CHILE

TRADE SUMMARY

The U.S. goods trade surplus with Chile was $3.4 billion in 2009, a decrease of $247 million from 2008. U.S. goods exports in 2009 were $9.4 billion, down 21.0 percent from the previous year. Corresponding U.S. imports from Chile were $6.0 billion, down 27.4 percent. Chile is currently the 24th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Chile were $1.9 billion in 2008 (latest data available), and U.S. imports were $1.0 billion. Sales of services in Chile by majority U.S.-owned affiliates were $7.2 billion in 2007 (latest data available), while sales of services in the United States by majority Chile-owned firms were $441 million.

The stock of U.S. foreign direct investment (FDI) in Chile was $12.6 billion in 2008 (latest data available), up from $11.6 billion in 2007. U.S. FDI in Chile is concentrated largely in the finance/insurance, manufacturing, banking, and mining sectors.

IMPORT POLICIES

Tariffs

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004. Under the FTA, the Parties immediately eliminated tariffs on 87 percent of bilateral trade and will establish duty-free trade for all products by 2016.

Chile has one of the most open trade regimes in the world. The uniform applied tariff rate for nearly all goods is 6 percent. There are several exceptions to the uniform tariff. For example, higher effective tariffs rates will remain for wheat, wheat flour, and sugar during the 12 year transition period under the FTA due to the application of an import price band system. Importers also must pay a 19 percent value added tax (VAT) calculated on the customs value plus import tariff. In the case of duty-free imports, the VAT is calculated on the customs value alone.

Import Controls

There are virtually no restrictions on the types or amounts of goods that can be imported into Chile, nor any requirements to use the official foreign exchange market. However, Chilean customs authorities must approve and issue a report for all imports valued at more than $3,000. After customs authorities issue the report, the goods to be imported must generally be shipped within 30 days. Commercial banks may authorize imports of less than $3,000. Importers and exporters must also report their import and export transactions to the Central Bank. Commercial banks may sell foreign currency to any importer to cover the price of the imported goods and related expenses as well as to pay interest and other financing expenses that are authorized in the import report.

Chile prohibits the importation of used vehicles, used motorcycles, and used retreaded tires (with the exception of wheel-mounted tires). Some used items originating from a country without an FTA with Chile are subject to an additional importation charge of 3 percent over the CIF (cost, insurance, and freight). This additional charge can be eliminated or reduced, depending on the product, if the used item is imported from a third country that has an FTA with Chile. However, if the used item is imported from a country that does not have an FTA with Chile, even if the importing company is from a country with whom Chile has an FTA, they will be subject to the additional charge of 3 percent over the CIF.

Nontariff Barriers

Chile maintains a complex price band system for wheat, wheat flour, and sugar that, under the FTA, will be phased out by 2016 for imports from the United States. Mixtures containing more than 65 percent sugar (*e.g.*, high fructose corn syrup) content are subject to the sugar price band system. The price band system was created in 1985 and is intended to guarantee a minimum and maximum import price for the covered commodities. When certain CIF prices (as calculated by Chilean authorities) fall below the set minimum price, a special tax is added to the tariff rate to raise the price to the minimum price. The government sets a minimum import price that is normally higher than both international and Chilean domestic prices. Beginning in 2008, the minimum price has been adjusted downward by 2 percent per year on U.S. imports; in 2014 Chile's President will evaluate whether to continue the price band system or eliminate it prior to 2016 as required under the FTA.

Non-Chilean companies operating in the country are required to contract the services of a customs agent when importing or exporting goods valued at over $1,000 FOB (Free on Board). The customs agent is the link between the exporter/importer and the National Customs Service and is responsible for facilitating foreign trade operations and acting as the official representative of the exporter/importer in the country.

Customs agents' fees are not standardized. This is an extra cost borne by non-Chilean companies operating in-country. However, companies established in any of the Chilean duty-free zones are exempt from the obligation to use a customs agent when importing or exporting goods.

EXPORT POLICIES

Chile currently provides a simplified duty drawback program for nontraditional exports. The program reimburses a firm up to 3 percent of the value of the product it exports, if 50 percent of that product consists of imported raw materials. If the capital equipment used to produce exported goods is imported, it must carry a minimum CIF value of $3,813 in order to be eligible for duty drawback. The net value of the invoice is used if the capital good in question is also manufactured domestically. For imported vehicles to be used in an export business, such vehicles must have a minimum CIF value of $4,830. Another export promotion measure lets all exporters defer import duties for up to seven years on imported capital equipment or receive an equivalent government subsidy for domestically produced capital goods.

In accordance with its commitments under the FTA, Chile is eliminating, over a transition period, the use of duty drawback and duty deferral for imports that are incorporated into any goods exported to the United States. Full drawback rights are allowed through 2012. Beginning in 2013, the amount of drawback allowed is reduced until it reaches zero in 2016.

Under Chile's separate VAT reimbursement policy, exporters have the right to recoup the VAT they have paid when purchasing goods and using services intended for export activities. Any company that invests in a project in which production will be for export is eligible for VAT reimbursement.

GOVERNMENT PROCUREMENT

Chile's 2003 Basic Law on Administrative Contracts for the Supply and Rendering of Services (No. 19.886) sets out the legal framework for government procurement of goods and services; however, the law does not apply to state-owned companies, which follow their own regulations.

The FTA requires procuring entities to use fair and transparent procurement procedures, including advance notice of purchases and timely and effective bid review procedures for procurement covered by the agreement. It also includes nondiscrimination provisions that require Chilean entities covered by the FTA to allow U.S. suppliers to participate in their procurement on the same basis as Chilean suppliers in procurements covered by the Agreement. The FTA covers the procurement of most Chilean central government entities, 15 regional governments, 11 ports and airports, and 346 municipalities.

Chile is not a signatory to the WTO Agreement on Government Procurement, but it is an observer to the Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Chile was listed on the Priority Watch List in the 2010 Special 301 Report. Although the report noted positive steps taken by the Chilean government in 2009 and early 2010, including the creation of the National Institute for Industrial Property to oversee industrial property registration and protection, the United States continues to have concerns regarding the implementation of Chile's IPR commitments under the FTA. In May 2010, the Chilean government implemented a new intellectual property law, which includes language amending its copyright law. However, the legislation falls short of fully addressing Chile's commitments. For example, the legislation does not include protections against the circumvention of technological protection measures.

Key concerns highlighted in the report also included inadequate protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products, as well as the lack of an effective system to address patent issues expeditiously in connection with applications to market pharmaceutical products. The report also noted the need to enact legislation to ratify the 1991 Act of the International Convention for the Protection of New Varieties of Plants and the Trademark Law Treaty. The Chilean Congress ratified the Trademark Law Treaty in September 2010, but implementation is still pending. In addition, the rate of prosecutions and the tendency to apply minimum sentences for counterfeiting and piracy remain a concern, as they may not effectively deter future infringement.

The Chilean government is making an effort to promote publicly the value of protecting IPR, emphasizing the benefits this can bring to innovation, investment, and economic growth. In 2010, the United States and Chile held several meetings to exchange information and review implementation of the IPR provisions of the FTA IPR Chapter.

SERVICES BARRIERS

Financial Services

Chile made WTO financial services commitments in banking services and in most securities and other financial services. However, Chile's WTO Commitment Schedule in the securities sector did not include asset fund management (mutual funds, investment funds, foreign capital investment funds, and pension funds). Except as permitted under the FTA for U.S.-based insurance companies, foreign-based insurance companies that operate from outside Chile cannot offer or contract insurance policies in Chile directly or through intermediaries. However, there are no restrictions on foreign-based insurance companies that wish to open a branch in Chile and begin operations in-country.