WORLD TRADE ORGANIZATION

WT/TPR/S/220/Rev.1
5 November 2009

(09-5519)

Trade Policy Review Body

TRADE POLICY REVIEW

Report by the Secretariat

CHILE

Revision

This report, prepared for the fourth Trade Policy Review of Chile, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from Chile on its trade policies and practices.

Any technical questions arising from this report may be addressed to Mrs Martha Lara de Sterlini (tel. 022 739 6033), Mr Angelo Silvy (tel. 022 739 5249) and Mr Raymundo Valdés (tel. 022 739 5346).

Document WT/TPR/G/220 contains the policy statement submitted by Chile.

CONTENTS

Page

TABLES

APPENDIX TABLES

SUMMARY OBSERVATIONS

1. Chile's trade and investment regime continues to be characterized by openness, transparency, predictability and inter-sectoral neutrality. Chile applies an almost uniform MFN tariff and grants national treatment to foreign investors in all but a few cases. Since its last Review in 2003, Chile has adopted measures to modernize customs and facilitate trade, abolished some import taxes and export subsidies, and introduced significant reforms to its competition policy, government procurement and intellectual property systems. Regional Trade Agreements (RTAs) have continued to play a central role in Chile's liberalization strategy. At the same time, Chile remains strongly committed to the multilateral trading system, where it participates actively.

2. Open trade and investment policies, together with sound macroeconomic management, underpin Chile's solid economic growth and its capacity to implement aggressive counter-cyclical measures to respond to the current global financial crisis. Nevertheless, benefits could arise from re-examining with a view to changing measures such as the imposition of non-*ad valorem* tariffs on a couple of agricultural products, import prohibitions on certain used goods, and the application of reciprocity requirements in a handful of activities.

(1) ECONOMIC ENVIRONMENT

3. The Chilean economy grew at an annual average rate of 4.8 per cent between 2003 and 2008, reflecting strong domestic demand and, to a lesser degree, export growth. However, amidst the global economic crisis, the economy has cooled off since mid-2008 and was experiencing a contraction in the first half of 2009. Sustained economic growth has allowed Chile to attain one of the highest per capita income in Latin America, of some US$10,000 per person. At the same time, Chile has implemented internal policies to ensure that the gains from trade are more broadly distributed; this and sustained growth have reduced the proportion of the population living in poverty from 21 per cent in 2000 to 14 per cent in 2008.

4. Chile maintains a floating exchange rate system. Monetary policy seeks to achieve an annual inflation target of 2 per cent to 4 per cent, and has generally kept inflation under control. Fiscal policy aims at obtaining a structural surplus, which saw Chile enter the present global crisis with room for discretionary action. As a result, Chile has been able to adopt an expansionary fiscal policy since 2008, using public assets accumulated when commodity prices were high. Sound macroeconomic policies and open trade have allowed Chile to profit from economic specialization while lessening the vulnerabilities associated with it.

5. Chile's external current account posted a positive balance for much of the period under review, reflecting mainly a trade balance surplus. Its exports consist mostly of primary products, which represented some 87 per cent of total merchandise exports in 2008. Chile's main trading partners are the EU and the United States. Chile has continued to record a deficit in its services balance, particularly in financial services and insurance. FDI inflows have traditionally played an important role in Chile's economy; they were equivalent to some 3 per cent of GDP in 2008. The main recipient sectors were mining, electricity and communications.

(2) TRADE AND INVESTMENT POLICY FRAMEWORK

6. Since its last Review, Chile has not introduced fundamental changes in its trade policy, which, the authorities state, continues to aim at furthering Chile's integration into the world economy within a framework of predictable rules and under policies that promote social equity.

7. Chile participates actively in the WTO and the DDA. It considers that the multilateral trading system should be further strengthened and that certain issues on the trade agenda, such as the elimination of agricultural subsidies, can only be resolved in the multilateral sphere. During the period under review, Chile has made regular notifications to the WTO. It has been involved in several dispute settlement procedures, in four cases as a defendant, three as a complainant and 11 as a third party. Chile is not a party to any of the WTO plurilateral agreements.

8. One of the most prominent features of Chile's trade policy regime is the central role it gives to RTAs. As at mid-2009 Chile had in force 21 RTAs with 57 trading partners; 13 of these agreements, with 18 partners, were concluded during the review period. As a result, just over 92 per cent of Chile's total merchandise trade is carried out with preferential partners. As in the case of other WTO Members, the overall economic implications of Chile's RTAs are complex. In the case of Chile, concerns about its wide and expanding network of RTAs are allayed by Chile's strong support to the multilateral trading system.

9. Chile considers foreign investment as an essential engine of growth, and an integral part of its open economic policy. It grants national treatment to foreign investors, with a few exceptions in areas such as fisheries, air and maritime transport, and audiovisual services. Chile has in force a large number of bilateral agreements to promote and protect foreign investment, and to avoid double taxation.

(3) MARKET ACCESS FOR GOODS

10. Since its last Review, Chile has continued to adopt measures to facilitate trade and to modernize customs, including new valuation regulations. As a result of previous unilateral tariff reductions, since 2003 Chile has applied a single MFN tariff rate of 6 per cent, with a few exceptions that reduce somewhat the otherwise noteworthy simplicity and neutrality of Chile's tariff structure. The exceptions are: a 12.5 per cent rate on poultry products, a price band system applied to a handful of agricultural products, and a tariff surcharge of 50 per cent collected on almost all used goods. Under the RTA with the United States, the MFN tariff on poultry products was increased to 25 per cent but is being progressively reduced back to 6 per cent. A zero rate on certain capital goods reduces nominal tariff protection, but increases effective protection on final goods.

11. The MFN tariffs applied to wheat, wheat flour and sugar vary with international prices as a result of the price band system applied to these products; reflecting the high prices prevailing in recent years, the use of this system appears to have resulted in tariffs no higher than the general 6 per cent rate. Two Panels found the price band system WTO-inconsistent. Draft legislation under consideration aims to bring the system into conformity with WTO rules by introducing a fixed compound tariff; the proposed change would increase tariff protection over the level actually applied in recent years.

12. All tariff lines are bound, most at 25 per cent; a number of agricultural products are bound at 31.5 per cent. Chile renegotiated the bound rate for sugar, resulting in an increase of the bound rate to 98 per cent and the introduction of a tariff quota in 2002. Although Chile's applied tariff rates have been stable in practice, reducing bound rates would enhance certainty to MFN traders.

13. Chile imposes other charges on certain import operations, some on an *ad valorem* basis. Imports are subject to the same internal taxes as domestic goods, most notably to a 19 per cent Value Added Tax (VAT). Certain goods, such as alcoholic beverages, tobacco products, vehicles and jewellery, are subject to excise taxes. Since 2003 Chile has abolished the airport tax and the customs dispatch tax.

14. Chile does not apply quantitative import restrictions or import licenses. However, it prohibits, among others, the importation of most used motor vehicles, and used and retreaded tyres (except those wheel-mounted). Initially introduced to assist the domestic vehicle assembly industry, the import prohibition on used motor vehicles is ostensibly maintained for safety and environmental reasons. The import prohibition on used and retreaded tyres seeks public health objectives. It would be valuable to study whether less trade-restrictive measures could achieve the same objectives sought through outright import prohibitions on used motor vehicles and tyres. Also on safety, health and environmental grounds, Chile applies administrative formalities to certain imports.

15. As at January 2009, Chile maintained only one anti-dumping measure in force. During the period under review, Chile introduced two anti-dumping measures (on wheat flour) and three safeguard measures (on wheat flour and certain dairy products); some of these measures have been challenged under multilateral rules. On the other hand, by setting short application periods, Chile's legislation would seem to discourage the use of contingency measures for protectionist purposes. Moreover, Chile supports stricter multilateral disciplines on the use of contingency measures, and has agreed to the reciprocal non-application of these measures under some RTAs.

16. Since 2003, Chile has introduced no major changes to the legal or institutional framework governing the adoption and application of technical regulations or sanitary and phytosanitary measures (SPS). Such framework aims to ensure non-discrimination and transparency, although there are no general guidelines for the elaboration and notification of SPS measures. Chile has submitted numerous notifications on both types of measures during the period under review; a reduced number of SPS notifications provided for shorter comment periods than those multilaterally recommended.

(4) OTHER MEASURES AFFECTING TRADE

17. Chile maintains a number of export promotion programmes that offer administrative facilities for the payment and reimbursement of import duties and VAT. During the period under review, Chile phased out certain aspects of these programmes that it had previously notified as providing export subsidies. Several public financing and guarantee schemes are also offered to exporters, mainly to small- and medium-sized enterprises. Chile does not apply export taxes.

18. Chile has in place numerous other incentive programmes, but most eschew targeting particular sectors in favour of horizontal measures targeting small- and medium-sized enterprises, technological innovation or regional development. Incentives generally consist of fiscal benefits, investment and R&D financing, and support for the development of entrepreneurial skills.

19. Chile has introduced important reforms to its competition policy framework, most notably by establishing a competition tribunal to increase the autonomy of the competition system. Further reforms to strengthen the investigative powers of the competition authority, in particular against cartels, are expected to come into force in late 2009.

20. Chile is not a signatory to the WTO Agreement on Government Procurement but it is an observer in the respective WTO committee. Since 2003, Chile has implemented significant reforms to increase the transparency and efficiency of public procurement, particularly through the adoption of new legislation and the use of electronic tendering. The reforms have led to greater participation in the public procurement market. There is no discrimination based on the origin of products, services or providers. Public procurement by state enterprises and procurement of construction works are subject to separate regulations.

21. Reforms have also been made to Chile's intellectual property system with the aim of strengthening and adapting it to Chile's international commitments. In some instances, the Chilean legislation goes further than the obligations of the TRIPs Agreement, for example, in certain aspects relating to the protection of copyrights and industrial property. Chile has notified to the WTO the changes to its legislation.

(5) SECTORAL POLICIES

22. The agricultural sector has continued to play a major role in Chile's economic development, contributing both to the expansion and diversification of its exports. In general, the sector enjoys a low level of support, which is mainly geared to small farmers and does not include production-based measures. However, Chile has used contingency measures to protect domestic producers of wheat, wheat flower and certain dairy products, while the price band system it applies to wheat, wheat flour and sugar results in tariff protection that can vary inversely with the world price of these products. This is at odds with Chile's general economic policies, and may hinder the reallocation of resources among activities that would support higher living standards in the long-run.

23. Chile has managed to stabilize the production of its fishing sector. Aquaculture has gained importance and now accounts for two-thirds of fish exports, but it is facing serious sanitary problems. Foreigners must comply with residency and establishment requirements to invest in fishing or aquaculture activities, while companies must be Chilean majority-owned or be established in countries that grant reciprocal treatment to Chileans.

24. The mining sector consolidated its position as Chile's main export revenue generator and foreign investment recipient, benefiting from the high mineral prices that prevailed during much of the period since 2003. The State continues to play a fundamental role as an operator in the sector, mostly in the production of copper. During the review period, Chile introduced a new tax on mining activities. A regulation remains in place requiring the main mining companies to deliver certain quantities of refined copper to domestic manufacturing enterprises; in practice the quantities involved represent only a small fraction of Chile's copper production.

25. The manufacturing sector has increased its productivity, and remains an important generator of value added and employment. This reflects in part Chile's development strategy based on trade liberalization and inter-sectoral neutrality. The sector continues to be largely based on the processing of natural resources, thus reflecting Chile's comparative advantage.

26. Chile is highly dependent on imports of energy to satisfy domestic consumption, and restrictions on the foreign supply of gas in recent years have become a constraint to Chile's economic performance. Chile has intervened in the domestic energy market to stabilize the price of certain fuels, possibly at a considerable fiscal cost; it is also adopting policies aimed at ensuring a sustainable energy supply in the long-run.

27. Chile made specific commitments in five of the 12 sectors of the GATS. It adopted the Fifth Protocol on Financial Services and the Fourth Protocol on Basic Telecommunications, accepting also the Reference Paper on regulatory principles in telecommunications; however, Chile made no commitments on basic local telecommunications. In general, the market access provisions in Chile's legislation are considerably more liberal than the commitments it undertook under the GATS.

28. Since 2003, no major changes have been made to the legal framework governing the telecommunications sector. Concessions to operate public telecommunication services are granted to companies established in Chile, independently of the origin of capital.

However, concessions for radio broadcasting are not granted to companies with more than 10 per cent foreign capital unless their country of origin grants reciprocity to Chilean companies. Generally, prices are market determined, except where a company has a dominant position in a sector subject to maximum price setting. Interconnection fees are also fixed by law.

29. Chile's financial sector shows significant diversification and internationalization. Foreign banks and insurance companies may provide services in Chile through locally incorporated companies or branches with separate capital, which may engage in the same operations as domestic firms. For reasons of national interest, approval is required to acquire more than 10 per cent of a bank's capital. The establishment of branches by foreign insurance companies is possible since 2007; cross-border supply of international maritime and air transport insurance, as well as insurance of goods in transit, is also allowed since that year, but only for foreign companies from countries with which Chile has a treaty in this respect.

30. Chile practices an "open skies" air transport policy based on reciprocity. It has concluded 43 bilateral air transport agreements with different degrees of openness. In maritime transport, cabotage is reserved to ships registered in Chile, with exceptions. To register a ship in Chile, at least 50 per cent of the capital must be owned by Chilean persons or companies. Subject to reciprocity considerations, cargo sharing requirements and a special tax may be applied to certain international maritime transport operations. There are no restrictions on foreign participation in concessions for the administration of ports and airports.

31. A valid professional diploma is required to engage in a regulated profession in Chile, including law, engineering and accounting. Foreign diplomas must be revalidated by the University of Chile or be otherwise recognized under one of Chile's international mutual recognition agreements. Only Chilean citizens or foreigners who have completed their law studies in Chile may appear before Chilean courts. However, foreign legal consultants may provide legal advice on international or foreign law. Foreign engineers who have been hired to perform a particular job in Chile must receive temporal authorization from the national engineers professional association. Foreign accountants may establish a consultancy firm in Chile but must have at least one partner with a valid diploma to practice accountancy in Chile.