

Fourth U.S. - Chile Free Trade Commission
Washington, DC
November 29-30, 2007

SUMMARY OF THE MEETING

The fourth meeting of the U.S. – Chile Free Trade Commission, convened on November 29-30, 2007 in Washington, DC. Deputy United States Trade Representative (USTR) John Veroneau represented the United States and Director General of International Economic Relations, Carlos Furche, represented the Republic of Chile.

Trade and Investment Effects

Regarding the effects of the U.S. – Chile Free Trade Agreement, the Commission noted with satisfaction that in 2006, bilateral trade between the United States and Chile officially doubled for the first time since the FTA took effect. Bilateral trade January-September, 2007 was \$12.9 billion, up 5.3% from January-September, 2006. In terms of investment, U.S. foreign direct investment in Chile increased by 6.4% in 2006 over 2005, totaling \$10.2 billion. However, Chile expressed concern regarding the recent downward trend in U.S. foreign direct investment in Chile. Chilean foreign direct investment in the U.S. increased by 14.9% during the same time period, totaling \$162 million dollars. Trade in services also increased over 2005, totaling \$2.3 billion in 2006. Both Parties will continue to monitor trade and investment trends and the growth in trade in services with a view towards presenting an analysis of the effects in trade and investment at the next meeting of the Free Trade Commission.

The Commission noted that the bilateral relationship has been smooth and in general, implementation of the Agreement is proceeding well. However, there is still room for improvement in several areas to ensure that the benefits of the U.S.-Chile FTA will be available to both Parties. Deputy USTR Veroneau and Director General Furche conducted a fulsome discussion of the agreement in accord with the responsibilities outlined in Chapter 21 (Administration of the Agreement). Among the issues discussed were:

Institutional Framework, Committee and Council Meetings

The Commission noted with satisfaction that during 2007 a number of Committees met to discuss bilateral concerns. Convening during 2007 were the Committees on Trade in Goods, Sanitary and Phyto-Sanitary issues, and Technical Barriers to Trade. The Committee on Trade in Goods met on three occasions, and discussed common guidelines, advanced rulings, changes to the rules of origin and tariffs as a result of changes to the Harmonized System, increased flexibility for the rules of origin, and tariff acceleration.

Both sides exchanged their updated contact point lists.

Implementation Issues

The Commission agreed to continue constructive intellectual property dialogue. The United States expressed to Chile its continuing concerns regarding intellectual property

rights issues, while recognizing the certain efforts being taken by Chile to implement the commitments in Chapter 17, as illustrated in material provided by Chile. The United States noted its appreciation to Chile for the opportunity to engage on concerns it has with pending copyright legislation in the Chilean Senate, and the two parties agreed to continue this engagement. Chile expressed that progress made by Chile should be given adequate recognition.

Chile is well on its way to fulfilling its commitment in regards to advanced rulings and anticipates full implementation by the first quarter of 2008. The United States expressed its willingness to provide additional technical assistance and facilitate a visit of Chilean customs officials.

Decisions by the Commission

In accordance with the mandate of the Third FTC, the United States and Chile have agreed to several modifications of the Government Procurement Annex (Annex 9.1) of the U.S. – Chile FTA, as provided for in Article 9.14 of the Government Procurement Chapter. The modifications reflect several changes in the U.S. administrative structure, including the addition of the Department of Homeland Security to the list of covered entities and deletion of the Federal Emergency Management Agency, which has been transferred to DHS, and the Pennsylvania Development Corporation, which has been dissolved. A website link in the Annex has also been corrected. The modifications are described in the Annex.

The two sides have, at the technical level, agreed on a clarification of the threshold adjustment process.

The United States and Chile executed an exchange of letters to modify the rules of origin in order to conform to changes to the Harmonized System.

In addition, the United States and Chile have agreed in principle to accelerate the elimination of tariffs for certain products and to certain modifications to the rules of origin under the free trade agreement. Both parties have agreed to take the necessary steps to implement the proposed changes as quickly as possible within established domestic procedures.

The Commission directed the Committee on Trade in Goods to begin work on a second set of modifications to the rules of origin, as well as tariff acceleration, in the first half of 2008.

Other Bilateral Trade Issues

The Commission discussed bilateral market access for poultry. The United States announced that beginning on December 3, 2007, Chile will be eligible to export poultry products to the U.S.

Chile explained the current situation of its internal process. In accordance with what was expressed by the Chilean Minister of Agriculture last October, the Chilean Market will be open to U.S. poultry exports by the end of 2007, provided that the U.S. responds in a timely manner to the Chilean authority (SAG) in its upcoming report.

In regards to access for U.S. dairy products, Chile explained that it has resolved this issue, agreeing to recognize the ability of eligible U.S. dairy firms to export their products to Chile, and agreed to provide official documentation to this effect in writing to the U.S.

The Commission also addressed other issues including ruminant products, chilled pork, grapefruit and oranges, agreeing to convene the Committee on SPS in the first half of 2008 to discuss these issues in more detail.

Chile addressed its concerns regarding specific regulatory processes related to avocados, nitrates, Chilean table grapes (MO 925) and foreign investment legislation. The U.S. took note of Chile's concerns and expressed that in all cases; both sides would strive to increase common understanding on such issues. In all these issues the Parties will continue to exchange information and continue discussion at the Committee level.

Future Council and Committee Meetings

The Commission agreed that the Committees on Labor and Procurement and the services experts should meet in early 2008.

Trade Negotiations with other Partners

Both Parties exchanged information about their respective bilateral negotiations, and their positions in the WTO and APEC.

The Commission agreed to hold the Fifth meeting of the FTC in December 2008 in Santiago, Chile.

Modifications and Rectifications to Sections A and D of Annex 9.1 of the U.S.-Chile Free Trade Agreement

The modifications and rectifications to Sections A and D of Annex 9.1 of the Free Trade Agreement between the Governments of the United States of America and the Republic of Chile signed at Miami, Florida on June 6, 2003 (“the Agreement”) are made pursuant to Article 9.14 of the Agreement. Pursuant to Article 9.14.1, notification of these modifications was provided by the Government of the United States of America to the Government of the Republic of Chile on October 19, 2007. The Government of the Republic of Chile had no objections to the modifications.

Modifications: The modifications, which are set forth below, reflect changes in the federal administrative structure of the U.S. government, and will not reduce the level of coverage mutually agreed under the Agreement.

(1) The Department of Homeland Security shall be added to the Schedule of the United States in Section A. *Note:* The Department of Homeland Security (“DHS”) was established pursuant to the Homeland Security Act of 2002 (Public Law 107-296) (HSA), and the following organizational elements and functions were transferred to DHS from other listed entities:

- (a) The following organizational elements or functions were transferred from the Department of Agriculture: Plum Island Animal Disease Center (pursuant to Section 310(a) of HSA); and Animal and Plant Health Inspection Service (pursuant to Section 421 of HSA).
- (b) The following organizational elements or functions were transferred from the Department of Commerce: Critical Infrastructure Assurance Office (pursuant to Section 201(g)(3) of HSA); and Integrated Hazard Information System of the National Oceanic and Atmospheric Administration (pursuant to Section 503(2) of HSA).
- (c) The following organizational elements or functions were transferred from the Department of Defense: National Communications System (pursuant to Section 201(g)(2) of HSA); and National Bio-Weapons Defense Analysis Center (pursuant to Section 303(2) of HSA).
- (d) The following organizational elements or functions were transferred from the Department of Energy: Energy Security and Assurance Program (pursuant to Section 201(g)(4) of HSA); chemical and biological national security and supporting programs and activities (pursuant to Section 303(1) of HSA); Environmental Measurements Laboratory (pursuant to Section 303(1)(E) of HSA); and National Infrastructure Simulation and Analysis Center (pursuant to Section 201(g)(4) of HSA).
- (e) The following organizational elements or functions were transferred from the Department of Justice: National Infrastructure Protection Center of the Federal Bureau of Investigation (pursuant to Section 201(g)(1) of HSA) (except for the Computer Investigations and Operations Section); National Domestic Preparedness Office of the FBI (pursuant to Section 503(3) of HSA); Domestic Emergency Support Teams (pursuant to Section 503(4) of HSA); Office for Domestic Preparedness (pursuant to Section 403(5) of HSA); and functions of the Immigration and Naturalization Service (pursuant to Sections 441 and 451(b) of HSA).

- (f) The following organizational elements or functions were transferred from the Department of Health and Human Services: Strategic National Stockpile (pursuant to Section 503(6) of HSA); and Office of Emergency Preparedness, National Disaster Medical System and Metropolitan Medical Response System (pursuant to Section 503(5) of HSA).
- (g) The United States Coast Guard was transferred from the Department of Transportation (pursuant to Section 888(b) of HSA).
- (h) The following organizational elements or functions were transferred from the Department of Treasury: U.S. Secret Service (pursuant to Section 821 of HSA); U.S. Customs Service (pursuant to Section 403(1) of HSA); and Federal Law Enforcement Training Center (pursuant to Section 403(4) of HSA).
- (i) The following organizational element or functions was transferred from the General Services Administration: Federal Computer Incident Response Center (pursuant to Section 201(g)(5) of HSA); and the Federal Protective Service (pursuant to Section 403(3) of HSA).

(2) The Federal Emergency Management Agency shall be deleted from the Schedule of the United States in Section A. *Note:* The Federal Emergency Management Agency (currently item 36) was transferred into DHS, pursuant to Section 503(1) of HSA.

(3) The Pennsylvania Avenue Development Corporation shall be deleted from the Schedule of the United States in Section A. *Note:* The Pennsylvania Avenue Development Corporation (“the Corporation”) (currently item 71) was dissolved pursuant to Section 3 of Public Law 92-578. Pursuant to Section 313 of the Omnibus Appropriations Act of 1996 (Public Law 104-134), all of the procurement functions of the Corporation were transferred to the National Parks Service, a subordinate agency of the Department of the Interior, and the General Services Administration (“GSA”). Both the Department of the Interior and GSA are covered entities under the Agreement (currently items 20 and 46 of the Schedule of the United States in Section A). All procurement functions previously conducted by the Corporation are now conducted by the National Parks Service and GSA.

Rectifications:

The current website link for the U.S. Federal Supply Classification shall be replaced with the website link: <http://www.fedbizopps.gov/classCodes1.html> in Section A, Schedule of the United States, under the listings for the Department of Defense (currently item 15(h)) and GSA (currently item 46) and in Section D, Goods. *Note:* The current website link (<http://www.scrantonrtg.com/secrc/fsc-codes/fsc.html>) is no longer correct.

Sections A and D shall be revised to reflect the above modifications as set out in the Attachment.

ATTACHMENT

Modifications to Annex 9.1

**Section A – Central Level of Government Entities
Schedule of the United States**

1. Advisory Commission on Intergovernmental Relations

2. African Development Foundation
3. Alaska Natural Gas Transportation System
4. American Battle Monuments Commission
5. Appalachian Regional Commission
6. Broadcasting Board of Governors
7. Commission of Fine Arts
8. Commission on Civil Rights
9. Commodity Futures Trading Commission
10. Consumer Product Safety Commission
11. Corporation for National and Community Service
12. Delaware River Basin Commission
13. Department of Agriculture (Not including procurement of agricultural goods made in furtherance of agricultural support programs or human feeding programs)
14. Department of Commerce (Not including shipbuilding activities of NOAA)
15. Department of Defense (Not including the procurement of the following goods:
 - (a) Federal Supply Classification (FSC) 83 - all elements of this classification other than pins, needles, sewing kits, flag staffs, flagpoles, and flagstaff trucks;
 - (b) FSC 84 - all elements other than sub-class 8460 (luggage);
 - (c) FSC 89 - all elements other than sub-class 8975 (tobacco products);
 - (d) FSC 2310 - (buses only);
 - (e) Specialty metals, defined as steels melted in steel manufacturing facilities located in the United States or its possessions, where the maximum alloy content exceeds one or more of the following limits, must be used in products purchased by DOD: (1) manganese, 1.65 per cent; silicon, 0.60 per cent; or copper, 0.06 per cent; or which contains more than 0.25 per cent of any of the following elements: ~~aluminium~~ **aluminum**, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium; (2) metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 per cent; (3) titanium and titanium alloys; or (4) zirconium base alloys;
 - (f) FSC 19 and 20 - that part of these classifications defined as naval vessels or major components of the hull or superstructure thereof;
 - (g) FSC 51 and 52;
 - (h) The following FSC categories are not generally covered due to application of Article 17: 10, 12, 13, 14, 15, 16, 17, 19, 20, 28, 31, 58, 59, 95. *For detailed listing of the Federal Supply Classifications (FSC), see www.scrantonrtg.com/secre/fsc_codes/fsc.html <http://www.fedbizopps.gov/classCodes1.html>.*
16. Department of Education
17. Department of Energy (Not including national security procurements made in support of safeguarding nuclear materials or technology and entered into under the authority of the Atomic Energy Act, and oil purchases related to the Strategic Petroleum Reserve)
18. Department of Health and Human Services
19. **Department of Homeland Security**
- ~~20~~21. Department of Housing and Urban Development
- ~~21~~22. Department of the Interior, including the Bureau of Reclamation
- ~~22~~23. Department of Justice
- ~~23~~24. Department of Labor
- ~~24~~25. Department of State
- ~~25~~26. Department of Transportation (Not including the Federal Aviation Administration)
- ~~26~~27. Department of the Treasury
- ~~27~~28. Department of Veterans Affairs

- ~~27~~²⁸. Environmental Protection Agency
- ~~28~~²⁹. Equal Employment Opportunity Commission
- ~~29~~³⁰. Executive Office of the President
- ~~30~~³¹. Export-Import Bank of the United States
- ~~31~~³². Farm Credit Administration
- ~~32~~³³. Federal Communications Commission
- ~~33~~³⁴. Federal Crop Insurance Corporation
- ~~34~~³⁵. Federal Deposit Insurance Corporation
- ~~35~~³⁶. Federal Election Commission
- ~~36~~. ~~Federal Emergency Management Agency~~
37. Federal Home Loan Mortgage Corporation
38. Federal Housing Finance Board
39. Federal Maritime Commission
40. Federal Mediation and Conciliation Service
41. Federal Mine Safety and Health Review Commission
42. Federal Prison Industries, Inc.
43. Federal Reserve System
44. Federal Retirement Thrift Investment Board
45. Federal Trade Commission
46. General Services Administration (Not including Federal Supply Groups 51 and 52 and Federal Supply Class 7340). *For detailed listing of the Federal Supply Classifications (FSC), see www.serantonrtg.com/seere/fsc-codes/fsc.html <http://www.fedbizopps.gov/classCodes1.html>.*
47. Government National Mortgage Association
48. Holocaust Memorial Council
49. Inter-American Foundation
50. Merit Systems Protection Board
51. National Aeronautics and Space Administration (NASA)
52. National Archives and Records Administration
53. National Capital Planning Commission
54. National Commission on Libraries and Information Science
55. National Council on Disability
56. National Credit Union Administration
57. National Foundation on the Arts and the Humanities
58. National Labor Relations Board
59. National Mediation Board
60. Nuclear Regulatory Commission
61. National Science Foundation
62. National Transportation Safety Board
63. Occupational Safety and Health Review Commission
64. Office of Government Ethics
65. Office of the Nuclear Waste Negotiator
66. Office of Personnel Management
67. Office of Special Counsel
68. Office of Thrift Supervision
69. Overseas Private Investment Corporation
70. Peace Corps
- ~~71~~. ~~Pennsylvania Avenue Development Corporation~~
- ~~72~~⁷¹. Railroad Retirement Board
- ~~73~~⁷². Securities and Exchange Commission
- ~~74~~⁷³. Selective Service System
- ~~75~~⁷⁴. Small Business Administration
- ~~76~~⁷⁵. Smithsonian Institution
- ~~77~~⁷⁶. Susquehanna River Basin Commission
- ~~78~~⁷⁷. United States Agency for International Development

Section D – Goods

This Chapter applies to all goods procured by the entities listed in Annex 9.1, Sections (A) through (C), subject to the Notes to the respective Sections and the General Notes. (*For complete listing of U.S. Federal Supply Classification, see http://www.scrantonrtg.com/secrc/fsc_codes/fsc.html <http://www.fedbizopps.gov/classCodes1.html>.*)