

**CHILE-MEXICO (Services)
Summary Fact Sheet**

Table 1: Background Information

Parties	Chile, Mexico	
Type of Agreement	Economic Integration Agreement	
Date of signature	17 April 1998	
Date of entry into force	01 August 1999	
Review envisaged	none	
Website or contact addresses	The text of the Agreement is available at: Mexico: http://www.economia.gob.mx/?P=2 Chile: http://www.direcon.cl/index.php?accion=tlc_mexico	
List of related WTO documents	WT/REG125/N/1 WT/REG125/1 WT/REG125/2 WT/REG125/4 WT/REG125/M/1-2 WT/REG125/5-6	Notification Agreement Terms of reference Standard format (services) Minutes Questions and Replies

Table 2: Scope and general aspects

Scope	Sectors	The Agreement covers all services sectors. Negotiations on market access for financial services are underway (Art. 20-08).
	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	An "enterprise" means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any foundation, corporation, trust, partnership, sole proprietorship, joint venture or other association. A "national" includes citizens and permanent residents of the Parties.
Positive/negative list		Negative list approach.
Sector-specific rules		Regarding air transportation services(Chapter 11) the Parties agree not to further restrict the bilateral air transport rights from the Bilateral Air Transport Agreement, The State-State dispute settlement of the FTA applies to this Chapter.. Telecommunications services (as defined in Chapter 12). Temporary Entry for Business Persons (as defined in Chapter 13).
Sectoral exclusions		The Chapter on cross-border trade in services does not apply to financial services; air services including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services; or procurement by a Party or a State enterprise. Government procurement has been negotiated as a self contained chapter.

Table 3: Provisions of the Agreement

Provision	Article	Additional information
MFN/National treatment	Art. 9-03, 9-04, 10-03 and 10-04	Each Party accords to investors of the other Party, treatment no less favourable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments. Similarly under the Services Chapter, each Party accords to service providers of the other Party (who are nationals or permanent residents of that Party) treatment no less favourable than that it accords, in like circumstances, to its own service providers.
Movement of natural persons	Chapter 13	Each Party agrees to grant temporary entry to business persons (citizens, but not permanent residents) who are otherwise qualified for entry under applicable measures on public health and safety and national security. The category of business persons includes: business visitors, traders and investors, intra-company transferees and professionals (Annex 13-04). The Annex contains country-specific rules for the temporary entry of business persons. 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 who is involved in such dispute. Under Art. 13-05, no later than one year after the entry into force of the Agreement, each Party must prepare, publish and make available in its territory and that of the other Party, consolidated explanatory material on the requirements for temporary entry under this Chapter to enable business persons of the other Party to become acquainted with them. A "Temporary Entry Working Group" has been established to consider the implementation and administration of this Chapter and measures of mutual interest (Art. 13-06).
Elimination of discriminatory measures	Art. 9-09, 10-07.1, 10-09 and Annex I and II	The Agreement eliminates existing discriminatory measures and prohibits new or more discriminatory measures. The existing non-conforming measures maintained by each Party are listed in Annex I of its Schedule to which the provisions on national and most-favoured-nation treatment, performance requirements, requirements for senior management and boards of directors and local presence do not apply. Annex I lists such measures maintained at the national, federal or state levels and provides for the continuation or prompt renewal of or amendment to any measure to the extent that it does not become more restrictive than at the time of entry into force of the Agreement. Annex II sets out the sectors, sub-sectors and specific economic activities for which a Party may adopt or maintain measures to which certain Articles in the Chapters on Investment and Services are not applicable. Annex III lists activities reserved for the Mexican State. Annexes IV and V contain MFN treatment exceptions and quantitative restrictions respectively. The Parties must, through future negotiations to be arranged by the "Free Trade Commission", seek further liberalization in different services sectors with a view to eliminating the remaining restrictions (Art. 10-09).
Treatment of third party suppliers	None	
Denial of benefits	Art. 9-14 and 10-13	Subject to prior notification and consultation, a Party may deny the benefits of the Services Chapter to a service provider of the other Party if it is established that the service is being provided by an enterprise that has no substantial business activities and that is owned or controlled by persons of a non-Party. Benefits may also be denied to an investor of the other Party that is an enterprise of such Party and to investments of such investor if investors of a non-Party own or control the enterprise and the denying Party. A Party may also deny benefits to investors with which the denying Party does not maintain diplomatic relations, or with regard to transactions which are prohibited.
Standards/mutual recognition	Art. 10-12	The Parties must ensure that the licensing or certification of nationals of the other Party does not constitute an unnecessary barrier to trade. To this end, they must ensure that any such measure is based on objective and transparent criteria, not more burdensome than necessary and does not constitute a disguised restriction on the cross-border provision of a service. Each Party agrees to eliminate, after the entry into force of the Agreement, any citizenship or permanent residency requirement, established in its list of Annex 1, that maintains for the licensing or certification of professional service providers of the other Party .
Safeguard mechanisms (intra-trade)	None	
Domestic regulations	Art. 16-05	Parties agree that all measures of general application are administered in a "consistent, impartial and reasonable manner".
Subsidies and state aid	Art. 10-02. 3 (d)	The Chapter on Services does not apply to subsidies or grants provided by a Party or a State enterprise, including government-supported loans, guarantees and insurance.

IPR	Chapter 15	Each Party agrees to grant in its territory to nationals of the other Party adequate and effective protection of intellectual property rights and ensure that measures to enforce those rights do not themselves become barriers to legitimate trade. The IPRs regulated by this Chapter are copyrights, related rights, trademarks and designations of origins referred to in this Chapter. National/MFN treatment requirements apply to this Chapter (Art. 15-04 and 15-05). The Parties are subject to their obligations under the Paris, Berne, Rome and Geneva Conventions. Under Art. 15-07, they agreed to cooperate to eliminate trade in infringing goods and services by setting up a competent office or authority to exchange information.
Government Procurement	New Chapter	Commitments in force since November 2008
Competition	Art. 14-02	Each Party will adopt or maintain measures to proscribe anti-competitive business conduct and take appropriate action with respect thereto, recognizing that such measures will enhance the fulfilment of the objectives of this Agreement. To this end, the Parties will consult from time to time on the effectiveness of measures undertaken by each Party.
Investment	Chapter 9	The Agreement prohibits performance requirements, providing that neither Party may impose or enforce any commitment or undertaking in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment of an investor of a Party or of a non-Party in its territory (Art. 9-07). Moreover neither Party may require that an enterprise that is an investment of an investor of the other Party appoint to senior management positions individuals of any particular nationality (Art. 9-08). The mechanism to settle disputes between a Party and an investor of the other Party is set out in Section C.
General reservations	Chapter 19	The Chapter provides for national security exceptions, in particular trade in weapons and transactions in goods, services and technology carried out for provisioning a defence establishment (Art. 19-03). The Chapter also excludes internal taxation measures, providing that rights under tax conventions are not affected and that the latter prevail in the event of any inconsistency (Art. 19-05). Measures restricting transfers in the event of serious balance of payments difficulties or the threat thereof may be adopted with the Party concerned required to submit the restrictions imposed to the International Monetary Fund for review. Such measures must avoid any unnecessary damage and be of a temporary nature (Art. 19-06).
Level of Government	Art. 10.01.2	A reference to a national or federal or state government includes any non-governmental body in the exercise of any regulatory, administrative or other governmental authority delegated to it by that government.
Accessions	Art. 20-06	This Agreement is open for accession, after negotiation, to the other countries party to the Montevideo Treaty of 1980.
Dispute resolution	Chapter 18	This Chapter applies to the settlement of disputes between the Parties regarding the application or interpretation of this Agreement or wherever a Party considers that an existing or proposed measure of the other Party is liable to prove inconsistent with the obligations of this Agreement or cause nullification or impairment (Art. 18-02). The complaining Party may opt for the procedures provided by the World Trade Organization or that established by the Agreement. Once a forum has been selected, it must be used to the exclusion of the other (Art. 18-03).
Relations with other trade agreements	Art. 1-03 and 1-06	The Parties affirm their existing rights and obligations under the WTO Agreement, the Montevideo Treaty of 1980 and other agreements to which they are party. In the event of any inconsistency between the aforementioned instruments and this Agreement, the latter prevails to the extent of the inconsistency. In the event of any inconsistency between this Agreement and the

		specific trade obligations set out in the Convention on International Trade in Endangered Species of Wild Fauna and Flora; the Montreal Protocol on Substances that Deplete the Ozone Layer and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, such obligations prevail to the extent of the inconsistency.
Institutional provisions	Chapter 17	The Free Trade Commission convenes once a year and its main function is to supervise proper implementation of the Agreement (Art. 17-01). The Secretariat comprises national Sections and must set up an office in each country. Its role is to provide assistance to the Commission and administrative support to panels established under Chapter 18 (Dispute Settlement) and to support the work of the committees, sub-committees and groups of experts (Art 17-02).
Other	Art. 8.12 and 15.07	A Party, on the request of the other Party, may provide to that Party information and technical assistance on mutually agreed terms and conditions to enhance that Party's standards-related measures, and related activities, processes and systems and also provide information on its technical cooperation programmes regarding standards-related measures relating to specific areas of interest. The Parties also agreed to cooperate to protect intellectual property rights, establishing a competent office or authority to exchange information on trade in goods or services infringing intellectual property rights covered by the Agreement, with a view to eliminating illegal trade in such goods or services.

Table 4a Chilean Foreign Direct Investment in Mexico, 1995-2002

(US\$ million)

1995	1996	1997	1998	1999	2000	2001	2002
8.2	3.4	42.9	7.1	6.3	4.5	5.2	31.7

Source: Ministry of the Economy, General Directorate of Foreign Investment

Table 4b Mexican Foreign Direct Investment in Chile, 1974-2002

(US\$ million)

Sector	Value
Construction	2.6
Industry	96.8
Services	38.9
Transport and Telecommunications	2.7
Total	141.0

Source: Chilean Foreign Investment Committee, September 2002

Table 4c Mexican Foreign Direct Investments under the "Estatuto de la Inversión Extranjera", 1974-2008

(US\$ thousand)

1974-1998	1999	2000	2001	2002	2003
56.951	71.764	2.309	14.380	2.689	16.160
2004	2005	2006	2007*	2008*	TOTAL
149.714	604.767	47.300	54.547	137.746	1.158.327

*Provisional figures as of 30 September in 2008

Source: Foreign Investments Committee

Table 4d Mexican Foreign Direct Investments by sector under the "Estatuto de la Inversión Extranjera", January-June 2008*

(US\$ thousand)

Mining	Communication	Total
2.057	135.689	137.746

* Provisional figures as of 30 September 2008

Source: Foreign Investments Committee