Government of Canada Gouvernement du Canada Canada

News Release

November 18, 1996 No. 211

CANADA AND CHILE SIGN FREE TRADE AGREEMENT

Prime Minister Jean Chrétien and Chilean President Eduardo Frei today signed the Canada-Chile Free Trade Agreement in Ottawa during the President's state visit to Canada.

"This agreement demonstrates Canada's determination to create jobs and encourage economic growth through trade liberalization," said the Prime Minister. "It also gives us momentum in developing closer political and economic ties with all of Latin America."

The agreement includes two parallel agreements on environmental and labour co-operation, modelled on the North American Free Trade Agreement (NAFTA) side agreements.

The trade agreement's key features are as follows:

Immediate duty-free access for 75 per cent of Canadian exports and the elimination of Chile's 11-per-cent import duty on almost all remaining industrial and resource-based goods over five years.

Much better access for a range of agricultural goods. For example, tariffs for durum wheat, which represents 35 per cent of exports in this sector, will be eliminated immediately.

Significant new protection for Canadian investments in Chile, including an agreement to automatically grant Canadian investors the benefits of any future liberalization, and an undertaking to negotiate a bilateral double taxation agreement.

The creation of a Free Trade Commission and secretariat to ensure the timely and effective resolution of disputes.

Side agreements on environment and labour, the first agreements of this nature ever signed by the Government of Chile.

The mutual elimination of anti-dumping duties within a maximum of six years.

The agreement also exempts cultural industries and supply-managed products, fully protects social and health services, and does not affect the Auto Pact.

Canada and Chile also signed two other agreements:

An Agreement on Social Security will ensure continued coverage when a Canadian employee is sent to Chile, and will allow Canadians to avoid having to pay into both the Canada Pension Plan and its Chilean equivalent. It will also allow Chileans now living in Canada to receive Chilean pensions.

An agreement between the Canadian International Development Agency (CIDA) and its Chilean counterpart will ease the way for development co-operation between Canada and Chile, including on projects with third countries.

President Frei was greeted Sunday by Governor General Roméo LeBlanc. He met with Prime Minister Chrétien and several cabinet ministers today. He is accompanied by members of his cabinet and a business delegation.

Tuesday the President will meet with Ontario Premier Michael Harris and business leaders in Toronto before ending his visit to Canada.

- 30 -

A summary of the Canada-Chile Free Trade Agreement is attached.

For further information, media representatives may contact:

Nicole Bourget

Director of Communications

Office of the Minister for International Trade

996-6271

Media Relations Office

Department of Foreign Affairs and International Trade

(613) 995-1874

This document is also available on the Department's Internet site: http://www.dfait-maeci.gc.ca

SUMMARY OF CANADA-CHILE FREE TRADE AGREEMENT

The Canada and Chile "interim" bilateral Free Trade Agreement (FTA) will provide a bridge to Chile's eventual accession to the North American Free Trade Agreement (NAFTA) and create momentum for the broader Free Trade Area of the Americas initiative. The Agreement covers trade in goods and services, investment and dispute settlement mechanisms. Canada enjoys an excellent reputation as a high-quality supplier, which enhances the potential for sales of our goods and services and for technology contracts with Chile. There are two side agreements on environment and labour which complement the FTA and will strengthen co-operation and promote the further development and effective enforcement of domestic laws and regulations in those areas.

The key features of the Agreement are:

The elimination of the 11-per-cent Chilean duty which is levied on all imports, providing significantly improved access to the Chilean market, including immediate duty-free access for a wide range of Canadian goods. As most Chilean goods already enter Canada duty free and all Canadian exports must pay the 11-per-cent Chilean duty, the removal of the tariff on the majority of products under the FTA is particularly favourable to Canada.

Additional benefits and significantly improved guarantees for Canadian investors in Chile, unprecedented outside the NAFTA context.

A more secure regulatory regime for Canadian service providers exporting to the Chilean market, guaranteeing NAFTA-quality rights.

Side agreements on environment and labour reflecting the priority the two countries place on enhanced co-operation and effective enforcement in these areas. These agreements provide a unique opportunity for Canada to participate actively in the further modernization of Chile's labour and environmental laws and practices, as Chile does not have such agreements with any other country.

As in the NAFTA, the Canada-Chile FTA contains a full-scope exemption for cultural industries; the broadest possible carve-out for social services, including health services; the exclusion of over-quota tariffs for supply-managed products; and an agreement on competition policy. The terms of the Auto Pact are unaffected.

The Agreement should enter into force on June 2, 1997, following legislative approval in both countries.

Market Access

Canada and Chile have agreed to the immediate elimination of tariffs for the majority of key Canadian industrial export interests to Chile. Tariffs on most other industrial and resource-based goods, other than footwear, will be phased out over a maximum of five years. As a result of this FTA, Canadian exporters will now pay a zero or steadily declining duty on all industrial goods (which account for 80 per cent of Canada's exports to Chile). This will give Canadian exporters an important advantage over their principal competitors in the Chilean market, including U.S., European and Asian suppliers, as well as Chile's regional trading partners. Excellent opportunities will exist in the following sectors: machinery and equipment, particularly for use in mining and forestry; telecommunications equipment; fertilizers; metallurgical and thermal coal; pharmaceuticals; certain chemical and glass products; a range of wood and paper products; aircraft; rail and urban rail equipment; autos and auto parts; and health and medical equipment.

For textiles and apparel, the Agreement provides for a longer tariff phase-out of up to six years for Canada and five years for Chile, and a special safeguard provision to guard against import surges during the phase-out period. These provisions mirror those included in the NAFTA. Tariffs on footwear will be phased out over six years in both countries.

The rules of origin in the FTA will be familiar to Canadian producers and exporters as they are modelled on those found in the NAFTA. However, in recognition of the structure and openness of both the Canadian and Chilean economies, the rules of origin for certain manufactured products have been relaxed on a transitional basis. In these cases, the rule has been modified to provide Canadian manufacturers with preferential access without requiring major changes to their current sourcing of materials and parts. At the same time, the NAFTA rules of origin have been retained in sectors such as agriculture, most chemicals, plastics, textiles and apparel.

The Canadian agri-food sector will benefit from immediate duty-free access for exports of Canadian durum wheat (from mid-April to mid-November -- i.e., during the Canadian shipping period to Chile), barley, lentils, canary seed, seed potatoes, malt, beer, raspberries, maple syrup, mustard products, mineral waters and various fruit juices. The FTA also provides immediate duty-free access for important quantities of beef, pork and canola oil. Duties on Canadian exports will be reduced to zero over five years for a variety of processed agri-food products, including frozen peas, confectionery products, chewing gum, chocolate, baked goods, pasta, soups and pet food. For milling wheat, Chile's most sensitive product, a longer phase-out of 17 years will apply. Canada will phase out a limited number of tariffs over six years, primarily for horticultural products. Over-quota Most Favoured Nation (MFN) tariffs for dairy, poultry and eggs are excluded from tariff elimination. All fish and fish products will enter Chile on a duty-free basis upon implementation of the FTA.

Canada's access to the Chilean market provided through this FTA for key export interests in the industrial, agricultural and resource-based sectors will be comparable to or better than that provided to competitors from Argentina and Brazil through Chile's recent trade agreement with Mercosur (Argentina, Brazil, Paraguay and Uruguay).

Moreover, should Chile grant even better access for certain agri-food products in a future trade agreement with the Mercosur countries, Canadian exporters will automatically receive these benefits for milling wheat, wheat flour, oilseeds and oilseed oils. In addition, any better access ever negotiated with the United States for those products, as well as for pork, beef, potatoes, dried peas and cereal products, will also be provided automatically to Canada. This approach represents a significant guarantee that Canadian exporters of those products will remain highly competitive in the Chilean market.

Canada and Chile have agreed to maintain their respective duty drawback programs, which allow for the refund of customs duties levied on imported materials and components incorporated into exported goods. The Agreement prohibits the imposition or maintenance of customs user fees, and Chile has agreed to eliminate its existing fees. The customs procedures also parallel those found in the NAFTA and are designed to facilitate trade, while ensuring effective administration and enforcement of the rules of origin and other customs matters. The FTA reflects NAFTA provisions as they relate to the temporary duty-free entry of necessary professional equipment and tools of the trade for business persons. These rules also cover goods imported for sports purposes or display and demonstration, commercial samples and goods that have undergone repair or alteration in the other country.

Investment

With current Canadian investments in Chile totalling more than C$7 billion, and given Canada's position as the second largest foreign investor in Chile, investment plays a very important role in the bilateral relationship. This Agreement will significantly improve the overall legal regime applying to Canadian investors in Chile by providing them with additional benefits and guarantees unprecedented outside the NAFTA context. Chile has agreed to the full range of NAFTA disciplines on non-discriminatory treatment. Through national treatment and MFN clauses, the FTA will ensure that Canadian investors will be treated similarly to Chilean investors and will receive benefits equivalent to those Chile may grant to other countries in future agreements. In addition, the Agreement carefully limits the conditions for expropriation and guarantees Canadian investors fair and adequate compensation if an expropriation were ever to occur. The FTA allows Canadian investors to take advantage of investor-state dispute settlement provisions which offer access to expedient international arbitration procedures.

Canada has preserved the right to maintain certain exceptions to the investment obligations similar to those under NAFTA. The FTA also freezes the current Chilean investment regime at its already liberal level, while ensuring that Canadian investors will benefit from any future liberalization. In addition, the FTA ensures that Canadians wishing to invest in Chile will not be subject to any screening mechanisms which could block entry or otherwise impede Canadian commercial interests.

While the Agreement will allow Chile to maintain existing capital control measures, it nevertheless prevents Chile from imposing more restrictive measures against Canadian investors. The FTA will not permit Chile to increase its current 30-per-cent reserve requirement on foreign credits, and limits the reserve to a maximum two-year period. The reserve has been frozen to apply to foreign loans and to portfolio investments entering Chile, but does not apply to foreign direct investment except for the foreign credit portion of these investments. In addition, the restriction applicable to repatriation of investments in Chile will be limited to the current period of one year.

Services

The FTA marks a significant further guarantee of liberalization in the area of services. In particular, the Agreement freezes Chile's current regulatory regime, which is relatively open by international standards. This will ensure that Canadian service providers will continue to benefit from a transparent, objective business environment. The freeze on Chile's regulatory regime will prevent Chile from enacting any new discriminatory measures. Moreover, the Agreement ensures that Canada will benefit from any future liberalization by Chile related to trade in services.

The FTA also includes provisions on temporary entry which expedite entry for Canadian investors, business visitors, inter-company transferees and other business professionals.

In sensitive sectors, Canada retained the same level of protection already set out in the NAFTA, including a carve-out covering specific social services (among them health). This reservation not only protects existing health measures but also affords policy makers the flexibility to introduce new measures to ensure the integrity of the Canadian health system.

The Agreement will enhance commercial opportunities for Canadian service providers in sectors such as mining, forestry, construction, engineering and other professional services, consulting services, specialty air services, education and training, and tourism. Both countries have agreed to monitor carefully the ongoing implementation process and to seek further opportunities for liberalization following implementation.

Institutional Arrangements and Dispute Settlement Provisions

The institutional arrangements set out in the FTA ensure joint decision making and effective dispute resolution. Canada and Chile will have an equal voice in resolving problems through ready access to objective dispute settlement panels providing authoritative interpretations. The Agreement establishes the Free Trade Commission and the FTA Secretariat. The Commission will supervise the implementation and any further elaboration of the Agreement, and will resolve any disputes that may arise. The Secretariat will establish offices in each country and support the Commission, as well as acting as registrar for dispute settlement panels and as the depository for investor-state disputes.

The Agreement obliges Canada and Chile to seek agreed interpretations and reach agreed solutions, reflecting the commitment of the two governments to manage their trade relations amicably. In the event that any matter arises that might affect the operation of the Agreement, either country may request consultations with the other. Should consultations fail to resolve the matter, either country may request a meeting of the Commission. The Agreement directs the Commission to settle the dispute promptly. If the countries are unable to agree on a mutually acceptable solution, either may initiate arbitral panel proceedings. These provisions provide an effective, timely and final procedure for the settlement of disputes.

Trade Remedies

Canada and Chile have negotiated a mutual exemption from the application of anti-dumping duties in the FTA. Canadian exports will be protected against future Chilean anti-dumping actions, a guarantee currently unavailable to U.S. and other exporters in that market. As Chile is a potential NAFTA Party, this exemption is consistent with the Canadian government's long-standing public commitment to minimizing and eventually eliminating the use of anti-dumping duties within NAFTA. The Agreement provides for a phase-in of the exemption linked to the final elimination of import duties in both countries for each individual product, or after six years at the latest. This transitional period will provide for a mandatory review of the exemption in five years. The agreement also includes a formal consultation process to deal with any extraordinary circumstances caused by the imposition of import measures by another country that may significantly divert trade. The agreed-upon process is designed to facilitate the prompt restoration of normal trading patterns.

Labour Co-operation

A Labour Co-operation Agreement patterned after the North American Agreement on Labour Co-operation (NAALC) complements the Canada-Chile FTA. Building on the FTA preamble, the goals of the Labour Agreement are to promote the improvement of working conditions and living standards in the two countries and to protect, enhance and enforce basic workers' rights. The Agreement reflects the shared recognition that future prosperity depends on the promotion of fair and open competition based on innovation and rising levels of productivity, with due regard for the respect of labour laws and principles.

The Agreement is designed to:

increase co-operation and promote greater understanding in a broad range of labour areas, through such means as publication and exchange of information on labour law and enforcement and compliance procedures;

oblige each Party to ensure the effective enforcement of its domestic labour laws;

establish mechanisms to solve problems through bilateral co-operative consultations;

provide for objective and comparative evaluations of patterns of practice by independent committees of experts, which will be made public; and

in certain cases, allow for dispute settlement procedures.

The Agreement creates a new Canada-Chile institutional linkage through a Commission for Labour Co-operation, which will deal with labour issues in a co-operative and consultative manner. The Labour Commission consists of a Council of the labour ministers from the two signatory countries and a supporting National Secretariat in each country.

An important dimension of the Agreement is the establishment of joint co-operative programs on key labour questions. This co-operative forum will encourage government, business and labour to strengthen their contacts, discuss best practices, and develop knowledge and expertise about each country's practices and systems.

Another major feature of the Agreement is that it commits each country to the effective enforcement of its labour laws. This commitment applies to 11 basic labour principles covering industrial relations matters such as freedom of association and the right to organize, employment standards, and occupational safety and health standards. Canadians will have access to an international instrument to raise concerns about the enforcement of labour legislation in Chile, notably in the traded sector, and to have their concerns debated and resolved through formal procedures.

Environmental Co-operation

The Canada-Chile Agreement on Environmental Co-operation is a parallel Agreement accompanying the Canada-Chile FTA which includes similar provisions to the NAFTA environmental side agreement (the North American Agreement on Environmental Co-operation, or NAAEC). Through the proposed interim Canada-Chile Agreement on Environmental Co-operation, both countries commit to effectively enforcing their environmental laws. Failure to effectively enforce environmental laws can be addressed through a process of citizen submissions and through a formal dispute settlement process between governments. Canada and Chile also agree to strengthen environmental co-operation, building on the progress made through the bilateral Memorandum of Understanding (MOU) on Environmental Co-operation signed in January 1995 during Prime Minister Chrétien's visit to Chile.

The institutional overlay of the existing NAFTA side agreements has been modified to reflect the interim nature of this bilateral Agreement. The Canada-Chile Agreement establishes a Council of Environment Ministers, a Joint Public Advisory Committee (consisting of three representatives from each country) and small National Secretariats in each country responsible for implementation.

The main difference between the Canada-Chile Agreement on Environmental Co-operation and the environmental side agreement of the NAFTA is that its application to Chilean laws will be phased in over a two-year period. This adaptation provides for the full coverage of Chilean environmental law. It also clearly indicates the Chilean government's willingness to engage in an open discussion with non-governmental groups on how best to reform those laws requiring modernization during the two-year transition period.

The Canada-Chile FTA also specifically identifies goals such as environmental protection and conservation, sustainable development, and the strengthening of the development and enforcement of environmental laws and regulations.

The 1995 MOU on Environmental Co-operation focuses on capacity building, technology transfer, environmental management, technical assistance and international co-operation. The MOU has also helped to increase Canadian trade with Chile in environmental technologies and services, as well as to enhance Canada's profile in terms of the development of environmental regulations and legislation.

Backgrounder

CANADA-CHILE TRADE AND INVESTMENT

Chile has the most stable and fastest-growing economy in its region; over the last decade, annual economic growth has averaged almost 7 per cent.

Market-oriented policies have encouraged an entrepreneurial spirit and a strong private sector. With low unemployment, falling inflation and rising wages, Chile has established its credentials as a desirable trade and investment partner.

Chile has strong trade links in the region, and with the European Union and Asia. Many companies are finding that Chile is an excellent gateway to the expanding markets of Latin America.

Chile's market liberalization and economic stabilization programs have already led to a significant increase in the volume of Canadian business with that country.

Total two-way Canada-Chile trade has increased dramatically since 1990, with shipments totalling $666 million in 1995, up 20 per cent from the 1994 total of $553 million.

Canadian exports to Chile increased 47 per cent from 1993 to 1994, and a further 23 per cent to $387 million in 1995. In that year, the trade balance was $109 million in Canada's favour.

Tight, responsible fiscal policies have created an attractive investment climate in Chile. Investment has grown from 14 per cent of GDP in the mid-1980s to an average of 20 per cent in the last three years.

Canadian investment in Chile is in excess of $7 billion, making Canada the second largest foreign investor in that country. Canadians have invested in such sectors as mining, energy and telecommunications.

These investments are encouraging further exports of Canadian value-added goods and are generating jobs in Canada. The trade agreement with Chile will help protect current and future Canadian investments.

Canadian exporters of services to Chile are increasingly active in areas such as consulting engineering, mining and forestry, and environmental enhancement.