June 6, 2003

The Honorable
Maria Soledad Alvear Valenzuela
Minister of Foreign Relations

Dear Minister Alvear:

I have the honor to confirm the following understanding reached by the delegations of the United States of America and the Republic of Chile in the course of negotiations regarding the non-conforming measures on cross border services commitment of the Free Trade Agreement between our two Governments that was signed on this day.

For the purposes of the Free Trade Agreement between the Government of the United States and the Government of Chile, it is understood that formalities permitting business to be conducted, such as measures requiring registration under local laws, an address or agent for service in the local jurisdiction or requiring that records be kept in the jurisdiction, need not be reserved against Article 11.2 or 11.5 under Annex I, provided that the measure does not impose a requirement to establish a functional office or other ongoing business presence as a condition of providing the supply of the service in the jurisdiction.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

Robert B. Zoellick

Robert B. Zoellick
June 6, 2003

The Honorable
Maria Soledad Alvear Valenzuela
Minister of Foreign Relations

Dear Minister Alvear:

I have the honor to confirm the following understanding reached by the delegations of the United States of America and the Republic of Chile in the course of negotiations of the Free Trade Agreement between our two Governments that was signed on this day.

The Parties pledge to urge their specialized agencies to implement technical and scientific work dedicated to achieving market access to make the bilateral trade of poultry products of mutual benefit for both Parties.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

[Signature]

Robert B. Zoellick
June 6, 2003

The Honorable
Maria Soledad Alvear Valenzuela
Minister of Foreign Relations

Dear Minister Alvear:

I have the honor to confirm the following understanding reached by the delegations of the United States of America and the Republic of Chile in the course of negotiations regarding the supply of engineering services and Annex 11.9 (Professional Services) of the Free Trade Agreement between our two Governments signed this day.

In the interest of greater transparency, this is to notify the Government of Chile that upon entry into force of the US-Chile Free Trade Agreement, the United States will initiate a review of state-level measures in the states of Florida, Texas, California, Arizona, Colorado, and New York in the following engineering subsectors: engineering for mining projects, seismic and structural engineering, cellulose and paper engineering projects, electric generation and transmission projects, mechanical and piping projects, and engineering for the construction of buildings. The focus of the review will be on measures requiring permanent residency or citizenship and will be completed one year from the date of entry into force of the Agreement. The United States will inform the Government of Chile of the results of the review pursuant to Article 11.10 (Implementation).

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

Robert B. Zoellick

Robert B. Zoellick
The Honorable
María Soledad Alvear Valenzuela
Minister of Foreign Relations

Dear Minister Alvear:

I am pleased to receive your letter of today’s date, which reads as follows:

“I have the honor to confirm the following understanding reached by the delegations of the United States of America and the Republic of Chile in the course of negotiations regarding Chile’s non-conforming measure on Open Television Programming contained in Chile’s Annex I of the Free Trade Agreement between our two Governments signed this day.

For the purposes of the Free Trade Agreement between our two governments:

- the law of Chile gives the Consejo Nacional de Televisión de Chile the right to require up to 40% per channel public (open) television programming to consist of national production. This percentage is not applied to cable television.

- the 40% requirement has to be mandated through a Consejo resolution. However, since its creation in 1989, the Consejo has never needed to adopt said resolution since national production programming has always exceeded the minimum requirement. On average, national production in open television has been over 50% of programming.

- the Consejo monitors the percentage of national content by calculating at the end of the year the content level based on a two months sample of that year. As the level of national content has never been less than that required by law, the Consejo has never imposed the requirement.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement.”

I have the honor to confirm that the understanding referred to in your letter is shared by my Government, and that your letter and this letter in reply shall constitute an agreement between our two respective Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

[Signature]

Robert B. Zoellick
June 6, 2003

The Honorable
Maria Soledad Alvear Valenzuela
Minister of Foreign Relations

Dear Minister Alvear:

I have the honor to confirm the following understanding reached by the delegations of the United States of America and the Republic of Chile in the course of negotiations regarding Section D of Annex 14.3 of the Free Trade Agreement between our two Governments that was signed on this day.

Section D of Annex 14.3 provides for the temporary entry of business persons, as defined in Article 14.9 of the Chapter, under the category of "professionals" into the territories of the Parties. Paragraph 5 of that section permits each Party to require business persons seeking entry as "professionals" to comply with procedures generally applicable to temporary entry of professionals, such as an attestation of compliance with the Party's labor and immigration laws.

The United States intends to implement its requirement for a labor attestation in a manner similar to the current Labor Condition Application (LCA) required under its "H-1B" (temporary worker) program. Under that program, a U.S. employer is required to submit an LCA to the Department of Labor, and to present evidence of that filing in support of its petition to the Immigration and Naturalization Service. Aliens seeking temporary entry into the United States to perform professional services pursuant to a contract ordinarily do not qualify for an H-1B visa if there is no U.S. employer or agent to submit the LCA and petition.

The Administration will consult with Congress about the possibility of developing a process under which Chilean nationals seeking to enter the United States pursuant to a contract may satisfy U.S. labor attestation that the United States imposes as authorized under Section D, paragraph 5 of Annex 14.3.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

Robert B. Zoellick
June 6, 2003

The Honorable
María Soledad Alvear Valenzuela
Minister of Foreign Relations

Dear Minister Alvear:

I have the honor to confirm the following understanding reached between the delegations of the United States of America and the Republic of Chile in the course of negotiations regarding Annex 14.3 (Temporary Entry for Business Persons) of the Free Trade Agreement between our two Governments that was signed on this day.

Annex 14.3 provides for the temporary entry of business persons, as defined in Article 14.9 of the Agreement, into the territories of the Parties. The Annex provides for the temporary entry of business persons under four categories: business visitors, traders and investors, intra-company transferees, and professionals. In view of the Parties’ understanding that changes to a Party’s laws, regulations, or procedures relating to the provisions of this Chapter that are consistent with Article 14.2(1) do not unduly impair or delay the rights granted under the Agreement, the United States intends to implement its commitments under Sections A, B, and C of Annex 14.3 (Business Visitors, Traders and Investors, and Intra-Company Transferees) under current U.S. laws and procedures. The relevant United States statutory authority governing for the admission of business visitors is section 101(a)(15)(B) of the Immigration and Nationality Act, 1952, as amended (INA). The relevant statutory authority for traders and investors is section 101(a)(15)(E) of the INA. The relevant statutory authority for intra-company transferees is section 101(a)(15)(L) of the INA. The existing principal relevant statutory grounds for the inadmissibility of aliens and the denial of visas are set out in sections 212, 214, and 221 of the INA.

Both the Immigration and Naturalization Service (INS) and the Department of State have developed regulations to implement the INA. INS regulations related to immigration and temporary entry are set out in Title 8 of the Code of Federal Regulations (CFR). State Department regulations related to visas for nonimmigrants are set out in Title 22, Parts 40 and 41 of the CFR.

In order to implement Section D of Annex 14.3 (Professionals) the United States will need to amend the INA to provide legal authority for the admission of professionals under the Agreement. The Administration will work closely with the Congress in order to ensure that the legislation will allow the United States to honor its commitments under Section D.

In view of the Parties’ Understanding that changes to a Party’s laws, regulations or procedures relating to the provisions of this Chapter that are consistent with Article 14.2 do not unduly impair or delay the rights granted under the Agreement, Chile intends to implement its commitment under Annex 14.3 under existing Chilean laws and procedures. These domestic
laws are Decreto Ley 1.094 (Diario Oficial, 19 de julio de 1975, Ley de Extrajería) ("Decreto Ley 1.094") and Decreto Supremo 597 del Ministerio del Interior (Diario Oficial, 24 de noviembre de 1984, Reglamento de Extrajería) ("Decreto Supremo 597").

Business persons who enter Chile under any of the categories set out in Annex 14.3 shall be deemed to be engaged in activities that are in the country's interest, as defined in Decreto Ley 1.094 and Decreto Supremo 597.

Business persons who enter Chile under any of the categories set out in Annex 14.3 and are issued a temporary visa pursuant to Article 29 of Decreto Ley 1.094 and Article 50 of Decreto Supremo 597, shall have that visa extended for subsequent periods provided that the conditions on which it is based remain in effect, without requiring that person to apply for permanent residence.

Business persons who enter Chile may also obtain an identity card for foreigners.

The current principal relevant statutory grounds for the inadmissibility of aliens and the denial of visas are set out in Article 15 and 16 of Decreto Ley 1.094.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, to enter into force on the entry into force of the Free Trade Agreement.

Sincerely,

Robert B. Zoellick

Robert B. Zoellick