

JOINT REPORT
Twelfth Free Trade Commission Meeting
United States – Chile Free Trade Agreement
Washington, D.C.
October 16, 2018

The twelfth meeting of the United States – Chile Free Trade Commission (Commission) convened on October 16, 2018 in Washington, D.C. Deputy United States Trade Representative Ambassador C.J. Mahoney and Director General for International Economic Affairs Rodrigo Yáñez chaired the Commission meeting.

Both Parties agreed that the next meeting of the Commission will tentatively take place in Chile in the second half of 2019.

Trade Effects

Officials from both countries reviewed the impact of the Agreement since the last Commission meeting in December 2016. Both Parties noted that the United States and Chile are longstanding commercial and economic partners, with a bilateral Agreement in force since January 1, 2004. It was also noted that January 1, 2019 will mark the fifteen-year anniversary since entry into force of the Agreement.

For the United States, total two-way goods trade with Chile totaled \$24.2 billion in 2017 and total two-way services trade totaled \$6 billion in 2016. In 2017, Chile was the United States' fifth largest goods trading partner in the Western Hemisphere and 29th largest overall goods trading partner. The United States maintained a trade surplus with Chile in both goods and services totaling \$3.1 billion in 2017 and \$2.6 billion in 2016 respectively.

For Chile, it was noted that, as of January 1, 2018, annual two-way trade with the United States has grown by an annual average rate of 7.4 percent, with exports up 5.4 percent and imports up by 9.6 percent. In 2018, trade between the United States and Chile reached \$21.7 billion year-to-date, which represents a 16 percent increase from the same period in 2017.

Institutional Framework, Committee, and Council Meetings

The United States and Chile held meetings of the Committee on Sanitary and Phytosanitary (SPS) Matters on Thursday, October 11 and the Committee on Technical Barriers (TBT) on Monday, October 15.

On SPS, the Parties exchanged updates concerning several items of interest and discussed ongoing cooperation in international fora. The United States and Chile noted achievements since the last meeting of the SPS Committee on December 1, 2016. Specifically, the United States has granted market access for Chilean cherimoya, lemons, and citrus hybrids. In addition, progress has been made on market access for blueberries. Additionally, the Parties reviewed the status of a Chilean request for a systems approach for table grapes and discussed technical issues concerning fruit fly quarantine areas, live cattle certificates, and poultry compartments. For its part, the United States requested an update on market access for blueberries produced throughout California and the Pacific Northwest states, as well as salmonid eggs. Finally, the Parties recognized positive developments with respect to the conversion of the phytosanitary certificate

system into an electronic platform and reaffirmed their interest in continuing to collaborate at the International Plant Protection Convention forum.

On TBT, both Parties noted ongoing progress and shared information on important issues concerning specific trade concerns and other regulatory issues. With respect to STCs, the United States requested updates on Chilean measures covering front of package labeling for prepackaged food and beverage products and cell phone broadband labeling. Both Parties discussed ongoing cooperation in the Asia Pacific Economic Cooperation (APEC) forum on cosmetics, while Chile noted that it is working with its Pacific Alliance partners on the harmonization of labeling for cosmetic products. Chile noted that it will host APEC in 2019. It delivered a brief overview of its three main priorities for its APEC host year – digital society, integration, and women and inclusive growth – which will further Chile’s overall APEC theme of “connecting people, building the future.” The United States offered to continue to assist Chile under the auspices of the Subcommittee on Standards and Conformance on in the organization of a conference on good regulatory practices (GRPs). The Parties also reviewed the status of the 8th WTO Triennial Review, with both Chile and the United States committing to continue looking for ways to be mutually supportive of one another. The Parties exchanged information on GRPs. The United States provided an overview of its approach to GRP, which emphasizes transparency, evidence-based decision making and analysis, and coordination mechanisms. Furthermore, representatives from the American National Standards Institute and AdvaMed provided a brief overview of the work of the Standards Alliance, including the group’s ongoing collaboration with multiple countries and its key findings thus far. It was agreed that there might be room for future cooperation on GRPs, to include possible work in the medical device sector. Finally, a representative from the U.S. Department of Commerce’s National Institute of Standards and Technology provided an overview of the U.S. standards development process, to include OMB circular A-119. The United States noted that it focuses on five themes when it develops standards: openness, balance, due process, appeals process, and consensus.

The Commission also received a brief read-out of the eight meeting of the Environmental Affairs Council under the FTA and the sixth meeting of the Joint Commission for Environmental Cooperation under the United States-Chile Environmental Cooperation Agreement, which took place in Santiago, Chile on September 4-5, 2018. Their Joint Communique contains detailed information on discussion and outcomes from the meetings.

Commission Decision

In accordance with Article 21.1.3 (b) of the FTA, the Parties signed a Decision agreeing to modify Annex 4.1 (Specific Rules of Origin) of the FTA to maintain consistency with 2017 updates to the nomenclature for the Harmonized Tariff Code System. The Parties agreed that this Decision modifying Annex 4.1 shall enter into force 60 days after the Parties have exchanged written notifications informing one another that they have completed their respective applicable legal requirements and procedures.

The United States intends to operationalize these changes via their publication in a year-end Presidential Proclamation.

Chile indicated that it intends to complete its domestic process and have these changes enter into force at the beginning of 2019.

Rosters

The United States and Chile recognized that, while both Parties came to Agreement on a number of elements concerning the Agreement's state-to-state dispute settlement mechanisms in Chapter 22 in 2014, the establishment of the roster of panelists remains outstanding. Likewise, panelists have yet to be agreed-to per obligations set out in Chapters 12 (Financial Services), Chapter 18 (Labor), and Chapter 19 (Environment). Chile noted that it had previously shared a white paper on this issue. Both Parties agreed to revisit this issue in the coming year.

Information Sharing

Both Parties recognized the value of their dialogue regarding the implementation of Chapter 17 (Intellectual Property Rights) and reaffirmed the importance in continuing these discussions. Chile explained the status of ongoing domestic work regarding intellectual property matters. The Parties also recognized the value of exchanging information on intellectual property and technology transfer matters.

Satellite Piracy

Chile informed that the bill regarding the protection of encrypted program carrying satellite signal, was approved by the Chilean Congress on October, 16th, 2018.

Technological Protection Measures

With respect of Technological Protection Measures (TPMs), Chile noted that Directorate of International Economic Affairs (DIRECON) personnel have been working closely with other agencies to consider how TPMs might be addressed.

UPOV '91

For UPOV '91, the Chilean Ministry of Agriculture is in the process of developing a proposal to be submitted to the Congress.

IP Enforcement

Concerning IP Enforcement, Chile noted that is working diligently to enforce its IP laws and to protect right holders according its domestic laws. It informed a significant uptick in seizures of counterfeit goods in 2018 against the numbers for the same period last year.

Technology Transfer

At Chile's request, a representative from the U.S. Patent and Trademark Office explained the contents of and process for administering requirements set out in the Patent and Trademark Act Amendments of 1980 (Bayh-Dole Act), which enables certain entities to own, patent and commercialize inventions developed under federally funded research programs within their organizations under certain conditions, allowing the government to retain a non-exclusive license for those inventions.

Implementation of Chilean Law No. 20606

Both Parties recognized the public health aims of Chile's nutritional labeling and advertising measures intended to combat obesity and non-communicable diseases. The United States recognized that this issue was discussed at length during the October 15 TBT Committee meeting, but nonetheless inquired as to several aspects of the measures' application. Chile clarified that any restrictions pertaining to the use of logos or characters on product packaging or in advertisements are made by the Chilean Ministry of Health on a case-by-case basis. While no formal 'advanced ruling' system exists, Chile did indicate that the Ministry of Health engages with companies by request when there are concerns that logos, characters, or packaging may be in violation of Chile's advertising requirements. Chile noted that companies do have the ability to appeal decisions pertaining to the use of these logos or characters via the judicial system. Finally, in response to U.S. questions, Chile indicated that there is an existing working group (*Reglamento Sanitario de los Alimentos*) at which stakeholders from government, academia, and the private sector are represented and where these measures are discussed. Chile confirmed that this forum is the same as the 'implementation review mechanism' established in Article 4 of the final measure published via Decree 13 on April 16, 2015.

Chilean Dairy Safeguard Investigation

Chile confirmed that its ongoing global safeguard investigation into imports of skim milk powder and gouda cheese is being conducted in accordance with all of Chile's obligations under the World Trade Organization Agreement on Safeguards, the General Agreement on Tariffs and Trade 1994, and the United States-Chile Free Trade Agreement.

Chilean Product Specific Rules of Origin Change Request for Rayon Fabric

The United States indicated that it continues to work on Chile's rules of origin change request concerning viscose rayon yarns. It clarified that this request remains pending certain internal approvals, before it can be sent to Congress for a 60-day consultation and layover period, and that this request would be better received if corresponding progress on outstanding IP issues can be reported at the same time.

United States – Chile Treaty for the Avoidance of Double Taxation

Chile requested an update on the status of the United-States-Chile Treaty for the Avoidance of Double Taxation, which was signed by the Parties in 2010. The United States noted that the U.S. Department of the Treasury is the lead on this issue and that the Treaty remains pending approval by the U.S. Senate, which is a necessary step for the it's ultimate entry into force.

Other Matters

The United States and Chile also discussed Chile's APEC host year in 2019 and exchanged information about their respective bilateral and regional negotiations, including the Pacific Alliance, the Comprehensive and Progressive Agreement for Trans Pacific Partnership (CPTPP), the U.S.-Mexico-Canada Agreement (USMCA), and the recently completed or ongoing updated of several other, pre-existing agreements.