

FACTUAL PRESENTATION

**Free Trade Agreement
Between
Chile and China
(Goods)**

Report By The Secretariat

This report, prepared for the consideration of the Free Trade Agreement between Chile and China has been drawn up by the WTO Secretariat on its own responsibility and in full consultation with the Parties. The report has been drawn up in accordance with the rules and procedures contained in the Decision for a Transparency Mechanism for Regional Trade Agreements (document WT/L/671).

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FREE TRADE AGREEMENT BETWEEN CHILE AND CHINA (GOODS)

Factual Presentation by the Secretariat

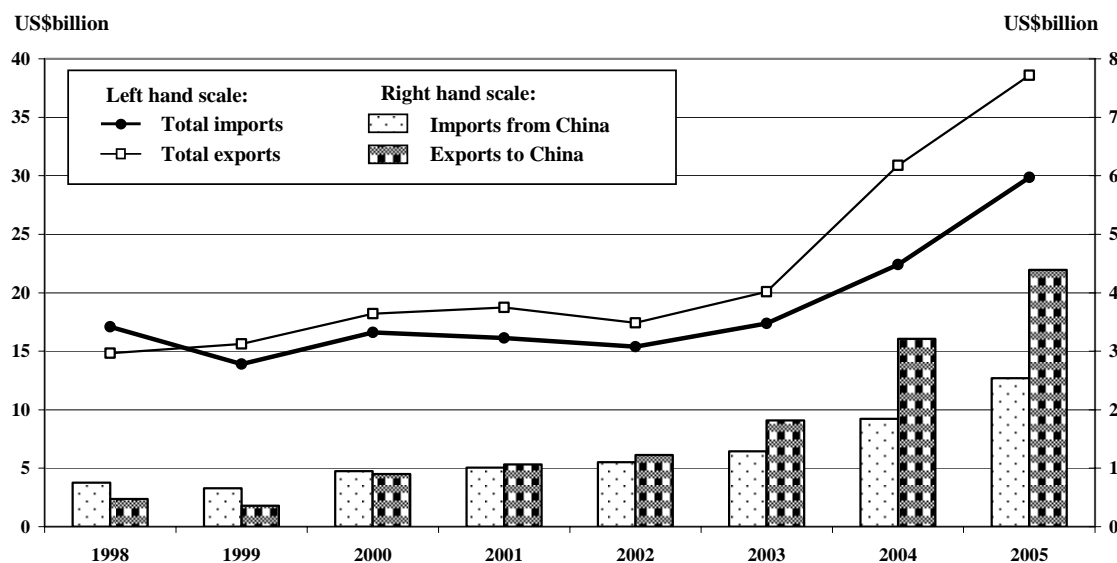
I. TRADE ENVIRONMENT

A. MERCHANDISE TRADE

1. The Free Trade Agreement between the Republic of Chile and the People's Republic of China (hereafter "the Agreement") is China's first free trade agreement (FTA) with a Latin American country and, at the time of notification, the ninth FTA Chile had notified to the WTO. Of the Parties, Chile ranked as the world's 40th top exporter and 47th top importer in 2006 in terms of merchandise trade, while for the same year China was the world's 3rd largest exporter and importer. In the period 2004-2006, Chile's trade to GDP ratio was 73.2, while China's was 69.0.

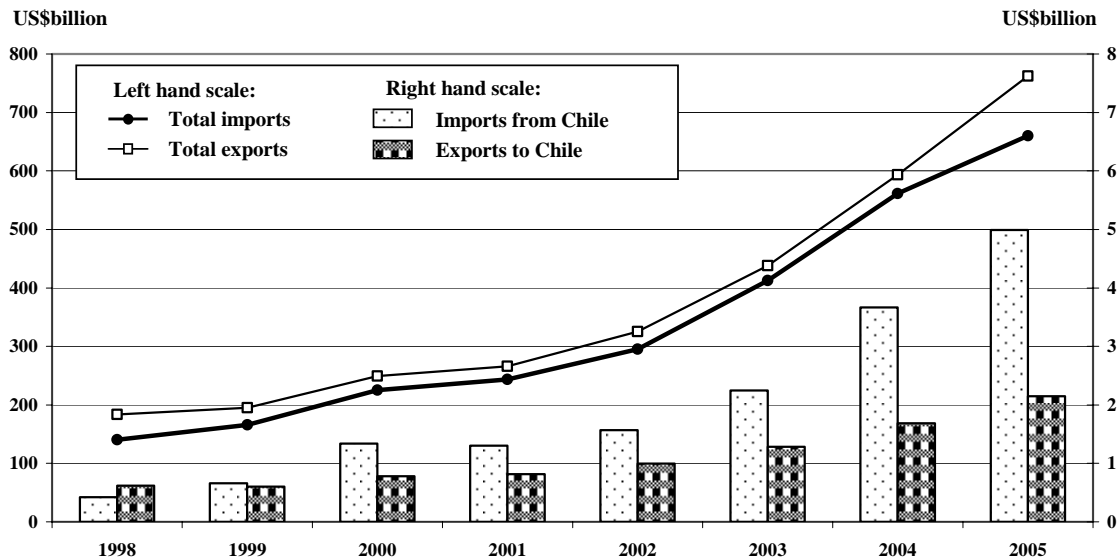
2. Developments in recent years in global and intra trade between the Parties are pictured in Charts I.1 and I.2. Over the period surveyed (1998-2005), trade between the Parties has grown steadily. From 2001 to 2005, Chile shows a growing trade surplus with China.

Chart I.1 - Chile: Merchandise imports from and exports to world and China, 1998-2005



Source: UNSD, Comtrade database.

Chart I.2 - China: Merchandise imports from and exports to world and Chile, 1998-2005



Source: UNSD, Comtrade database.

3. The commodity structure of trade among the Parties, as well as of their imports and exports to the world in the period 2003-2005, is shown in Chart I.3, on the basis of Harmonized System (HS) sections.

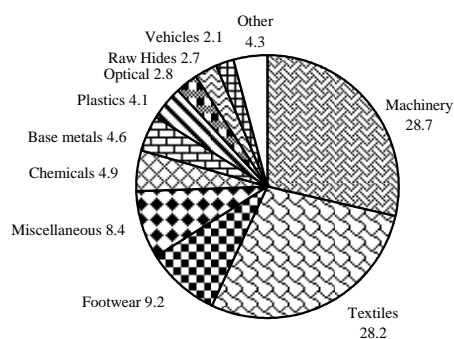
4. Three product categories (base metals, minerals and wood pulp) accounted for more than 89% of China's imports from Chile; prepared foods and chemicals accounted for a further 6.9%. Chile's four largest export product categories – base metals, minerals, animals and vegetables – made up 69.7% of its total exports in 2003-2005 and accounted for 83.3% of China's imports from Chile in the same period.

5. As to Chile's imports from China in the period 2003-2005, more than 74% were classified under four product categories (machinery, textiles, footwear and miscellaneous articles). China's four largest export product categories – machinery, textiles, base metals, and miscellaneous articles – made up 69.5% of its total exports in 2003-2005 and accounted for 69.9% of Chile's imports from China in the same period.

Chart I.3 Chile and China: product composition of merchandise trade, annual average (2003-05)

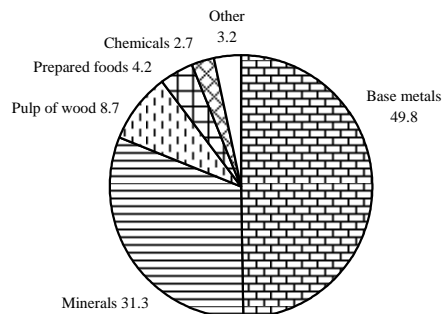
Per cent

Chile's imports from China



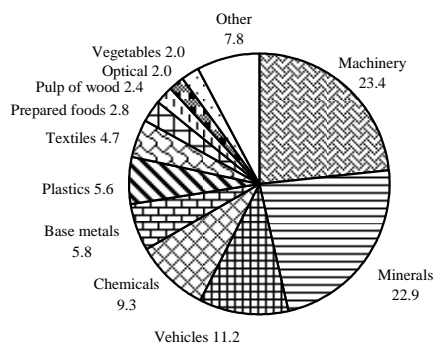
Total: US\$1.9 billion

China's imports from Chile



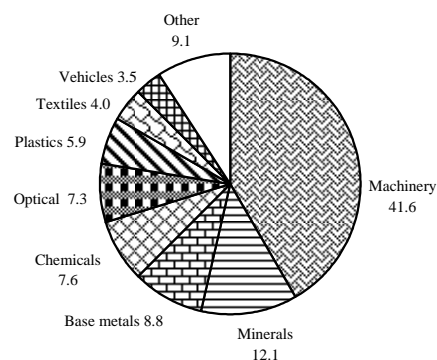
Total: US\$3.7 billion

Chile's global imports



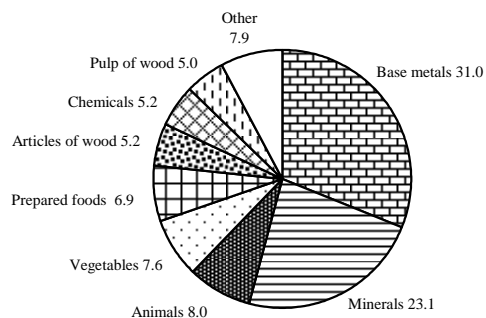
Total: US\$23.2 billion

China's global imports



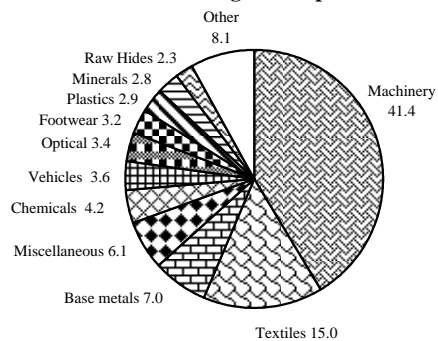
Total: US\$544.7 billion

Chile's global exports



Total: US\$29.9 billion

China's global exports



Total: US\$597.9 billion

Source: UNSD, Comtrade database.

II. TREATY CHARACTERISTIC ELEMENTS

A. BACKGROUND INFORMATION

6. The Free Trade Agreement was signed by the Governments of Chile and China on 18 November 2005 and entered into force on 1 October 2006. The Agreement is of an indefinite duration.

7. The Agreement was notified to the WTO by the Parties on 20 June 2007 under Article XXIV:7(a) of the GATT 1994. The text is available, together with its Annexes, on the Parties' official websites.¹

8. The Agreement is composed of 14 Chapters, as follows:

Box II.1: Table of contents of the Agreement

Chapter I	Initial Provisions
Chapter II	General Definitions
Chapter III	National Treatment and Market Access for Goods
Chapter IV	Rules of Origin
Chapter V	Procedures Related to Rules of Origin
Chapter VI	Trade Remedies
Chapter VII	Sanitary and Phytosanitary Measures
Chapter VIII	Technical Barriers to Trade
Chapter IX	Transparency
Chapter X	Dispute Settlement
Chapter XI	Administration
Chapter XII	Exceptions
Chapter XIII	Cooperation
Chapter XIV	Final Provisions

9. The Agreement has eight annexes which contain the following: elimination of import customs duties; list of geographical indications; product specific rules; certificate of origin; competent governmental authorities of Chile; model of certification and verification networking system on certificate of origin; rules of procedure of arbitral panel; and implementation of modifications approved by the Commission.

10. The Agreement contains no explicit transition period: tariff elimination on imports of goods for both Parties is to be completed within a period of ten years, i.e. by 1 January 2015. Duty reductions take place on the date of entry into force of the Agreement and on 1 January of the following years.

III. NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

1. Import duties and charges, and quantitative restrictions

(a) General provisions

11. The Parties agree to accord national treatment to each others' goods in accordance with Article III of the GATT 1994 (Article 7 of the Agreement).

¹ Chile - http://www.direcon.cl/documentos/China2/tlc_chile_china_ing_junio_2006.pdf; China - <http://gjs.mofcom.gov.cn/aarticle/af/ad/200511/20051100818098.html>

12. Market access provisions for the progressive elimination of customs duties are addressed in Sections 1 and 2 of Annex 1, for Chile and China, respectively. Tariff liberalization covers Chapters 1-97 of the Harmonized System (HS). In the case of Chile, the Agreement provides for the elimination of duties on imports of certain goods originating in China on the date of entry into force. A second list contains products that are subject to a phased elimination of duty in five annual stages while for a third list duties are eliminated in ten annual stages. A fourth list contains those products not subject to concessions. In the case of China, customs duties on certain products originating in Chile are eliminated on the date of entry into force of the Agreement, and in years 2, 5 and 10 following the entry into force of the Agreement.² A fifth list contains those products not subject to concessions.

13. Article 8.1 prohibits the Parties from increasing any existing, or adopting any new, customs duty on imports. If a Party reduces its MFN rate³ after the entry into force of the Agreement and before the end of the tariff elimination period, the tariff elimination schedule of that Party shall apply to the reduced rate (Article 8.3).

14. In accordance with Article 8.4, upon request the Parties agree to consult each other to consider the possibility of accelerating the elimination of customs duties.

(b) Liberalization of tariff lines and trade⁴

15. The elimination of tariffs applicable between the Parties is detailed in their corresponding schedules. Tariff elimination began on the date of entry into force of the Agreement, i.e. 1 October 2006; subsequent reductions or eliminations of duties take place on 1 January of following years. The base rate used for tariff reductions is the MFN rate applicable in 2006.

16. The overall tariff elimination under the Agreement is depicted in Tables III.1A and III.1B below.⁵ In the case of Chile, 0.4% of total tariff lines were already duty-free on an MFN basis in 2006.⁶ A further 74.1% of tariff lines became duty-free for imports from China in 2006; in terms of imports from China for the period 2003-2005, these figures amount to zero and 50.7%, respectively. By the end of the transition period in 2015, a further 23.6% of tariff lines are to be liberalized, accounting for 46.2% of imports from China for the period 2003-2005. Thus, a total of 98.1% of tariff lines are liberalized under the Agreement, corresponding to 96.9% of imports by value from China for the period 2003-2005.

Table III.1A

Chile: Tariff elimination commitments under the Agreement and corresponding average trade values for 2003-05

Duty phase-out period	Number of lines	% of total lines in Chile's tariff schedule	Value of Chile's imports from China (2003-2005) in million US\$	% of Chile's total imports from China 2003-2005
MFN duty free (2006)	35	0.4	-	-
2006	5,856	74.1	958.8	50.7
2010	1,048	13.3	382.7	20.2

Table III.1A (Cont'd)

² Given that the Agreement entered into force in October 2006, year 2 means January 2007.

³ This does not apply in the case of the interim duty rate referred to in Article 4 and 9 of Regulation on Import and Export Tariff of the People's Republic of China.

⁴ Unless otherwise specified, all statistics, tables and charts contained in this document have been prepared on the basis of data provided by the Parties.

⁵ Tariff lines containing in-quota duties are excluded from all the tariff-related calculations.

⁶ Chile's tariff is composed of 7,902 tariff lines at the HS 8-digit level, of which 7,894 contain *ad valorem* rates; the remaining eight lines are composed of *ad valorem* and specific duties.

Duty phase-out period	Number of lines	% of total lines in Chile's tariff schedule	Value of Chile's imports from China (2003-2005) in million US\$	% of Chile's total imports from China 2003-2005
2015	811	10.3	492.1	26.0
Remain dutiable	152	1.9	58.1	3.1
Total	7,902	100.0	1,891.8	100.0

Source: WTO Secretariat based on data provided by Chile; trade data taken from IDB submissions.

17. In the case of China, 8.5% of total tariff lines were already duty-free on an MFN basis in 2006.⁷ A further 28.8% of tariff lines became duty-free for imports from Chile in 2006; in terms of imports from Chile for the period 2003-2005, these figures amount to 38.9 and 50.9%, respectively. By the end of the transition period in 2015, a further 59.9% of tariff lines are to be liberalized, accounting for a further 9.3% of imports from Chile for the period 2003-2005. Thus, a total of 97.2% of tariff lines are liberalized under the Agreement, corresponding to 99.1% of imports by value from Chile for the period 2003-2005.

Table III.1B

China: Tariff elimination commitments under the Agreement and corresponding average trade

Duty phase-out period	Number of lines	% of total lines in China's tariff schedule	Value of China's imports from Chile (2003-2005) in million US\$	% of China's total imports from Chile 2003-2005
MFN duty free (2006)	647	8.5	1,378.0	38.9
2006	2,187	28.8	1,800.8	50.9
2007	1,960	25.8	0.4	0.0
2010	975	12.8	14.8	0.4
2015	1,622	21.3	313.4	8.9
Remain dutiable	214	2.8	30.5	0.9
Total	7,605	100.0	3,537.9	100.0

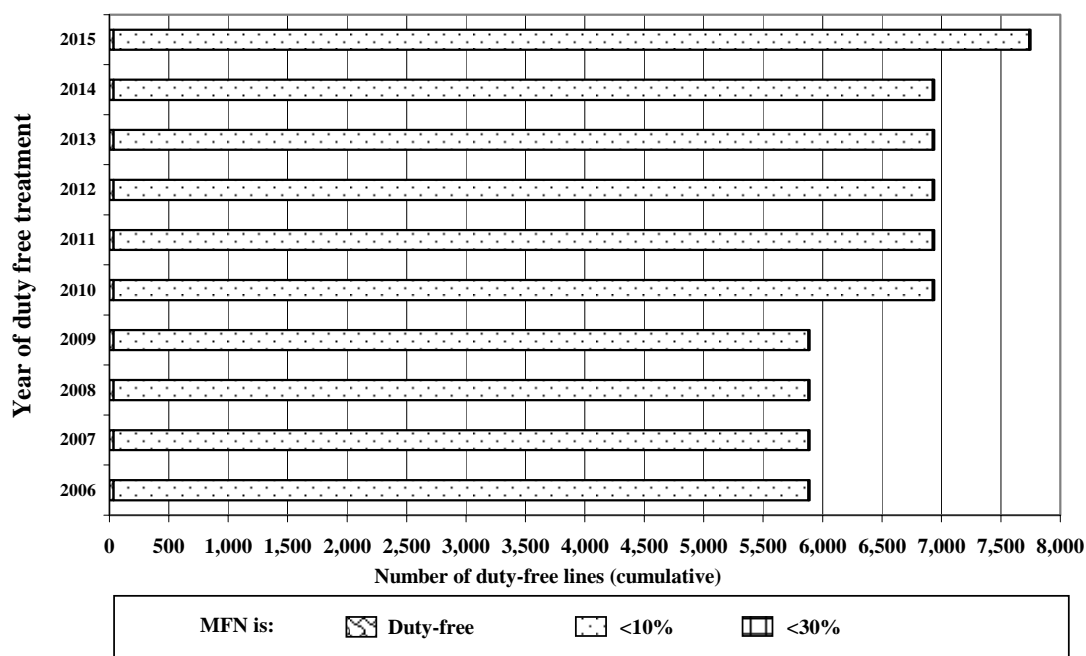
Source: WTO Secretariat based on data provided by China.

(c) Chile's liberalization schedule

18. The base rates used by Chile for implementing its tariff liberalization scheme provided for less than 1% of tariff lines being duty free before the entry into force of the Agreement. As can be seen from Chart III.1, upon entry into force over 5,800 lines subject to MFN rates of 6% were freed of duties. Further reductions of duties take place in 2010 and 2015.

⁷ China's tariff is composed of 7,605 tariff lines at the HS 8-digit level, of which 7,556 are subject to *ad valorem* rates. For the 49 lines subject to specific duties, China has provided *ad valorem* equivalent rates. Such lines occur in HS Chapters 2, 5, 37, and 85.

Chart III.1
Chile's duty elimination under the Agreement



Source: WTO Secretariat estimates, based on data provided by Chile.

19. Table III.2 shows Chile's trade liberalization commitments under the Agreement on the basis of products' treatment at the HS 8-digit level organized by HS section product categories. Of the 7,902 tariff lines forming Chile's tariff schedule, 35 tariff lines were already MFN duty-free in 2006; an additional 5,856 lines covering products in all HS sections were liberalized upon entry into force of the Agreement. In 2010, an additional 1,048 lines are subject to liberalization, followed by a further 811 lines in 2015. Of the 152 lines which remain subject to duties, some are agricultural products, while the bulk of the rest are textiles, base metals and machinery.

Table III.2
Chile: Tariff elimination under the Agreement, by HS section

HS section and description	MFN average %	Total No of lines	MFN duty free	Number of duty-free lines under the Agreement in:			Remain dutiable
				2006	2010	2015	
I Live animals and animal products	6.3	567		567			
II Vegetable products	6.0	397		375	11	3	8
III Animal or vegetable fats and oils	6.0	65		36	29		
IV Prepared food etc.	6.0	398		378	3		17
V Minerals	6.0	191		186		3	2
VI Chemical and products	6.0	1,190		1,094	50	46	
VII Plastics and rubber	6.0	307		204	42	54	7
VIII Hides and skins	6.0	86		48	38		
IX Wood and articles	6.0	142		84	1	57	
X Pulp, paper etc.	5.9	235	4	56	20	155	
XI Textile and textile articles	6.0	1,171		251	531	323	66
XII Footwear, headgear	6.0	115		29	86		
XIII Articles of stone	6.0	180		44	93	39	4
XIV Precious stones, etc.	6.0	59		58	1		
XV Base metals and products	6.0	657		539	31	56	31
XVI Machinery	6.0	1,266	2	1,209	7	31	17

Table III.2 (Cont'd)

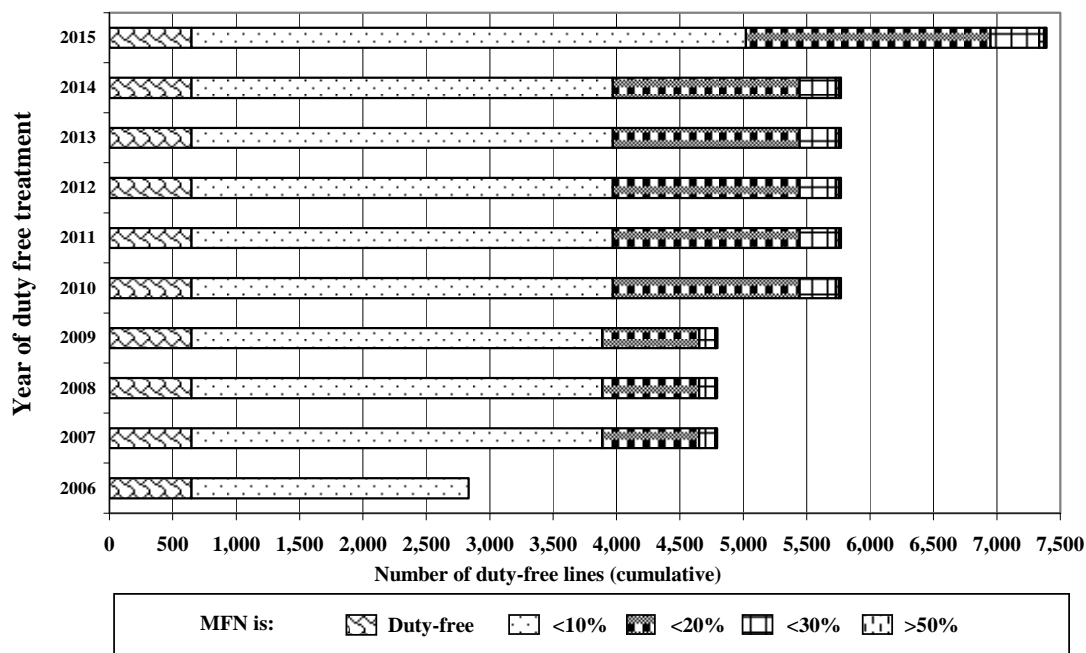
HS section and description	MFN average %	Total No of lines	MFN duty free	Number of duty-free lines under the Agreement in:			Remain dutiable
				2006	2010	2015	
				XVII Transport equipment	5.5	343	
XVIII Precision equipment	6.0	290		286	4		
XIX Arms and ammunition	6.0	23		23			
XX Misc. manufactured articles	6.0	213		148	43	22	
XXI Works of art, etc.	6.0	7		7			
Total	6.0	7,902	35	5,856	1,048	811	152

Source: Data provided by Chile.

(d) China's liberalization schedule

20. The base rates used by China for implementing its tariff liberalization scheme already provided for 8.5% of tariff lines being duty free before the entry into force of the Agreement. As can be seen from Chart III.2, all of the additional 28.8% of tariff lines freed upon entry into force held base rates of 10% or less. Further eliminations of duties take place in 2007, 2009, 2010 and 2015 with the bulk of lines subject to higher MFN duties liberalized in 2010 or 2015.

Chart III.2
China's duty elimination under the Agreement



Source: WTO Secretariat estimates, based on data provided by China.

21. Table III.3 shows China's trade liberalization commitments under the Agreement at the HS-digit level organized by HS section product categories. Of the 7,605 lines forming China's tariff schedule, 647 lines were already MFN duty-free in 2006; an additional 2,187 tariff lines were liberalized upon entry into force of the Agreement (comprising both agricultural and industrial products). A total of 214 tariff lines covering agricultural products, chemicals, wood products, pulp and paper, and textiles are not liberalized under the Agreement.

Table III.3
China: Tariff elimination under the Agreement, by HS section

HS section and description	MFN average %	Total No of lines	MFN duty free	Number of duty-free lines under the Agreement in:				Remain dutiable
				2006	2007	2010	2015	
I Live animals and animal products	12.4	368	43	12	55	116	142	
II Vegetable products	14.4	463	54	71	142	85	86	25
III Animal or vegetable fats and oils	15.0	53		3	8	12	11	19
IV Prepared food etc.	17.9	279	1	36	40	58	138	6
V Minerals	3.7	202	37	119		8	38	
VI Chemical and products	7.0	1,186	9	732	71	65	305	4
VII Plastics and rubber	9.8	262	1	84	57	26	94	
VIII Hides and skins	12.5	108		30	23	42	13	
IX Wood and articles	4.1	160	65	10	27	14	19	25
X Pulp, paper etc.	5.4	165	34	3			4	124
XI Textile and textile articles	11.6	1,106		233	861		1	11
XII Footwear, headgear	18.6	60			55		5	
XIII Articles of stone	13.6	175	1	26	28	77	43	
XIV Precious stones, etc.	10.0	84	32	21		19	12	
XV Base metals and products	7.5	706	4	374	77	78	173	
XVI Machinery	8.4	1,376	258	277	274	173	394	
XVII Transport equipment	12.8	318	1	81	198	6	32	
XVIII Precision equipment	10.0	326	43	74	38	108	63	
XIX Arms and ammunition	13.0	21				18	3	
XX Misc. manufactured articles	11.6	178	62		6	66	44	
XXI Works of art, etc.	9.6	9	2	1		4	2	
Total	9.9	7,605	647	2,187	1,960	975	1,622	214

Source: WTO estimates based on data provided by China.

A. RULES OF ORIGIN

22. Disciplines regarding rules of origin are set out in Chapter IV of the Agreement. Article 29 defines the terms used and Articles 15-28 provide the substantive rules. The procedures designed to administer and enforce the rules of origin are set out in Chapter V.

23. A good is considered as originating when (Article 15):

- (a) it is wholly obtained or produced in the territory of the Parties;⁸ or
- (b) it is produced entirely in the territory of one or both Parties, exclusively from materials whose origin conforms to the provisions of Chapter IV; or
- (c) the good is produced in the territory of one or both Parties, using non-originating materials that conform to a regional value content (RVC) not less than 40%, except for the goods listed in Annex 3, which must comply with the requirements specified therein.

24. The specific rules in Annex 3 call for a change of Chapter for most agricultural goods (HS Chapters 1-16 and 22); for a change of HS heading level (4-digit) for sugars, cocoa and preparations of cereals (Chapters 17-19), and for a RVC of 50% for all goods in Chapters 20-21, 23-26, 32, 34-35, 44, 48-49, 51, 54-64, and 93-94. In addition, an RVC of 50% is required for a

⁸ This concept applies to goods that are entirely extracted from the soil or seabed, harvested, born and raised, and fished or hunted in the territory of a Party; fishery goods taken from the territorial sea or the exclusive economic zones of the Parties, or beyond the exclusive economic zone by a vessel flying the flag of the Parties; manufactured on board a factory ship flying the flag of one of the Parties; used articles collected in the Parties fit only for the recovery of raw materials; waste and scrap resulting from manufacturing operations; products extracted from or beneath the seabed outside the territorial sea of the Parties, provided that they have sole rights to exploit such seabed, or manufactured exclusively from the foregoing products.

number of headings or subheadings, in the case of the following products: chemicals, pharmaceuticals, fertilizers, essential oils, explosives, plastics, rubber, cotton, glass, iron and steel, copper, aluminium, machinery and mechanical appliances, vehicles, ships, musical instruments, and toys and games.⁹

25. The regional value content requirement establishes the minimum value of originating materials needed in the final product for it to be granted originating status, expressed as a percentage of the F.O.B. value of the product.

26. Article 21 establishes a de minimis principle whereby a good can still qualify as originating even if the non-originating materials incorporated therein do not meet the criteria of Annex 3, provided that the value of the non-originating goods does not exceed 8% of the F.O.B. value of the good.

27. Bilateral cumulation is allowed under the Agreement (Article 20) i.e., cumulation in terms of materials between the Parties.

28. Article 19 lays down a list of insufficient working or processing operations carried out in the territory of the Parties that do not confer origin. Articles 23-26 deal with how certain materials (accessories, spare parts and tools, packaging, and neutral elements such as energy) are to be treated or valued when determining the origin of the goods. Article 27 deals with the transport of goods through third parties.

Box III.1: Rules of Origin: Basic Features at a Glance

- No single rule of origin methodology.
- Product specific criteria:
 - Wholly obtained or entirely produced goods
 - For most agricultural goods, a change of HS Chapter applies (for Ch. 17-19 a change of heading is required).
 - In 49 HS Chapters, a RVC of 50% applies (either to the entire Chapter, selected headings or subheadings).
 - If no product specific rule, then a RVC of 40% applies.
- Bilateral cumulation.
- Tolerance rule: non-originating materials can represent a maximum of 8% of adjusted value of product.
- Transit through third parties authorized only under certain conditions.

B. EXPORT DUTIES AND CHARGES, AND QUANTITATIVE RESTRICTIONS

29. There are no provisions on export duties and charges in the Agreement.

C. REGULATORY PROVISIONS OF THE AGREEMENT

1. Standards

(a) Technical barriers to trade

30. Chapter VIII lays down the provisions applying to standards and technical regulations. The Parties reaffirm their existing rights and obligations with respect to each other under the WTO Agreement on Technical Barriers to Trade and agree to use international standards or relevant parts thereof as the basis for their technical regulations and related conformity assessment procedures.

⁹ HS Chapters 28-31, 33, 36, 39, 40, 52, 69, 70, 72-74, 76, 83-85, 87, 89, 92, and 95.

Article 64 provides for trade facilitation measures including feasibility studies for a mutual recognition agreement, notification of the list of products subject to compulsory conformity assessment procedures, and the exchange of information regarding products subject to an authorization process. Article 67 provides for a range of measures to improve transparency of technical regulations including electronic transmission of proposals to the other Party's inquiry point, and a minimum 60 day period for the submission of comments on any proposal. In Article 69, the Parties agree to establish a Committee on Technical Barriers to Trade to monitor the implementation and administration the provisions of Chapter VIII. The Committee meets at least once a year unless agreed otherwise by the Parties.

(b) Sanitary and phytosanitary measures

31. Chapter VII lays down the provisions applying to sanitary and phytosanitary measures. In Article 56 the Parties reaffirm their existing rights and obligations under the WTO Agreement on the Application of SPS Measures. With regard to transparency, they agree to the full implementation of Article 7 of the SPS Agreement and to the exchange of information related to sanitary and phytosanitary conditions in their territories. Article 58 provides for the establishment of a Committee on Sanitary and Phytosanitary matters composed of each Party's representatives within a year of the Agreement's entry into force. The Committee will meet at least once a year unless the Parties agree otherwise.

2. Safeguard mechanisms

(a) Global Safeguard Measures

32. According to Article 51, the Parties retain their rights and obligations under Article XIX of GATT 1994 and the WTO Agreement on Safeguards. A global safeguard measure is not subject to the provisions for dispute settlement outlined in the Agreement.

(b) Bilateral safeguards

33. Articles 44-49 set out the rules that apply to the imposition of a bilateral safeguard measure. A Party may impose a bilateral safeguard measure on a product benefiting from preferential tariff treatment under the Agreement if there is an increase in imports in absolute terms or relative to domestic production which constitutes a substantial cause of serious injury or threat thereof to the domestic industry of the importing Party producing a like or directly competitive good.¹⁰ Disciplines regarding the application of such measures include an investigation by the Party's competent authorities prior to its application; its scope and duration; consultation procedures; and compensation. The conditions applicable to the use of bilateral safeguards are detailed in Table III.4.

Table III.4 Conditions applied to the application of bilateral safeguards

Requirements		Specific Conditions
Precondition	Rise in imports	In absolute terms or relative to domestic production
Criteria	Serious injury or actual threat thereof to the domestic industry	✓
Measures allowed	Suspension of further duty reduction, or	✓
	Increase in duty rate	MFN rate in effect when measure was taken, or MFN rate in effect on date of entry into force of the Agreement, whichever is lower

Table III.4 (Cont'd)

¹⁰ "Serious injury" is defined in Article 50 of the Agreement as "a significant overall impairment in the position of a domestic industry".

Requirements		Specific Conditions
Timing	Maximum duration, including extension	1 year plus 1 year extension
	Safeguard measure may be applied during the transition period of the good concerned	Measures to be terminated at the end of the transition period, i.e. three years from date of entry into force of the Agreement, except in case of a product with a liberalization process of five or more years, where the transition period will end when product reaches zero tariff.
Conditions or limitations	Information of the institution of a proceeding through written notice	In accordance with Article 3 of the <i>WTO Agreement on Safeguards</i>
	Consultation	✓
	Prior investigation	✓
	Compensation	Immediate compensation. Retaliation only after a year from the imposition of the safeguard measure.
	Possibility to impose a safeguard measure more than once on the same product	Only valid in the case of products for which the transition period is more than five years.

Source: WTO Secretariat.

(c) Restrictions to safeguard balance of payments

34. In accordance with Article 102, where a Party is in serious balance of payments and external financial difficulties or threat thereof, it may adopt measures deemed necessary in accordance with the WTO Agreement and consistent with the Articles of Agreement of the International Monetary Fund.

3. Anti-dumping

35. Under Article 52 of the Agreement, the Parties maintain their rights and obligations under the WTO Agreement on the Implementation of Article VI of the GATT 1994. Antidumping actions taken pursuant to these rules are not subject to the dispute settlement provisions of the Agreement.

4. Subsidies, state-aid and countervailing measures

36. In Article 52, the Parties reaffirm their commitment to abide by the provisions of the WTO Agreement on Subsidies and Countervailing Measures. Countervailing measures taken pursuant to these rules are not subject to the dispute settlement provisions of the Agreement.

5. Other regulations

(a) Customs-related procedures

37. Customs procedures related to rules of origin are detailed in Chapter V. Articles 30, 33-36 and 38 lay out disciplines for documentation requirements and verification of origin. Annex 4 contains a sample of the certificate of origin which is to be issued by the government authority designated by the exporting Party upon written application by the exporter.

38. Article 41 provides for the customs authorities of each Party to issue a written advance ruling upon written request by an importer or exporter within 150 days of the request. Article 42 provides for the Parties to publish their customs laws, regulations and customs procedures on websites and to designate one or more inquiry points to address inquiries from interested persons. Annex 6 of the Agreement contains details relating to the establishment of a Certification and Verification Networking System on the Certificate of Origin (CVNSCO) within two years from the signature of the Agreement. This system will allow for the electronic exchange and verification of the certificate of origin.

(b) Transparency

39. Chapter IX provides for a range of measures to promote transparency including the establishment of contact points; prompt publication of measures on any matter covered by the Agreement; notification and provision of information; timely notification of administrative proceedings; and procedures relating to the establishment or maintenance of tribunals for the prompt review and appeal of matters covered by the Agreement.

IV. PROVISIONS AFFECTING TRADE IN GOODS

A. INTELLECTUAL PROPERTY

40. In Article 111 of the Agreement, the Parties agree to cooperate on matters related to intellectual property rights. Cooperation may take the form of educational and dissemination projects, training and specialization courses, information exchange, notification of contact points, and reports regarding developments, improvements, relevant jurisprudence and bills in Congress.

41. In Annex 2A and 2B, the Parties list geographical indications (for China, Shaoxing wine and Anxi Tieguanyin (tea), and for Chile, Chilean Pisco) and agree that those terms are protected in the territory of the other Party. In Article 11, the Parties outline the procedures to be followed at borders in the event of suspected counterfeit trademark or pirated copyright goods. Such procedures are to be implemented no later than two years after the entry into force of the Agreement.

B. LABOUR AND ENVIRONMENTAL COOPERATION

42. In Article 108 the Parties agree to enhance their communication and cooperation on labour, social security and environment through both the Memorandum of Understanding on Labour and Social Security Cooperation, and the Environmental Cooperation Agreement between the Parties.

43. On 2 November 2005, the Ministries of Labour and Social Security of both Parties signed a Memorandum of Understanding on Labour and Social Security Cooperation. Labour cooperation activities will include, among others, the following fields: a) employment and labour policies and social dialogue, including decent work, labour laws and labour inspection; b) improvement of working conditions and workers training; c) globalization and its impact on employment, the working environment, industrial relations and governance, and d) social security. Cooperation activities may be implemented, among others, through: exchanges of information and expertise in the fields covered by the Memorandum; reciprocal visits of experts and delegations; joint organization of seminars, workshops and meetings for experts, regulatory authorities and other persons concerned; and consultations within the framework of multilateral discussions on employment, training, labour and social security issues. A Coordinator, in each country, at Director General Level, is in charge of its implementation.

44. On 20 September 20 2007, the National Commission on the Environment of Chile (CONAMA) and the State Environmental Protection Administration of China (SEPA), signed a Memorandum of Understanding on Environmental Cooperation, that seeks to promote cooperation in the field of environmental protection, on the basis of equality and mutual benefit and subject to the legislation and to the availability of human and financial resources of the Parties. The following areas of cooperation were identified as high priority: air pollution control and monitoring; water quality management policy and water treatment technologies; marine and coastal ecological conservation and pollution control; and, improvement of environmental awareness, including environmental education and public participation.

45. The agreed areas of cooperation may be conducted, inter alia, in the following forms: exchange of relevant environmental information and documentation; exchange visits of experts, scholars and delegations; and, jointly organized seminars, workshops and meetings attended by scientists, experts, regulators and others concerned. The Parties will encourage environmental protection organizations, enterprises and municipalities, as well as research institutions on both sides, to establish and develop direct contacts with each other in the field of environmental protection and sustainable development. A Coordinator, in each country, at Director General level, is in charge of its implementation.

C. SECTOR-SPECIFIC PROVISIONS OF THE AGREEMENT

46. In Article 12, the Parties agree to work together toward an agreement in the WTO to eliminate agricultural export subsidies and to prevent their reintroduction in any form. Neither Party may introduce or maintain any export subsidy on any agricultural goods destined for the territory of the other Party.

D. INSTITUTIONAL PROVISIONS OF THE AGREEMENT

1. Exceptions and reservations

47. Article 99 incorporates Article XX of the GATT 1994 into the Agreement. Article 100 contains exceptions for essential security based on Article XXI of the GATT 1994.

2. Accession

48. There is no provision in the Agreement for the accession of third parties.

3. Institutional framework

49. Article 13 provides for the establishment of a Committee on Trade in Goods comprising representatives of each Party. The Committee meets on the request of either Party or the Free Trade Commission to consider any matter relating to market access and national treatment, rules of origin and related procedures.

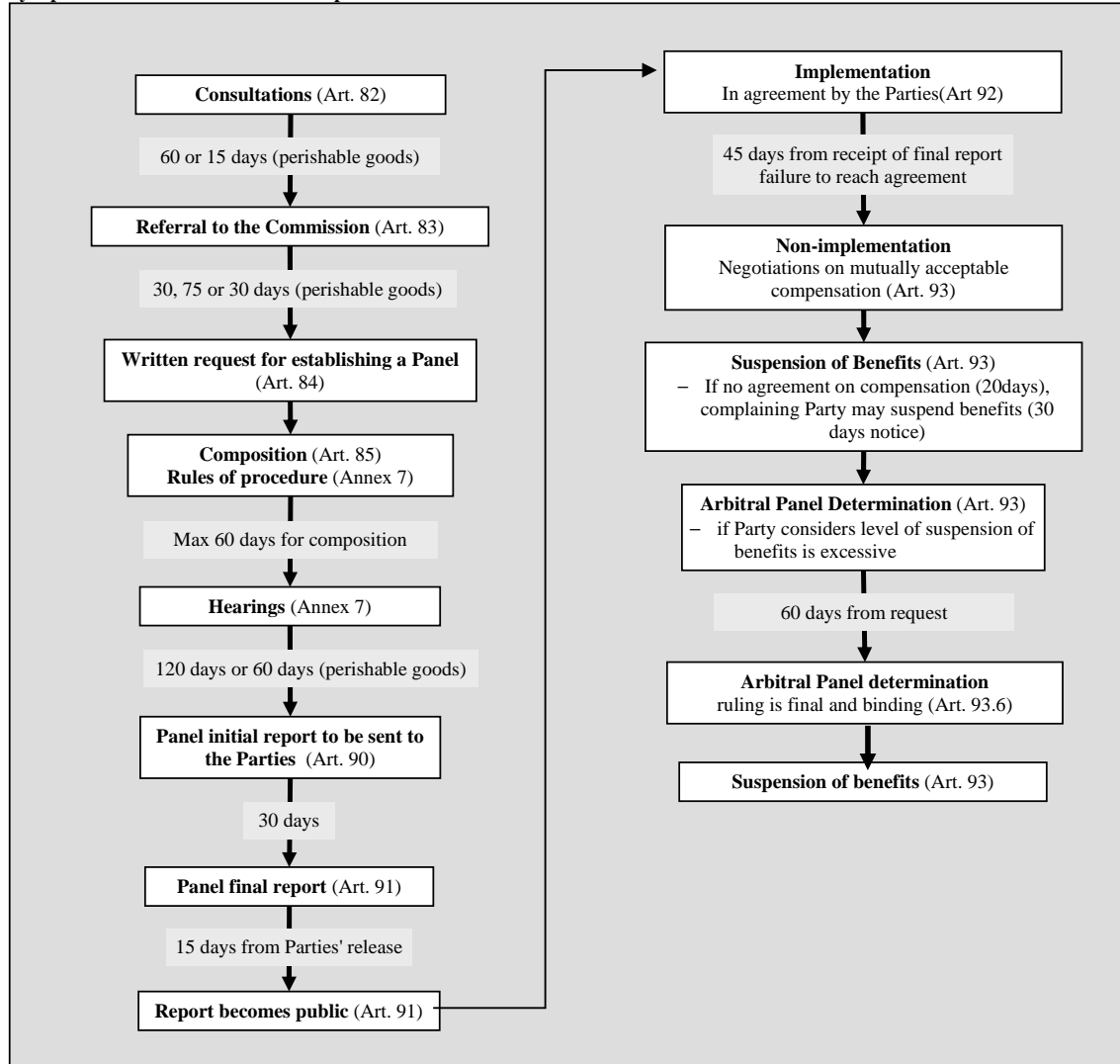
50. Chapter XI provides for the incorporation of the Trade and Economic Mixed Commission (Mixed Commission) which was established according to the Trade Agreement between the Government of the People's Republic of China and the Government of the Republic of Chile, signed in Santiago on April 20, 1971, into the Agreement. The Mixed Commission hears the reports of the Free Trade Commission, provides guidance and considers any other matter that may affect the operation of the Agreement. Article 97 provides for the establishment of the Free Trade Commission (Commission) whose responsibilities include the implementation and oversight of the further elaboration of the Agreement, dispute settlement and supervision of the work of all committees.

4. Dispute settlement

51. Chapter X sets out the procedures that apply to the avoidance and settlement of disputes between the Parties regarding questions of interpretation or application of the Agreement. In the event that consultations between the Parties fail to settle the dispute an arbitral tribunal may be appointed. Article 81 provides for a forum election clause for matters falling under both the Agreement and the WTO Agreement to which both Parties are party; however, once the complaining Party has chosen the forum to settle the dispute, that forum shall be used to the exclusion of the others (exclusive forum clause).

52. The Agreement provides for detailed steps for dispute resolution, the most salient of which are synoptically described below. It also requires the Parties to establish rules of procedure, which shall ensure that the Parties have the right to a hearing before the arbitral panel and the opportunity to present allegations and rebuttals in writing (Annex 7). The hearings before the arbitral panel, the deliberations and preliminary report, as well as all the writings and communications presented are confidential (see Table IV.1). The Parties may, however, disclose statements of their own positions to the public.

Table IV.1
Synopsis of the Chile-China FTA's Dispute Settlement Provisions



5. Relationship with other agreements concluded by the Parties

53. In Article 3 the Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which both Parties are parties.

54. Table IV.2 lists the regional trade agreements (RTAs), (notified and non-notified to the GATT/WTO and in force), as of 1 March 2008 to which Chile and China are parties.

Table IV.2
Chile and China: Participation in other RTAs (notified and non-notified in force)

Partner / Agreement	Date of entry into force	Type of agreement	GATT/WTO Notification	
			Year	WTO Provision
CHILE				
Japan	03.09.07	Goods & Services	2007	GATT Art. XXIV & GATS Art. V
Brunei, New Zealand, Singapore (Trans-Pacific SEP)	28.05.06	Goods & Services	2007	GATT Art. XXIV & GATS Art. V
European Communities	01.03.05	Services	2005	GATS Art. V
EFTA	01.12.04	Goods & Services	2004	GATT Art. XXIV & GATS Art. V
Republic of Korea	01.04.04	Goods & Services	2004	GATT Art. XXIV & GATS Art. V
United States	01.01.04	Goods & Services	2003	GATT Art. XXIV & GATS Art. V
European Communities	01.02.03	Goods	2004	GATT Art. XXIV
El Salvador	01.06.02	Goods & Services	2004	GATT Art. XXIV & GATS Art. V
Costa Rica	15.02.02	Goods & Services	2002	GATT Art. XXIV & GATS Art. V
Mexico	01.08.99	Goods & Services	2001	GATT Art. XXIV & GATS Art. V
Canada	05.07.97	Goods & Services	1997	GATT Art. XXIV & GATS Art. V
GSTP	19.04.89	Goods	1989	Enabling Clause
LAIA*	18.03.81	Goods	1982	Enabling Clause
PTN	11.02.73	Goods	1971	Enabling Clause
India	16.08.07	Goods		Not Notified
CHINA				
Hong Kong, China	01.01.04	Goods & Services	2003	GATT Art. XXIV & GATS Art. V
Macao, China	01.01.04	Goods & Services	2003	GATT Art. XXIV & GATS Art. V
ASEAN	01.07.03	Goods	2004	Enabling Clause
ASEAN	01.07.07	Services		Not notified
APTA (Accession)	01.01.02	Goods	2004	Enabling Clause
Pakistan	01.07.07	Goods	2008	GATT Art. XXIV

Source: WTO Secretariat.

* Chile has concluded six RTAs under the LAIA framework (with MERCOSUR, Bolivia, Colombia, Ecuador, Peru, and Venezuela). These RTAs have not been notified, but are included in periodic reports submitted by LAIA.

GSTP: GLOBAL SYSTEM OF TRADE PREFERENCES
 LAIA: LATIN AMERICAN INTEGRATION ASSOCIATION
 PTN: PROTOCOL RELATING TO TRADE NEGOTIATIONS AMONG DEVELOPING COUNTRIES
 SEP: STRATEGIC ECONOMIC PARTNERSHIP
 APTA: ASIA PACIFIC TRADE AGREEMENT
 ASEAN: ASSOCIATION OF SOUTH EAST ASIAN NATIONS

ANNEX

Indicators of trade liberalization under the Chile-China FTA

55. A comparison between the scheduled elimination of tariffs applied to the Parties' mutual imports and the duty rates applied by them to MFN imports is shown in Tables A.1 (Chile) and A.2 (China) below, broken down by agricultural (WTO definition), non-agricultural and total products. Applied MFN duty rates in 2006 serve as a comparison.

56. *Chile* has a mostly flat MFN tariff structure. Its (unweighted) average MFN rate (2006) is 6% on all goods, with a slightly higher average tariff applied to agricultural goods than to non-agricultural products. Only 0.44% of Chile's tariff lines are duty-free at an MFN level. On entry into force of the Agreement, China's exporters enjoyed a relative margin of preference of 76% on non-agricultural products *vis-à-vis* the prevailing average MFN tariff in 2006, and a relative margin of preference of 86% in agricultural goods.

Table A.1
Chile: Indicators of MFN tariff rates and preferential rates for imports from China

Origin of goods	Year	ALL PRODUCTS			Agricultural products ^a			Non-agricultural products		
		Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)
		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)	
MFN	2006	6.0	6.02	0.44	6.16	6.16	0.00	5.97	6.00	0.51
China	2006	1.4	5.36	74.55	0.84	10.60	92.13	1.45	5.13	71.75
	2007	1.1	4.43	74.55	0.67	8.45	92.13	1.20	4.26	71.75
	2008	0.9	3.51	74.55	0.50	6.30	92.13	0.96	3.39	71.75
	2009	0.7	2.59	74.55	0.33	4.14	92.13	0.71	2.52	71.75
	2010	0.4	3.47	87.81	0.16	5.50	97.15	0.47	3.41	86.33
	2011	0.4	2.97	87.81	0.15	5.40	97.15	0.40	2.89	86.33
	2012	0.3	2.46	87.81	0.15	5.30	97.15	0.32	2.37	86.33
	2013	0.2	1.96	87.81	0.15	5.20	97.15	0.25	1.85	86.33
	2014	0.2	1.45	87.81	0.15	5.10	97.15	0.18	1.34	86.33
	2015	0.1	6.00	98.08	0.14	6.00	97.63	0.11	6.00	98.14

a WTO Definition.

Source: WTO Secretariat estimates based on data provided by Chile.

57. *China* has a variable MFN tariff structure. Its (unweighted) average MFN rate (2006) is 9.9% on all goods, with a higher average tariff applied to agricultural goods than to non-agricultural products. 8.5% of China's tariff lines are duty-free at an MFN level. On entry into force, Chile's exporters enjoyed a relative margin of preference of 44% on non-agricultural products *vis-à-vis* the prevailing average MFN tariff in 2006, and a relative margin of preference of 24.4% in agricultural goods. By the end of the transition period in 2015, these margins of preference increase to 99.8% and 86.3%, respectively.

Table A.2
China: Indicators of MFN tariff rates and preferential rates for imports from Chile

Origin of goods	Year	ALL PRODUCTS			Agricultural products ^a			Non-agricultural products		
		Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)
		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)	
MFN	2006	9.9	10.82	8.51	15.30	16.53	7.44	9.00	9.86	8.70
Chile	2006	6.0	9.52	37.26	11.56	14.38	19.65	5.04	8.44	40.28
	2007	3.6	9.81	63.04	8.45	15.40	45.09	2.81	8.32	66.18

Table A.2 (Cont'd)

Origin of goods	Year	ALL PRODUCTS			Agricultural products ^a			Non-agricultural products		
		Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)
		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)	
	2008	3.0	8.02	63.04	7.10	12.93	45.09	2.27	6.71	66.18
	2009	2.3	6.24	63.05	5.74	10.46	45.09	1.73	5.10	66.20
	2010	1.6	6.82	75.87	4.39	13.85	68.32	1.18	5.21	77.31
	2011	1.4	5.84	75.87	3.93	12.41	68.32	0.98	4.34	77.31
	2012	1.2	4.87	75.87	3.47	10.96	68.32	0.79	3.47	77.31
	2013	0.9	3.89	75.87	3.02	9.52	68.32	0.59	2.61	77.31
	2014	0.7	2.92	75.87	2.56	8.08	68.32	0.39	1.74	77.31
	2015	0.5	16.69	97.19	2.10	39.45	94.67	0.20	8.23	97.60

a WTO Definition.

Source: WTO Secretariat estimates based on data provided by China.

58. Table A.3 shows the market access opportunities in China for Chile's top 25 exports, which in 2003-2005 accounted on average for 71.9% of Chile's global exports. The table shows at which year all HS 8-digit tariff lines corresponding to the product definition (i.e. applying to the 6-digit HS code used to capture the volume of trade) will become duty-free in China.

59. Chile's top 25 exports cover a total of 46 HS 8-digit tariff lines. Seven of Chile's top 25 exports (which account for 11 HS 8-digit lines and 25.9% of Chile's average global exports in the period 2003-05) already benefit from zero MFN duties in China's market, a further 4 products (accounting for 4 tariff lines and a further 29.2% of Chile's average global exports) gain immediate duty-free access; one product is granted duty-free access in 2010, 12 in 2015, and one product, iodine, is excluded from tariff liberalization. The margin of preference granted to Chile by China under the Agreement varies from 0 to 14 percentage points.

Table A.3 – Market access opportunities under the agreement in China for Chile's top 25 exports

Chile's top export products in 2003-2005		Access Conditions to China's import markets							Remain dutiable
		MFN (2006)		Duty-free in			2015		
		Avg. MFN applied rate (%)	Number of tariff lines	Duty-free	Dutiable	2006		2010	
HS number and description of the product	Share in global exports (%)								
740311	Cathodes and sections of cathodes	24.4	2.0	1	1				
260300	Copper ores and concentrates	15.0	0.0	1					
261310	Molybdenum ores and concentrates, roasted	3.0	0.0	1					
740200	Unrefined copper; copper anodes for electrolytic refining.	2.8	2.0	1	1				
470321	Chemical wood pulp, semi-bleached or bleached, coniferous	2.3	0.0	1					
220421	Wine of fresh grapes, In containers holding 2 litres or less	2.3	14.0	1				1	
080610	Grapes, fresh	2.2	13.0	1				1	
440710	Wood sawn or chipped lengthwise, coniferous	1.9	0.0	5					
261390	Molybdenum ores and concentrates, other	1.8	0.0	1					
290511	Methanol (methyl alcohol)	1.8	5.5	1				1	
030420	Fish fillets, frozen	1.4	10.0	2				2	
030410	Fish fillets, fresh or chilled	1.3	12.0	1				1	
230120	Flours, meals and pellets, of fish or of crustaceans, molluscs or other aquatic invertebrates	1.3	3.5	2				2	

Table A.3 (Cont'd)

Chile's top export products in 2003-2005			Access Conditions to China's import markets					Remain dutiable
			MFN (2006)		Duty-free in			
			Avg. MFN applied rate (%)	Number of tariff lines	2006	2010	2015	
HS number and description of the product	Share in global exports (%)		Duty-free	Dutiable				
740319	Refined copper and alloys, other	1.3	2.0	1	1			
271011	Light oils and preparations	1.2	7.0		5		5	
710812	Gold, other unwrought forms	1.0	0.0	1				
080810	Apples	1.0	10.0		1		1	
470329	Chemical wood pulp, non-coniferous	0.9	0.0	1				
440910	Wood, continuously shaped, coniferous	0.9	7.5		2		2	
720270	Ferro-molybdenum	0.7	2.0		1			
030319	Fish, frozen, other	0.7	10.0		1		1	
230329	Residues of starch manufacture	0.7	12.0		1	1		
030490	Fish fillets, other	0.7	10.0		1		1	
271019	Petroleum oils, other	0.7	6.6		11		11	
280120	Iodine	0.6	5.5		1		1	
Total of above		71.9		11	35	4	1	

Source: WTO Secretariat, based on data provided by China and UNSD, Comtrade data.

60. Like Table A.3, Table A.4 shows the market access opportunities in Chile for China's top 25 exports (at the HS 6-digit level), which accounted on average for 30.4% of China's exports to the world in 2003-05. The table shows at which year all HS 8-digit tariff lines corresponding to the product definition (i.e. applying to the 6-digit HS code used to capture the volume of trade) will become duty-free in Chile.

61. China's top 25 exports cover a total of 96 HS 8-digit tariff lines, all of which were subject to a flat MFN rate of 6% in Chile's market. Upon entry into force of the Agreement, 20 products (accounting for 74 tariff lines and 27.4% of China's average global exports) gain immediate duty-free access, three products are granted duty-free access in 2010 and the remaining two in 2015.

Table A.4 – Market access opportunities in Chile under the Agreement, for China's top 25 exports

China's top export products in 2003-2005			Access Conditions to Chile's import markets			
			MFN (2006)		Duty-free in	
HS number and description of the product	Share in global exports (%)	Avg. MFN applied rate (%)	Number of dutiable tariff lines	2006	2010	2015
				847330	Parts and accessories of the machines of heading 84.71	3.9
847160	Input or output units, whether or not containing storage units in the same housing	3.5	6.00	13	13	
847130	Portable digital automatic data processing machines, weighing not more than 10 kg, consisting of at least a central processing unit, a keyboard and a display	3.5	6.00	1	1	
852520	Transmission apparatus incorporating reception apparatus	2.7	6.00	4	4	
852990	Parts suitable for use solely for reception apparatus for radio, television, other	2.0	6.00	8	8	
854221	Digital electronic circuits and micro assemblies	1.3	6.00	3	3	
847170	Storage units	1.2	6.00	3	3	
901380	Other devices, appliances and instruments	1.2	6.00	1	1	
852190	Video recording or reproducing apparatus, other	1.1	6.00	1	1	
860900	Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport.	0.8	6.00	1	1	
852540	Still image video cameras and other video camera recorders; digital cameras	0.8	6.00	2	2	

Table A.4 (Cont'd)

China's top export products in 2003-2005		Access Conditions to Chile's import markets				
		MFN (2006)		Duty-free in		
HS number and description of the product	Share in global exports (%)	Avg. MFN applied rate (%)	Number of dutiable tariff lines	2006	2010	2015
852812	Reception apparatus for television, colour	0.7	6.00	8	8	
850440	Static converters	0.7	6.00	6	6	
640399	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather, other	0.7	6.00	6		6
852290	Parts and accessories suitable for use solely or principally with magnetic tape or video recorders, other	0.7	6.00	2	2	
853400	Printed circuits	0.6	6.00	1	1	
640299	Bed linen, table linen, other	0.6	6.00	6		6
851999	Turntables, record-players, other	0.6	6.00	2	2	
420212	Trunks, suitcases, with outer surface of plastics or of textile materials	0.6	6.00	2		2
847180	Other units of automatic data processing machines	0.6	6.00	3	3	
611030	Jerseys, pullovers, cardigans, of man-made fibres	0.6	6.00	4		4
270112	Bituminous coal	0.5	6.00	3	3	
950410	Video games of a kind used with a television receiver	0.5	6.00	1	1	
610910	Cotton T-shirts, singlets and other vests, knitted or crocheted	0.5	6.00	4		4
271011	Light oils and preparations	0.5	6.00	7	7	
Total of above		30.4		96	74	14
						8

Source: WTO Secretariat, based on data provided by Chile and UNSD, Comtrade data.