in its FTA/RTAs where the trade partner concerned is amenable. Current FTA negotiations with Malaysia and Australia include a chapter on cooperation.

Dispute settlement

All of Chile's FTA/RTAs have fairly comprehensively dispute settlement mechanisms that adhere to a general three-step framework. The first step involved consultations. If the dispute is not resolved at this level, it then proceeds to committee level discussions. Failure to resolve the dispute at this second level then usually leads to an arbitration panel comprising a specified number of independent adjudicators. To date, however, Chile's FTA/RTA dispute settlement processes have not been used beyond level 2, and this only relating to talks with Argentina.

Trade facilitation

While most of Chile's agreements include a wide range of actions aimed at facilitating trade between parties, measures to enhance trade facilitation rarely figure explicitly. (It is a general rule that trade facilitation is one of the more diffuse or implicit elements of an agreement in that it relates or can arise as an outcome from other provisions in the text, such as government procurement.)

Electronic commerce

Chile's agreement with the US, Colombia and Australia have chapters on electronic commerce. Its agreement with the EU notes very general principles how e-commerce

is to be addressed by both parties. E-commerce is not mentioned in any other FTA/RTA to which Chile is a signatory.

Rules of origin (ROO)

Chile has entered into a number of complex product-specific rules of origin (ROO) arrangements with many of its FTA/RTA partners, including the US, EU, Japan, South Korea, EFTA and Canada. Simple generalised ROO exist in agreements with China and India. Most of Chile's agreements with other Latin American countries comply with ALADI (Latin American Integration Association) norms concerning ROO, which according to Chilean officials has helped establish uniformity of practice in this respect. Similarly, Chilean firms have apparently become more used to this system because it is more established and also more harmonised as a result of the ALADI system.

Complex and diverse practices on ROO have been widely acknowledged, within APEC and elsewhere (e.g. see the Asian Development Bank's new manual on FTA practice, published in April 2008), as contributing to the so called 'spaghetti bowl' effect, which refers to the situation where international trade is governed by a multiplicity of different FTA/RTA determined rules. This becomes increasingly relevant amongst a group of economies, such as APEC, where the number of agreements have proliferated, as is the case in the Asia Pacific. The ROO issue is especially important to Chile owing to the large number of agreements to which it is a signatory and because around four-fifths of its trade is in effect governed by rules from these agreements. Understanding how Chile's international trading firms have responded to the aforementioned FTA/RTAs with complex product-specific ROO is of some importance as complying to these rules in both a regulatory and logistical sense (e.g. reconfiguring production and supply chain arrangements to qualify for FTA/RTA eligibility) may in certain cases prove both costly and difficult.

Generally speaking, the Chilean government appears to have adopted a very consultative approach towards the business community concerning its FTA/RTA policy. This being said, it may wish to consider conducting firm-level surveys on ROO and other FTA/RTA related issues that directly impact upon how Chilean firms' operations. PROCHILE – the economy's export promotion agency – would seem the obvious choice to undertake this survey work.

Sanitary and phytosanitary (SPS) measures

In some of Chile's FTA/RTAs there are no specific SPS provisions, with both parties agreeing to be governed by their WTO obligations on this matter. All make reference to their obligations to the WTO (Art XI) in this respect.

The Free Trade Agreements (FTA) and the Partnership Agreements signed by Chile have a chapter on Sanitary and Phytosanitary Measures. These chapters enable and

strengthen the implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), and the applicability of international standards, guidelines and recommendations developed by relevant international organizations (OIE, IPPC and Codex Alimentarius Commission). Chile is an active participant in the WTO/SPS Committee, fulfilling the rights and obligations established.

The implementation and monitoring of the SPS chapters of the agreements is carried out by the SPS Committee, while establishing contact points between the Parties is the responsibility of the Market Access Department of DIRECON.

Other matters

Accession provisions for third party economies joining an agreement are rarely seen in Chile's FTA/RTAs. The most clear accession clauses are seen in the Pacific-4 agreement.

FTA/RTA upgrading and review

Chile has demonstrated a commitment to upgrade its ECAs signed with Latin American countries in the 1990s, leading in most cases to full FTA graduation. Chile was a pioneer then during that decade when FTA/RTA activity was relatively low, and has continued to be a pioneer in the 2000s, signing more FTAs with other APEC member economies than any other Pacific American economy. Other member economies may in time look to Chile's approach to FTA/RTA upgrade and review after their own agreements have reached 10 or 15 year maturity. Chile can therefore have positive demonstration effects for others in this respect. This process would be enhanced if Chile undertook more extensive firm-level surveys amongst the business community to evaluate the effectiveness of Chile's FTAs/RTAs, identifying those areas of agreements that have particularly been successful in their impact and likewise those areas where some difficulties may have arisen.

Looking forward

Chile is currently negotiating FTAs with additional APEC economies, and is looking to upgrade previously negotiated agreements.

XV Trade facilitation

APEC objectives

APEC member economies will:

- implement the Trade Facilitation Principles with a view to reducing the transaction costs in the region by 5 per cent by 2006; and
- implement the Trade Facilitation Action Plan, which laid down clear timelines for implementation in a progressive manner.

Chile has achieved an impressive record of implementing the APEC Menu of Options to Trade Facilitation, and is encouraged to complete pending items and to commit to new items from the Menu.

Chile's approach to implementation of trade facilitation

Since 2001, APEC has been committed to a clear goal of achieving a 5 per cent reduction in transaction costs by 2006. Chile has submitted its report on the Trade Facilitation Action Plan (TFAP) by identifying from a menu of options in the four areas of Customs, Standards, Business Mobility and E-Commerce, and indicating the progress in each option.

Table 17 summarises the progress of implementation of actions and measures selected by Chile and the progress made since 2004. Chile has been devoted to cumulative improvements in trade facilitation.

17 Implementation of trade facilitation action and measures

<i>Menu of options</i>	<i>No of items selected</i>	<i>No of items implemented</i>	<i>No of items completed</i>	<i>No of items in progress</i>	<i>No of items pending implementation</i>
	<i>[a]</i>	<i>[b]</i>	<i>[c]</i>	<i>[d]=[b]-[c]</i>	<i>[e] = [a] - [b]</i>
Customs procedures	42 [-3]	46	39	7	10
Standards	56	44	28	16	12
Business Mobility	6	4	3	1	2
Electronic Commerce	11	8	1	7	3

In the area of Customs Procedures, marked differences have been made in the automated system for customs operation, new tools for risk management and the Single Window system. Chile has also become a contracting party of the HS Convention in 2007.

In the area of Standards and Conformance, Chile uses international standards as a basis where possible, such as ISO, IEC, Codex Alimentarius, COPANT, CEN, etc. with minimal modifications. In the FTAs that Chile has negotiated since 2003, the TBT chapters include an article of international standards and an article of trade facilitation so as to develop measures where needed. Among many others, Chile also participates in APEC Food Sectoral MRA, APEC Food Safety Cooperation Forum, and APEC Standards Education Initiative.

In the area of mobility of business people (and in addition to the ABTC, which was described earlier in the business mobility section), Chile is also developing the FIND system (ICPO) over the main airports and other entry points.

In the area of e-commerce, the Civil Registry and Identification Service website has established the electronic payment and delivery of some certificates. It also contains a report system on lost and stolen Chilean passports and Chilean ID cards, and allows consultation on the status of them. E-commerce is facilitated to ensure travel document security standards.

Looking forward

Chile has achieved an impressive rate of implementing the APEC Menu of Options to Trade Facilitation, and is encouraged to complete pending items and to commit to new items from the Menu.

It is well noted that the Migration Department is now developing a Digital File that contains all relevant documentation. It will enable customers to send their residence applications electronically.

XVI The APEC food system

APEC objectives

APEC economies will

- address rural infrastructure development
- disseminate technological advances in food production and processing
- promote trade in food products.

As a major exporter of food to APEC markets and the rest of the world, Chile has a large stake in further liberalisation of food trade, and appropriate application of sanitary and phytosanitary measures, food safety and environmental standards and protection of intellectual property. Public–private cooperation has been a key part of Chile’s approach to facilitating food trade.

Chile's approach to the APEC food system

The food regulatory agencies in Chile have in the past worked closely with the Ministry of Economy to implement the principles of the WTO TBT Agreements: Since April 2008, DIRECON in the Ministry of Foreign Affairs has been made the responsible agency for TBT-related matters.

Chile has inquiry points for TBT and SPS notifications, as called for by the relevant WTO agreements, and there is a website with all technical regulations and conformity assessment procedures about products (www.reglamentostecnicos.cl). All SPS related notifications are conducted by the Servicio Agrícola y Ganadero (SAG).

XVII Transparency

APEC objectives

APEC economies will:

- implement APEC transparency standards, including on monetary, financial and fiscal policies and dissemination of macroeconomic policy data, and to area-specific transparency standards on tariffs, NTMs, services, investment, standards and conformance, customs procedures, intellectual property rights, competition policy, deregulation/regulatory review, mobility of business people and government procurement; and
- review the transparency standards periodically and, where appropriate, review, revise and expand them further.

Chile's long-standing commitment to a market based approach to economic development has been accompanied by strong efforts to make policy making processes transparent, as well as providing a wide range of information to facilitate efficient private sector decision making.

Chile's approach to transparency

Chile's central transparency principle is embedded in Article VIII of the Constitution (as amended in 2005), which as a general rule categorises all governmental information as being in the public domain, unless otherwise specified by law.

So, for example, the Central Bank is obliged to publish the economy's main national macroeconomic statistics in a timely manner, including those of a monetary and foreign exchange nature, the balance of payments and national accounts.

Furthermore, Chile's public debt is published yearly on the Ministry of Finance's webpage: www.hacienda.cl. The report on the standing of public finance is issued on a yearly basis and aimed at informing the Congress.

Information related to government finances is provided by the Budget Office. The public has access to comprehensive and timely fiscal reports, which are published on the Budget Office's website: www.dipres.cl.

All Chile's statistics are reviewed in the IMF's ROSCs (the Report on the Observance of Standards and Codes). Chile is also an active supporter of the transparent dissemination of macroeconomic data since its early subscription to the IMF's Special Data Dissemination Standard (SDDs).

On the management of funds invested abroad:

- the Financial Advisory Committee was created by the Fiscal Responsibility Law (No20.128) and it assists the Ministry of Finance on matters relating to the investment of the government's fiscal savings, accumulated in two funds: the Pension Reserve Fund (FRP) and the Economic Social Stabilization Fund (FEES); and
- the webpage of the Ministry of Finance contains monthly executive reports (portfolio latest market value) and quarterly reports (portfolio value and composition) of each fund (FRP and FEES), committee meeting minutes, legislation underpinning the funds and press releases.

The financial regulatory agencies provide open access, through their respective websites, to relevant legislation as well as the legal framework of each financial sector. All banks and financial institutions must also publish a monthly report, which is made available on the SBIF website. The supervisory agencies have in their websites a link where anyone can make comments before new regulations are implemented, if practicable.

Looking forward

Overall, Chile is committed to pursuing transparency via electronic means. However, for non-Spanish speaking users, it fails to be user-friendly at times. Perhaps more English linkages could be put in place across the board to achieve the utility of transparency.

A Members of the review team

Moderator:

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B Organisations and officials consulted

B.1 Officials consulted during experts' visit to Chile IAP 2008

Name	Organisation
Mr Igor Garafulic	APEC Senior Official for Chile and Director for Multicultural Affairs, General Directorate for International Economic Affairs
Mr Felipe Sandoval	Head of APEC Department, General Directorate for International Economic Affairs, Ministry of Foreign Affairs
Ms Kareen Garrido	Assistant of APEC Department, General Directorate for International Economic Affairs, Ministry of Foreign Affairs
Ms Myriam Duran	Assistant of APEC Department, General Directorate for International Economics Affairs, Ministry of Foreign Affairs
Mr Raul Saez	Director for International Affairs, Ministry of Finance
Mr Mario Campos	Ministry of Finance
Mr Juan Araya	Legal Adviser, International Affairs, Ministry of Finance
Mr William Mullins	Ministry of Finance
Mr Pablo Furche	Adviser, Central Bank
Mrs Ana Novick	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Head of Services & Investment Department
Mr Felipe Lopedía	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Advisor of the Services & Investment Department
Mr Raimundo González	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Advisor of the Services & Investment Department
Mrs Daniela Montañola	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Advisor of the Services & Investment Department
Mr Rodrigo Monardes	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Services & Investment Department
Mr Cristian Rodriguez	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Services & Investment Department

continued

B.1 Officials consulted during experts visit to Chile IAP 2008 (continued)

Name	Organisation
Mrs Constanza Alegria	Ministry of Foreign Affairs, General Directorate for International Economic Affairs. Head, the Asia & Oceania Department
Mrs Sandra Ramos	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Advisor of the Asia & Oceania Department
Mr Rodrigo Contreras	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Head of the Market Access Department
Mr Leonardo Humeres	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Adviser Market Access Department
Mrs Claudia Carbonell	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Advisor Market Access Department
Mrs Carolina Ramirez	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Advisor Market Access Department
Mr Gastón Fernández	National Customs Service, Head, International Affairs Department
Mrs Ana Maria Vallina	Ministry of Economy
Mrs Lucy Cangas	Ministry of Economy, Adviser of the Foreign Trade Department
Mrs Paula Nuñez	Ministry of Economy, Adviser of the Foreign Trade Department
Mrs Gabriela Cabellos	Minister of the Interior, Head, Department for International Affairs
Mr Jorge Díaz	Head, Department for International Policy
Mrs Carolina Sepúlveda	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Adviser Department Intellectual Property Right.
Mr Jorge Culagoski	Ministry of Foreign Affairs, General Directorate for International Economic Affairs, Head of the Competition Policy Department
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C Questions and comments

Questionnaire for Chile – Chile IAP 2007

By the IAP Review Team
8 October 2007

Introduction

1. Please provide relevant updated statistics as well as major policy initiatives, including structural reform, and those relating to trade and investment implemented by the economy. [Expert]

The Chilean economy showed a strong performance during the first semester of 2007. During this period the annual growth rate of GDP reached 5.9%, driven by an active domestic demand.

C.1 Basic macroeconomic indicators

	<i>Unit</i>	2004	2005	2006	2007/1S
GDP	% yoy	6.0	5.7	4.0	5.9
Domestic demand	% yoy	7.5	11.0	6.0	6.9
CPI — inflation	% year avg	1.1	3.1	3.4	2.8
Exchange rate	CL\$/US\$, year avg	609.6	559.7	530.3	533.8
Employment	% yoy	2.7	3.8	1.6	2.8
Unemployment	as % of labour force	10.0	9.2	7.8	6.8
Investment	% yoy	9.9	21.9	4.0	11.4
Industrial production	% yoy	8.8	5.5	3.3	4.6
Fiscal balance	as % of GDP	2.1	4.5	7.7	5.3
Current account balance	as % of GDP	2.2	1.1	3.6	5.1

Source: Ministry of Finance, Central Bank, National Statistics Institute.

Major structural reforms

- Second capital market reform law approved by congress (law 20190). Its purpose is to facilitate access to risk capital for enterprises: Banks can invest (through their subsidiaries) up to 1% of their equity in risk-capital initiatives, allows the government's development agency (CORFO) to invest in risk-capital funds, and capital gains from investment in these funds are exempted from taxation.
- Reform of corporate governance of private enterprises, aiming to improve shareholder protection. Sent to Congress, currently under discussion.

- Also in Congress, new law regulating clearing and settlement procedures, measures to promote integration local with international capital markets.
 - Major pension system reform, which includes overhaul of funds' investment limits and the establishment of a 'solidarity pension' system.
2. **Please also comment on Chile's recent macroeconomic management, especially with respect to the effect on the economy of sustained high copper prices, and the measures taken to stabilize and sterilize the foreign exchange inflows associated with copper exports. [Expert]**

Despite the high terms of trade, Chile's competitiveness has remained stable due a fiscal policy guided by the adherence to a structural fiscal rule. The latter aims to protect government spending from the effects of the economic and copper price cycles by linking expenditure to permanent or structural revenue. The fiscal rule is based on a structural balance target, which is set as a surplus of 0.5% of GDP.

The management of the accumulated fiscal savings is regulated by the Fiscal Responsibility Law, which created funds where foreign exchange earnings from copper are deposited when its price is above its long-run level: a Pensions Reserve Fund and the Fund for Economic and Social Stabilization. Both funds are fully invested in financial instruments outside Chile. In addition, part of the budget surplus above the rule is being transferred to the Central Bank for its gradual recapitalization for the next five years.

Monetary policy remains under a policy framework combining inflation targeting and a floating exchange rate regime. The expectations are anchored within a target range of 2-4%.

Overview

3. **Overall, what is Chile's self-assessment on the progress towards the Bogor goals? What are some of the key constraints in advancing towards goals, particularly those identified in the Collective Action Plans so far? [Expert]**

The Bogor Goals are defined as free and open trade in the APEC region. Chile has a very open regime for both trade and investment. Chile applies a 6% flat tariff on a MFN basis and has approximately 90% of its bilateral trade covered by preferential trade arrangements. The overall average applied tariff for Chile is under 2%. We believe Chile, is well on its way to meeting the Bogor Goals.

Respective issue areas

4. **In each respective issue area as follows, please specify to the extent possible: (a) commitments towards Bogor goals; (b) preferential treatments for APEC partners under the schemes of FTAs and the like; (c) possible plans for extending (b) above to all APEC members; and (d) implementation of the APEC CAPs (Collective Action Plans). [Expert]**

Chile is committed to the Bogor Goals and has pursued these goals by being ambitious on the unilateral, bilateral and multilateral arena.

- *Unilateral liberalisation*: Chile has progressively lowered its flat applied tariff from 15% in 1991 to 6% in 2003.
- *Bilateral liberalisation*: Chile has subscribed free trade agreements with 10 APEC Members (US, Canada, Mexico, Peru, Brunei, Singapore, New Zealand, China, South Korea and Japan) and is undergoing FTA negotiations with another 3 (Australia, Vietnam, Malaysia). Regarding the possibility of extension of preferences to all APEC members, Chile can point out at this point that it strongly supports current work to assess the feasibility of a Free Trade Area of the Asia Pacific (FTAAP).
- *WTO*: Chile is a founding member of the WTO, was an active member in the Uruguay Round and is committed to an ambitious outcome of the Doha Round.

For detailed information please refer to Chile's IAP Chapters.

5. Price Band System – please also provide an update on the Price Band System, and changes made since the 2003 IAP peer review. [Expert]

The Price Band System (PBS) has not undergone any modifications since 2003. The current situation is that the DSM failed against Chile's appeal in the case presented by Argentina at the WTO, regarding the Chilean PBS for wheat and wheat flour. This ruling was adopted in May 2007.

On September 2007, the Executive submitted to Congress a bill to modify article 10 of Law 18.525, referred to the price band system. The purpose of this bill, which is currently before the Senate, is to replace the mechanism of calculation by fixed specific duties for wheat and flour. The bill also establishes the possibility of giving free access to trade partners, and keeps the commitment to not go above the bound tariff of 31.5 per cent.

6. Chile does not seem to have provided a new (2007) version of improvement in NTMs. Please offer details in terms of what NTMs have been removed and what new ones, if any, have been introduced. [Hong Kong, China]

Chile's IAP chapter on NTM for 2007 is now available at the IAP website under the APEC website www.apec.org. Chile has not introduced any new modifications in terms of NTM s.

Services

7. On General Approach to Trade in Services: There are limited indications of improvements since Chile's last IAP review. It is also not evident that Chile has any further plans to improve the business environment, which will continue to create uncertainty for foreign services providers. Chile's active approach to services liberalisation is urged, including maritime transport services. [Hong Kong, China]

Chile believes that its business environment is open and provides with clear and transparent rules. Precisely, those are the reasons no changes have been undertaken since Chile's last IAP review. However, further liberalisation is always under review by the regulation authorities.

8. On Business Services: Engineering

Please elaborate on the conditions for granting temporary licenses for foreign engineers. [Hong Kong, China]

In Chile, foreign professionals do not need licenses to provide their services. However, in the engineer sector there is a temporary license for foreign engineers. They have to apply to the Engineer Association for a temporary license that grants access to the market. However, the importance of that requirement is very limited. The only benefit that it concedes is that it grants a temporary license, which enables engineers to be legally responsible and fully liable for the projects their undertaking. In that sense, there is no prohibition to exercise the profession in Chile. The temporary license only gives engineers the possibility to be legally in charge of their projects, but does not restrict the exercise of the profession as such, because foreign engineers can also provide their professional service without the temporary license, with the limitation that has been described.

9. Measures on provision of postal services and express delivery services, would Chile consider undertaking commitment in the current round of WTO services negotiations in accordance with its existing regime and current legal framework under modification? [Hong Kong, China]

Additional commitments in the current round of WTO service negotiations will depend on the general result of the Round. Chile's commitments on communications services in the WTO includes a variety of communication services, therefore Chile is not convinced of increasing the range of activities included in revised offer presented in the WTO in 2005.

10. On Financial Services: As reported from the 2007 IAP, foreign banking institutions may only operate through share-holdings in Chilean banks, established as corporations, subsidiaries and branches. Please explain the equity caps imposed, if any, for foreign shareholders in Chilean-incorporated banking institutions and whether the same equity cap applies to all banking services. [Hong Kong, China]

No, it is not correct that foreign banks can only operate through share-holdings in Chilean banks. Foreign banks can operate in Chile either through subsidiaries, i.e. Chilean banking corporations, through branches or through representative offices. In none of these cases is there a limitation on foreign shareholdings. They can all be fully-owned (and it is the case generally the case) by the parent bank. Please see the General Banking Act in www.sbif.cl.

11. Energy Services – in critical energy sub-sectors including services incidental to mining and related scientific and technical consulting services, could Chile indicate future commitments, if not current ones? [Canada]

In Chile those sub-sectors are open. Domestic regulation provides with an exceptional limitation on a non-discriminatory basis, which consists in the need of an

authorisation for the scientific exploration in the border zones. Future commitments in these sub-sectors could be considered.

As indicated in the Annual Sectoral Report, energy investment projects in Chile must be evaluated in terms of environmental impacts. Are there any Chilean policies that are geared towards attracting foreign investment in general and in energy sector in particular? [Chinese Taipei]

Regarding the foreign investment in the energy sector, there is no special policy towards attracting these kinds of investments. However, Decree Law 600 provides with special and voluntary regime to attract foreign investors to invest in Chile, in all sectors without any exclusions.

12. Communication Services: Telecommunications

Please clarify the definitions of the reported ‘social communication medium’ and ‘complementary telecommunication service’. [Canada]

Social Communication medium refers -in that document- to broadcasting services (TV and radio broadcasting), excluding TV cable which is considered as Limited Telecommunications Service under the current Telecommunications Act.

In the Annual Sectoral Report, Chile has indicated that ‘in general, full national treatment and market access is provided’. Why has Chile maintained, in particular, limitations on value-added services, including no commitments for Mode 2? [Canada]

The current legal framework on Telecommunications in Chile is far more open than what Chile has committed to at the WTO.

How does the telecommunication under secretariat determine ‘competent performance in the sector’? [Canada]

The Telecommunication Act does not provide with an explicit concept concerning ‘competent performance in the sector’. However, the requirements that the Undersecretariat of Telecommunication (SUBTEL) is entitled to request, in order to provide a license (permit, concession, or license) for any telecommunication service, may be an evidence of a legal, financial and technical evaluation of the service suppliers, that request this authorisation.

13. Environmental services

Are there any environmental services sectors where there is a state monopoly – for instance, sewage services? [Canada]

Regarding the environmental service sector, Chile does not have a state monopoly. However, in sanitary sectors, for example, the supply of services is highly regulated, subject to public concessions, with a few minor market access restrictions.

Subsequently, the establishment, construction and public works services destined to produce and distribute potable water are subject to public concessions and have to fulfil the specific legal requirements.

In this regard, suppliers of services will be subject to evaluation by the competent authorities in which they must certify compliance with the requirements that ensure competent performance in the sector.

Finally, the supply of environmental services is completely open to competition from both national and foreign suppliers, depending on the specific regulatory framework.

Has Chile bound its commitments to environmental services in any of its trade agreements? [Canada]

Chile through most of its FTAs, in a negative list approach, has bound commitments in this sector. Specifically, because the regulation is based on a non-discriminatory treatment, granting access for national and foreign providers.

14. Tourism and travel-related services

How does Chile define tourism and travel-related services in the IAP? Is it the same coverage as on the WTO/120, with the corresponding CPC codes – CPC 641~643, 7471, and 7472? [Canada]

In effect, Chile considers that tourism and travel-related services defined in the IAP, covers the WTO/120 classification, including CPC codes 641-643, 7471 and 7472.

Does Chile's IAP cover liberalisation for all modes of supply? If yes, has Chile bound its commitments in any of its trade agreements, including those in the WTO? [Canada]

Yes, Chile has commitments at the WTO, including all modes of supplies in almost all the sub-sectors, with a few specific restrictions in some of them.

15. Education services

What measures has Chile taken to facilitate the international mobility of foreign students, including mutual recognition of academic diplomas and degrees? [China]

According to the autonomy principle that is recognised in the Basic Education Constitutional Act, the institutions of superior education design and practice programs of ex-change and or student mobility. In this regard, this issue depends on the policies that each educational establishment has and on the possible agreements that the institutions subscribes with foreign educational institutions.

This autonomy is exercised in all the areas, from financing subjects to others, such as the recognition of courses or credits accomplished in the institutions of origin. The

intervention of the State in this matter consists, in some cases, in the support of such initiatives through financing programs.

With respect to the recognition of titles and degrees regarding academic mobility, again it's a matter of the institutional autonomy, being exclusively in the competence of each superior educational institution, which receives the foreign student.

What are the regulations and requirements for foreign entities to set up foreign language teaching institutions or examinations centers in Chile? What measures of facilitation could be provided by Chile? [China]

The Chilean structure establishes a distinction between the formal and informal educational system. In the informal educational area, there are no other requirements than those that are asked to any service supplier in Chile in that sector. However, in case of formal education, regarding superior education, consisting in obtaining a professional title, a technical title of superior level or an academic degree, the domestic regulation requires that the educational institution must have an official recognition of the Chilean State as a university, a professional institute or a technical formation center. The requirements and conditions are established in Title III of the Education Constitutional Act.

What are the restrictions on, and requirements for, foreign education services providers, such as legal entities and foreign language teachers, in Chile? [China]

Domestic regulation applies equally to all education services providers regardless of nationality. With respect to investment, no restrictions on foreign capital equity apply.

With respect to foreign language teachers, no restrictions apply for the supply of the service at 'informal' education institutions (see previous question). However, a professional degree is required for the supplier of the service at 'formal' education institutions.

Investment

16. There is the requirement of a one-year waiting period before repatriation of capital invested in Chile's investment law. Please elaborate on the plans, if any, to further reduce or eliminate such requirement in the future. [Chinese Taipei]

Chile has no plans to reduce or eliminate the one-year waiting period requirement for repatriation of the capital invested under the special and voluntary regime DL 600. Nevertheless, the restriction has not imposed a burden to the foreign investor, since no complaints have been received, because projects under this regime are focused on longer terms.

Standards and conformance

- 17. Chile's IAP has it: 'Chilean policy is oriented towards the adoption of technical standards and regulations based on international standards. However, in some cases certain international standards could be considered inadequate for Chile. For instance, standards regarding seismic designs and structures are not applicable because of local seismic conditions.' Aside from the given example, what are some of the other criteria used by Chile to determine if a given international standard is adequate for Chile? [Canada]**

International standards may not be an effective or appropriate mean for Chile to achieve a legitimate objective, like it is established in the WTO/TBT Agreement. For example: Santiago has a high level of pollution and for this reason Chile has implemented high standards for the emissions of vehicles. Another reason could be that international standard is outdated, for example, the regulation that applies to nutritional labelling in food, that is based on Codex, has been modernized (it is 90% Codex).

- 18. Chile references Decree 77/2004 (Requirements for the preparation, adoption and application of technical regulations and conformity assessment procedures), which 'establishes the Ministries or Agencies that shall use the international standards or the relevant parts of them as the basis for their technical regulations or procedures, except in the case where such institutions believe that those international standards or the relevant parts thereof are not an effective or appropriate means for achieving legitimate objectives pursued, like it is established in the WTO/TBT Agreement.' To what extent has this decree been successful in getting the Ministries and Agencies to use international standard as the basis of their technical regulations or procedures? [Canada]**

This Decree was agreed among the different Government Agencies that develop technical regulations and conformity assessment procedures. Furthermore, Chile has developed capacity building activities on the principles and obligations of TBT/WTO Agreement for these Governmental Agencies.

- 19. Chile notes that its meetings with the Mercosur Working Group SGT3 (technical regulations and conformity assessment procedures group) are for the purpose of working to eliminate technical barriers to trade. Please provide more information as to how these meetings have contributed to the reduction of TBTs? [Canada]**

One of the objectives of these meetings is to discuss TBT problems and consultations coming from national exporters. In these meetings, the technical experts in TBT discuss different cases and look for solutions. For example, we coordinate specific meetings with the Regulatory Bodies of the sector where we would like to improve market access, by reducing TBTs. In this regard, Chile has a close working relationship with the TBT experts from Mercosur.

- 20. Government procurement (GP)**

We appreciate Chile's efforts in modernizing its GP regime in recent years, and look forward to Chile's continuous efforts in increasing transparency and wide access to government procurement information. [Hong Kong, China]

21. Deregulation and regulatory review

We note that Chile's bank secrecy laws have impeded the negotiation/conclusion of a bilateral Double Taxation Agreement between Australia and Chile. We hope that Chile's accession to the OECD will provide the necessary impetus for Chile to change its bank secrecy regime. Is Chile giving consideration to removing/modifying its bank secrecy laws as part of its accession to the OECD? [Australia]

Chile's position regarding the consistency of its policies, laws and regulations with the OECD codes, decisions and recommendations will be discussed at the OECD.

22. Dispute mediation

The information relating to Chile's treatment of government-to-government disputes with the WTO dispute settlement procedure is considered factual and in order. As Chile has entered into various FTAs, the settlement of disputes between governments would also be referred to the schemes set out in their respective FTAs. The future improvements are also found in order. [Hong Kong, China]

Since the last IAP two new Agreements signed between Chile-Japan and Chile-India entered into force.

1. The settlement of disputes between governments has been regulated in the Chile-Japan Strategic Economic Partnership Agreement that entered into force in September, 2007. It contains a Chapter that regulates Dispute Settlement of commercial conflicts related to the interpretation and application of the FTA.
2. The Chile-India Partial Scope Agreement entered into force in August 2007. It contains a chapter on dispute settlement between governments regulating commercial conflicts related to the interpretation and application of the Partial Scope Agreement.

23. Implementation of WTO Obligations and Rules of Origin

How does Chile's Customs Administration determine the origin of product when it is processed by more than one economy, and with a certificate of origin provided by the export economy --indicating that the product has not undergone substantial transformation in that export economy and thereby the origin of the product is a third economy? Is the third economy's certificate of origin acceptable? If not, what kind of supporting documentation is required to verify and determine the origin of the product? [China]

Chile does not apply non-preferential rules of origin. The MFN tariff is applied to imports from both WTO and non WTO member countries. Chile only applies rules of origin and certification procedures for rules of origin for imports coming entering the country under a preferential trade arrangement.

Please explain the criterion for rules of origin (i.e. change in tariff classification, value-added, or others) Chile applies. Do the same rules of origin apply to trade remedy and general trade? [China]

Criterion applied by Chile regarding Rules of Origin depends on the country with which it is negotiating. The Rules of origin in a FTA apply only to countries Party to the Agreement

On implementation of the preferential rules of origin under a FTA, please clarify the customs operation procedures as follows:

- **In the case of a FTA originating product being transported directly in between FTA partners but invoiced by non-member party, will Chile Customs grant preferential tariff to the said product?**

This kind of trade operation is frequent, and for that reason Chile has included in Its FTAs a provision that covers this kind of operations. In the case of The Chile-China FTA it is article 35.

- **In the case of a FTA originating product being transported from a non-member party, what sort of supporting documentation is required and what authority should provide the supporting documentation? [China]**

The movement of goods through non-FTA partner countries is a reality in most of world trade, especially between countries geographically distant, for this reason Chile's FTAs include an article to deal with this reality, indicating the accepted documents. In the case of the Chile-China FTA it is article 27.

24. We note that there is no mention of the Australia-Chile bilateral Free Trade Agreement negotiations, the first round of which was held in Canberra on 7~9 August 2007. The decision to commence FTA negotiations followed the Australian government's announcement on 8 December 2006 of its in-principle intention to commence a bilateral FTA negotiation process with Chile with a view to developing a comprehensive FTA to strengthen and deepen the trade relationship. [Australia]

Chile's IAP Chapters have been updated. Thank you.

References

- Central Bank of Chile, 2008, *The Chilean Economy at a Glance*, <http://www.bcentral.cl/eng/publications/statistics/integrated/pdf/ChileaneconomyJan2008.pdf>, accessed 20 May 2008
- Economic Commission for Latin America and the Caribbean, 2007, *Statistical Yearbook*.
- Galetovic A. and de Mello L., 2005, *Strengthening Regulation in Chile: The Case of Network Industries*, Economics Department Working Papers No. 455, ECO/WKP(2005)42
- IMF, 2007a, *Chile: Selected Issues*, Country Report N° 07/332, Washington DC
- —, 2007b, *Staff Report for the Article IV Consultation*, Country Report N° 07/333, Washington DC
- OECD, 2007, *Market Access and Private Standards: Case Study of the Chilean Fruit Markets*, Directorate for Food, Agriculture and Fisheries, Committee for Agriculture, AGE/CA/APM(2005)27/FINAL.
- WTO, 2007, *World Tariff Profiles*, http://www.wto.org/english/tratop_e/tariffs_e/tariff_profiles_2006_e/chl_e.pdf, Accessed 16 May 2008
- WTO, 2006, *CHILE – Price Band System and Safeguard Measures Relating to Certain Agricultural Products*, Report WT/DS207/RW, http://www.wto.org/english/tratop_e/dispu_e/207rw_e.pdf, Accessed 20 May 2008.