

USA-CHILE (Services) Summary Fact Sheet

Table 1: Background Information

Parties	United States of America, Chile	
Type of Agreement	Economic Integration Agreement	
Date of signature	06 June 2003	
Date of entry into force	01 January 2004	
Review envisaged	none	
Website or contact addresses	Office of the United States Trade Representative http://www.ustr.gov/Trade_Agreements/Bilateral/Chile_FTA/Section_Index.html Dirección General de Relaciones Económicas Internacionales http://www.direcon.cl/index.php?accion=tlc_euuu	
List of related WTO documents	S/C/N/262	Notification
	WT/REG160/1	Agreement
	S/C/M/72	Terms of reference
	WT/REG160/4	Standard format
	WT/REG160/5-6-Corr.1	Questions and Replies
	WT/REG160/M/1-2-3	Minutes

Table 2: Scope and general aspects

Scope	Sectors	The Agreement has substantial sectoral coverage.
	Modes of supply	The Chapter on cross-border trade in services deals with cross-border supply, consumption abroad and presence of natural persons (modes 1, 2 and 4) and the Chapter on investment with commercial presence (mode 3).
	Definitions	A "national" is a natural person who is a citizen or permanent resident of the Parties. An "enterprise" means any legal entity constituted or organised under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture or other association.
Positive/negative list		Negative list approach.
Sector-specific rules		Financial services (Chapter 12), Telecommunications services (Chapter 13). Temporary Entry for Business Persons (Chapter 14)
Sectoral exclusions		Chapter 11 on cross-border trade in service does not apply to air and related services in support of air services other than aircraft repair and maintenance services during which an aircraft is withdrawn from service and specialty air services. Financial services is a self-contained Chapter (Chapter 12)

Table 3: Provisions of the Agreement

Provision	Article	Additional information
MFN/National treatment	Art. 10.2, 10.3, 11.2, 11.3, 12.2 and 12.3	The Parties grant each other national and MFN treatment with respect to all laws, regulations, procedures and practices to investors, service suppliers, financial institution and investment of investors in financial institutions of the other Party.
Market access	Art. 11.4	Neither Party may impose limitations on the supply of a service, whether numerical quotas, economic needs test or any others.
Movement of natural persons	Chapter 14	Each Party grants temporary entry to business persons who are nationals of a Party and are engaged in trade in goods, the supply of services, or the conduct of investment activities, otherwise qualified for entry under applicable measures relating to public health and safety and national security. Annex 14.3 lists business persons covered by the Agreement, as: business visitors, traders and investors, intra-company transferees and professionals. A Party may refuse to issue an immigration document authorizing employment to a business person whose temporary entry might affect adversely the settlement of any labour dispute in progress at the place or intended place of employment; or the employment of any person involved in the dispute. Art. 14.8 commits the Parties to establish or maintain appropriate mechanisms to respond to inquiries from interested

Elimination of discriminatory measures	Art. 10.7, 11.6, 12.9, Annex I, Annex II, Annex III	<p>persons on regulations on the temporary entry of business persons.</p> <p>Each Party maintains a limited schedule of non-conforming measures to the investment and cross-border services Chapters to which the provisions on national and MFN treatment, local presence, market access, performance requirements or requirements of senior management and boards of directors do not apply. Non-conforming measures in financial services are included for national and MFN treatment, market access, cross-border trade, and requirements for senior management and boards of directors. If either Party liberalizes a particular non-conforming measure, that degree of liberalization becomes automatically bound for the purposes of the Agreement. Regarding elimination of discriminatory measures, for financial services, Chile will phase-in commitments under specified time frames in asset management services for voluntary pension plans, insurance branching, and certain insurance brokerage services.</p>
Treatment of third party suppliers	None	<p>A Party may deny the benefits of the investment Chapter to an investor of the other Party that is an enterprise of such Party and to investments of that investor if an investor of a non-Party owns or controls the enterprise and the denying Party (a) does not maintain diplomatic relations with the non-Party; or (b) adopts or maintains measures with respect to the non-Party or an investor of the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise or to its investments. A Party may deny benefits to a service supplier of the other Party if the service is being supplied by an enterprise owned or controlled by nationals of a non-Party, and the denying Party: (a) does not maintain diplomatic relations with the non-Party, (b) adopts or maintains measures with respect to the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if benefits were accorded to the enterprise. Subject to consultation, a Party (the “denying Party”) may also deny benefits of the Agreement to enterprises of the other Party if that enterprise is owned or controlled by persons of a non-Party or of the denying Party, and the enterprise has no substantial business activities in the territory of the other Party.</p>
Denial of benefits	Art. 10.11 and 11.11	
Standards/mutual recognition	Art. 11.9 and Annex 11.9	<p>The cross-border trade in services Chapter permits the Parties to recognize education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously. Annex 11.9 lists measures adopted or maintained by a Party relating to the licensing or certification of professional service suppliers as set out in the provisions of that Annex.</p>
Safeguard mechanisms (intra-trade)	None	<p>With a view to ensuring that measures relating to qualification requirements and procedures, technical standards, and licensing requirements do not constitute unnecessary barriers to trade in services, each Party must endeavor to ensure, as appropriate for individual sectors, that any such measures that it adopts or maintains are: (a) based on objective and transparent criteria, such as competence and the ability to supply the service; (b) not more burdensome than necessary to ensure the quality of the service; and (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service. Where a Party requires</p>
Domestic regulations	Art 11.8	

		authorization for the supply of a service, the competent authorities of that Party have to inform the applicant, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, of the decision concerning the application
Subsidies and state aid		Subsidies or grants are excluded from the scope of the cross-border services chapter and the scope of many of the core obligations of the chapter on investment. Subsidies and grants are within the scope of the financial services chapter except certain activities or services when not provided under a situation of competition.
IPR	Chapter 17	Each Party ensures that procedures and remedies for enforcement of intellectual property rights are established in accordance with its domestic law. The intellectual property rights covered are: trademarks, domain names on the Internet, geographical indications, copyright and related rights, protection of encrypted programme-carrying satellite signals, patents and measures related to certain regulated products. Each Party will also publicize or make available to the public information on its enforcement efforts, including statistical information, and civil remedies and judicial procedures
Government Procurement	Chapter 9	The Agreement provides disciplines on procurement procedures, including advance public notice of purchases and transparent bid review procedures. The provisions apply to central government, sub-central government, and other government-related entities listed in the Parties' schedules. National treatment and non-discrimination is provided for the purchase of goods and services by each Party for the entities covered, subject to specified thresholds and exceptions. Procurement is excluded from the scope of the cross-border services Chapter, and from certain obligations of the investment Chapter.
Competition	Chapter 16	Each Party agrees to establish or maintain an authority responsible for enforcement of measures to proscribe anticompetitive business conduct and to cooperate on the enforcement of competition laws and policies, including notification, consultation, and information exchange. Articles 16.5 and 16.6 do not prevent the Parties from designating a monopoly or a State enterprise, providing that they do not act in a manner inconsistent with the Parties' obligations under the Agreement. On request, each Party shall make available to the other Party public information concerning either its competition law enforcement activities and state enterprises and designated monopolies, public or private, at any level of government.
Investment	Chapter 10	The Agreement provides for disciplines on non-discriminatory treatment through national and MFN treatment (Art. 10.2 and 10.3) and prohibition of performance requirements or appointment to senior management positions of individuals of any particular nationality. The entry on "elimination of discriminatory measures" describes the mechanism under which Parties have exempted certain measures from these disciplines. It limits the conditions for expropriation and guarantees investors of both Parties compensation if expropriation were to occur (Art. 10.9). It also allows investors to take advantage of investor-state dispute settlement provisions which offer access to expedient international arbitration procedures (Section B). A limited number of NCMs have been listed to both Parties (Art. 10.7).
General reservations	Chapter 23	The Agreement does not require the Parties to provide information contrary to their essential security interests; and does not prevent them from taking necessary actions to protect its security interests. The Agreement incorporates GATS Art. XIV into various Chapters.
Level of Government		Central, regional or local government and authorities and non-governmental bodies in the exercise of powers delegated are covered by the provisions of the Agreement.

Accessions	None	
Dispute resolution	Chapter 22	The Agreement details procedures for a transparent government-to-government dispute resolution process, and requires the Parties to attempt through cooperation and consultation to arrive at a mutually satisfactory resolution of any matter. The chapter on investment also contains provisions to resolve disputes between an investor from one Party and the Government of the other Party. The provisions on financial services in Chapter 12 tailor the Agreement's dispute settlement procedures in some respects.
Relations with other trade agreements	Art. 1.3	The Parties reaffirm their existing rights and obligations with respect to each other under existing bilateral and multilateral agreements to which both are party, including the WTO Agreement.
Institutional provisions	Art. 21.1	The Agreement establishes a Free Trade Commission to supervise implementation of the Agreement and assist in resolving disputes that may arise between the Parties regarding its interpretation or application. The Commission will meet at least annually. It also establishes Committees for some issues.
Other		The Parties affirm the importance of cooperating in customs administration (Art. 3.2); sanitary and phytosanitary matters (Art. 6.3); trade facilitation (Art. 7.4); standards, technical regulations, and conformity assessment procedures (Art. 7.8); overcoming obstacles encountered by small and medium enterprises in the use of electronic commerce (Art. 15.5); competition policy (Art. 16.2); labour standards (Chapter 18); and environment (Chapter 19).

Table 4a U.S. Services Trade with Chile, 2000-2003
(US\$ billion)

	2000	2001	2002	2003
Balance	0.5	0.4	0.4	0.4
Exports	1.4	1.3	1.2	1.0
Imports	0.9	0.9	0.7	0.7

Table 4b Authorized and materialized FDI from the United States, 1974-2008
(in nominal US\$ thousand)

1974-1998	1999	2000	2001	2002	2003
10.716.918	1.388.730	788.123	1.808.061	550.951	373.374
2004	2005	2006	2007*	2008*	TOTAL
122.816	-14.957	337.243	265.629	496.187	16.833.075

* Provisional figures as of September 30, 2008

Source: Foreign Investment Committee

Table 4c Materialized investments from the United States by sector, 1974-September 2008
(in nominal US\$ thousand)

Agriculture	733
Forestry	23.787
Mining	24
Electricity, gas and water	374.150
Communications	35.673
Financial services (1)	50.188
Insurance	600
Engineering & business services	6.742
Other services (2)	4.290
Total	496.187

(1) Including: Banks, investments trusts, mutual funds, venture capitals and other financing services

(2) Including: Tourism, immovable property, social, medical and other services, Cultural services, Entertainment and other services

* Provisional figures as of September 30, 2008

Source: Foreign Investment Committee.