CHILE

TRADE SUMMARY

The U.S. goods trade balance with Chile went from a deficit of $684 million in 2007, to a surplus of $3.9 billion in 2008. U.S. goods exports in 2008 were $12.1 billion, up 45.5 percent from the previous year. Corresponding U.S. imports from Chile were $8.2 billion, down 9.0 percent. Chile is currently the 25th largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to Chile were $1.8 billion in 2007 (latest data available), and U.S. imports were $868 million. Sales of services in Chile by majority U.S.-owned affiliates were $4.9 billion in 2006 (latest data available), while sales of services in the United States by majority Chile-owned firms were not available in 2006 ($2 million in 2003).

The stock of U.S. foreign direct investment (FDI) in Chile was $12.6 billion in 2007 (latest data available), up from $11.4 billion in 2006. U.S. FDI in Chile is concentrated largely in the finance/insurance, manufacturing, mining, and banking sectors.

IMPORT POLICIES

Tariffs

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004. Under the FTA, the Parties eliminated tariffs on 87 percent of bilateral trade immediately and will establish duty free trade in all products within a maximum of 12 years.

Chile has one of the most open trade regimes in the world. The uniform applied tariff rate for virtually all goods is 6 percent. There are several exceptions to the uniform tariff. For example, higher effective tariffs 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. Imported goods must generally be shipped within 30 days from the day of the report. Commercial banks may authorize imports of less than $3,000. Larger firms must 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.

EXPORT POLICIES

Chile currently provides a simplified duty drawback program for nontraditional exports that reimburses firms a percentage of the value of the items they export. Companies purchasing capital equipment can borrow up to 73 percent of the amount of the customs duties that would normally be paid on such equipment if it were not used exclusively for exporting. If the capital equipment is imported, it must carry a minimum value of $3,813. For imported vehicles to be used in an export business, such vehicles must have a minimum 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 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 for the first eight years from entry into force of the FTA. Beginning with year 9 in 2013, the amount of drawback allowed is reduced until it reaches zero by year 12 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. To be eligible for the VAT reimbursement policy, exporters must have annual sales of less than $16.7 million.

Chile also offers a Guarantee Fund (*Fondo de Garantia*) for small and medium enterprises (SMEs). Through this fund, Chile guarantees access to credit provided by financial institutions and technical cooperation agencies to SMEs. This Guarantee Fund benefits all those nonagricultural entrepreneurs whose annual gross sales do not exceed $8.2 million, and agricultural producers with annual gross sales less than $460,000.

Chile's Development Promotion Agency (CORFO) provides access to medium- and long-term financial credit for exporting companies. It also provides credit to their export clients abroad. The maximum loan for Chilean exporters is $3 million. The credits for foreign clients are granted through commercial banks in the destination country. The program has been designed for Chilean companies with annual sales of up to $30 million that export goods and services. Through the Coverage of Bank Loans to Exporter program (COBEX), CORFO provides loan default risk coverage to the banks that give loans to SMEs. Coverage can be up to 50 percent of the balance of unpaid capital on loans made to eligible exporters. This benefit is only available for exporting companies with annual sales (domestic and international) of up to $20 million.

Export Controls

Chilean customs authorities approve and issue export reports. Exported goods must generally be shipped within 90 days from the date of the export report, but this period may be extended under certain conditions. Exporters may freely dispose of hard currency derived from exports. As with imports, exporters may use the formal or informal exchange market. Large firms must report all exports to the Chilean Central Bank, except for copper exports, which are authorized by the Chilean Copper Commission. Duty free import of materials used in products for export within 180 days is permitted with prior authorization. Free-zone imports are exempt from duties and VAT if re-exported.

Nontariff Barriers

Chile maintains a complex price band system for wheat, wheat flour, and sugar that will be phased out by 2016 under the FTA for imports from the United States. The price band system was created in 1985 and is intended to guarantee a minimum and maximum price for the covered commodities. When certain cost, insurance, and freight (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 is adjusted downward by 2 percent per year, until 2014, when

Chile's President will evaluate whether to continue the price band system or eliminate it prior to the 2016 FTA commitment. Mixtures (*e.g.*, high fructose corn syrup) containing more than 65 percent sugar content are now subject to the sugar price band system.

The export/import process requires non-Chilean companies operating in the country to contract the services of a specialized professional called a Customs Agent. The Customs Agent is the link between the exporter/importer and the National Customs Service. The Agent's mission is to facilitate foreign trade operations and to act as the official representative of the exporter/importer in the country. Agent fees are not standardized. This is an extra cost borne by non-Chilean companies operating in country.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Sanitary and Phytosanitary Measures

Prior to the FTA, many of Chile's trade restrictive sanitary and phytosanitary (SPS) requirements prevented the entry of a number of U.S. agricultural and food exports. The FTA created a SPS committee between the Parties that meets annually to discuss issues and to attempt to resolve trade concerns.

In December 2003, Chile closed its market to all U.S. live cattle, beef and beef products due to the detection of a Bovine Spongiform Encephalopathy (BSE) positive animal in the United States. In July 2005, Chile agreed to partially re-open the market for U.S. deboned beef from animals under 30 months of age. World Organization for Animal Health (OIE) guidelines permit all U.S. beef and beef products from cattle of all ages to be traded, with appropriate Specified Risk Materials (SRMs), as defined by the OIE, removed. The United States will continue to work with Chile to achieve a full re-opening of Chile's market to live cattle, beef and beef products from the United States, in line with OIE guidelines and through the use of established fora. The Chilean government is expecting to update their regulations on beef and beef products by the first half of 2009.

GOVERNMENT PROCUREMENT

The Chilean government's Communications and Information Technology Unit (UTIC) coordinates, promotes, and advises the Chilean Government on the development of information technology in several areas. The UTIC was particularly successful in creating comprehensive reform of Chile's procurement system. Electronic procurement has made business opportunities with the Chilean government more transparent, reduced firms' transaction costs, increased opportunities for feedback and cooperation between firms and public agencies, and sharply reduced opportunities for corruption.

Each government entity in Chile generally conducts its own procurement. Chile's law requires public bids for large purchases, although procurement by negotiation is permitted in certain cases. Foreign and local bidders in government tenders must register with the Chilean Bureau of Government Procurement. They must also post a bank or guaranteed bond, usually equivalent to 10 percent of the total bid, to ensure compliance with specifications and delivery dates. Through the Information System for Procurements and Public Contracts for the Public Sector (http://www.chilecompras.cl), any interested supplier may offer products or services and register as a potential supplier in government procurement, free of charge.

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 nondiscriminatory 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.

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 WTO Committee on Government Procurement.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Concerns about the weakening of protection and enforcement of intellectual property rights in Chile were reflected in the January 2007 decision to place Chile on the Special 301 Priority Watch List. Chile remained on the Priority Watch List for 2008. The primary concerns relate to patents and protection of undisclosed test and other data submitted to obtain regulatory approval in the pharmaceutical sector and piracy of copyrighted movies, music, and software.

The United States will continue to work with Chile to improve enforcement and ensure Chile meets its obligations under the FTA. In April 2008, the Chilean Congress passed a law (introduced in 2000) that creates the National Institute of Industrial Property (INAPI), replacing the existing Department of Industrial Property. INAPI is a technical and legal agency in charge of all the administrative actions related to industrial property registration and protection. INAPI will have regulatory and enforcement authority and will be overseen by the Presidency of the Republic, through the Ministry of Economy.

In October 2008, the Chilean Senate approved the Patent Cooperation Treaty (PCT). According to the government of Chile, implementation of the PCT is expected, together with inauguration of INAPI, in the first quarter of 2009.

Protection of pharmaceutical patents and undisclosed test and other data in Chile continues to be a concern. Chile has yet to establish a consistently effective and transparent system to address the concerns of patent holders, who report that Chile has permitted the marketing of unauthorized copies of patented pharmaceutical products. In addition, the United States remains concerned as well about reports that Chile has inappropriately relied on undisclosed test and other data submitted in connection with the approval of innovative drug products in order to approve generic versions of these drugs. In January 2008, the Ministry of Health issued draft regulations for public discussion directed to protecting undisclosed test and other data; the regulation is still in draft form.

Chile amended its copyright law in 2003. In addition, legislation is still pending in the Chilean Congress to amend Chile's copyright and trademark law to provide amended provisions on copyright and trademark use including penalties for IPR violations and an assessment of Internet Service Provider liability in such cases. Further, draft legislation to ratify the International Convention for the Protection for New Varieties of Plants 1991 was introduced in the Chilean Congress in November 2008.

Enforcement

The United States is concerned by weak enforcement of intellectual property rights of copyrighted and trademarked goods. Despite active enforcement efforts by the police, piracy of computer software and video and music recordings remains widespread. Attempts to enforce copyrights in Chile have met with considerable delays in the courts and lenient punishments. According to the International Intellectual Property Alliance, estimated losses due to the piracy of copyrighted materials in Chile totaled $130 million in 2008.

SERVICE BARRIERS

Chile's relatively open services trade and investment regime stands in contrast to its very limited commitments under the WTO General Agreement on Services. Commitments in services under the FTA are far more extensive, with market access commitments covering a wide range of sectors, including computer and related services, telecommunications, audiovisual services, construction and engineering, tourism, advertising, express delivery, professional services, distribution services, adult education and training services, and environmental services.

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). Foreign-based insurance companies cannot offer or contract insurance policies in Chile directly or through intermediaries. However, there are currently no barriers to entry into the Chilean market by foreign-based insurance companies.

INVESTMENT BARRIERS

Chile maintains an open investment regime and does not screen foreign investment, with the exception of foreign investment projects with the Chilean government worth more than $5 million which are entitled to the benefits and guarantees of Decree Law 600, and under which the Foreign Investment Committee of the Ministry of Economy signs a separate contract with each investor. That contract stipulates the time period of the investment's implementation. Under Decree Law 600, profits from an investment may be repatriated immediately, but no original capital may be repatriated for one year.

Foreign investors in Chile may own up to 100 percent of an enterprise and are not required to maintain ownership for any set period of time. Foreign investors have access to all sectors of the economy with limited exceptions in coastal trade, air transportation, and the mass media. Chile permits investment in the fishing sector to the extent that an investor's home country reciprocally permits Chilean nationals to invest in that sector. Investors domiciled abroad may bring foreign currency into Chile under Chapter 14 of the Foreign Exchange Regulations of the Central Bank. This allows the investor to sell foreign currency freely through the formal or informal exchange market.

The FTA further strengthened the legal framework for U.S. investors operating in Chile. All forms of investment are protected under the FTA, including enterprises, debt instruments, concessions, contracts, and intellectual property. The FTA also explicitly prohibits certain restrictions on investors, such as the requirement to buy domestic rather than imported inputs.

The United States and Chile allow transfers both into and out of their territories related with an investment to be carried out freely and without delay. These transfers should be made in a currency of wide usage and at the exchange rate observed in the market at the time of the transfer. However, under the FTA, Chile may establish restrictions on payments or transfers associated with speculative or short-term investments in the event of a financial or economic crisis, for a period of up to one year. During this time, the investor would not be able to invoke the conflict resolution system in force under the FTA for dealing with investor-state disputes.

There is no bilateral double taxation treaty in force between the United States and Chile.