

The Negotiation of the U.S.-Chile Free Trade Agreement

I would like to thank the Konrad-Adenauer-Stiftung for this opportunity to return to Mexico, and to learn from the distinguished speakers what others might be thinking about trade policy in this hemisphere. The trade agreements that we work to achieve have the goal of facilitating transactions among our businesses, and farmers, generating employment and bringing more choices at competitive prices to our consumers. I am confident that the U.S.-Chile Free Trade Agreement achieves these objectives and more for the United States and Chile.

The pursuit of a bilateral Free Trade Agreement (FTA) between the United States and Chile is a very long story with a happy ending. Discussions and negotiations extended over ten years, including early consideration of integrating Chile into the North American Free Trade Agreement. The negotiations that culminated with the U.S. – Chile Free Trade Agreement were initiated in December 2000 during the Clinton Administration, and concluded by United States Trade Representative Robert B. Zoellick in December 2002.

The number and complexity of the issues that the United States and Chile sought to include in this state-of-the-art agreement represented a challenge. The two countries worked on roughly twenty separate chapters of text – each with its own series of complicated and contentious issues to work through.

The United States and Chile entered into negotiations without so-called fast-track authority. However, the talks received a major boost from the U.S. Congress' approval of Trade Promotion Authority (TPA) in July 2002. This landmark legislation provided U.S. negotiators with the mandate and guidance we had long sought for dealing with a number of cutting-edge issues, including labor, environment, investment, intellectual property and others. TPA also ensured that upon completion of the agreement the Congress would not amend implementing legislation, but either pass or reject the legislation in as submitted. The “pathfinder” mission of U.S. negotiations with Chile and Singapore was re-confirmed, as the U.S. negotiators set about developing concrete proposals for chapters that would faithfully implement Congressional guidance.

With the passage of TPA the negotiations moved rapidly toward closure, which occurred in December 2002, fulfilling the mandates provided by the Congress..

What are the characteristics of the U.S. – Chile Free Trade Agreement? In short, it is comprehensive, transparent, modern and innovative.

Comprehensive

Trade in Goods

All tariffs and quotas on goods eliminated – no exceptions.

Trade In Services

Broad Commitments to Open Services Markets

New Opportunities for U.S. Banks,
Insurance, Securities and Related Services

Telecommunications

An Open and Competitive Telecommunications Market

Government Procurement

New Precedents for Hemisphere Transparent

Ground-Breaking Customs Procedures

Streamlined Rules of Origin

Anticorruption Procurement Rules

Unprecedented openness in Dispute Settlement*Modern*

Intellectual Property Rights (IPR)

State-of-the-Art Protection in the Digital Age

Protection Expanded Patents & Trade Secrets

Tough Penalties for Piracy and Counterfeiting

Electronic Commerce

Free Trade in the Digital Age

Express Delivery

Innovative

Labor and Environment

Ground-Breaking Cooperation to Protect Workers Rights and the Environment

Obligations are inside the agreement

Effectively enforceable dispute settlement procedures

Dispute Settlement equivalent commercial procedures

Innovative use of fines

Extensive cooperation to protect worker rights and the environment

So in December 2002 the United States and Chile had completed the agreement. Still, much remained before either side would begin to reap the benefits of increased trade. Trade Promotion Authority had set a series of requirements to ensure all stake-holders had an opportunity to comment on the agreement. There was much to do in order to meet the goal of full implementation on January 1, 2004. What follows describes briefly the milestones along the way.

Path to Implementation

January 21, 2003

USTR requested the U.S. International Trade Commission (ITC) to assess the effects of the FTA on the U.S. economy and specific sectors.

January 30, 2003

The President notified Congress of intent to enter into Agreement.
USTR transmitted trade remedies report and requested advisory committee reports.

January 31, 2003

The President published notice in Federal Register regarding his notification of the Congress.

January to May - 2003

The Administration held consultations with Congressional Oversight Group, House Ways and Means, Senate Finance, House and Senate Agriculture Committees, and other interested committees.

February 2003

USTR completed the initial legal review

February 28, 2003

Advisory Groups submit reports to the President and the Congress.

March 3-14, 2003

Joint legal review held in Chile.

March-2003

Translate final text into Spanish and verify translation end of May

April 3, 2003

Release English text to public.

June 6, 2003 ,

USTR Zoellick and Chilean Foreign Minister Alvear sign the U.S. Chile Free Trade Agreement (at least 90 days from notice of intent).
USTR Submits to Congress list of changes necessary to comply with Agreement.
(Any time up to 60 days after signing agreement)

USTR works with Congressional trade committees and other committees with jurisdiction on draft implementing legislation. *(In the United States the FTA is not a treaty, but an agreement. Therefore the Congress must pass legislation that makes necessary changes in U.S. law to allow the agreement to enter into force.)*

June 9

The International Trade Commission assessment report based on expedited action from received (ITC—statutory deadline for issuing report is 90 days after signature of the Agreement)
Congressional hearings and mock-mark up of implementing legislation

July 31

Passage of Implementing Legislation by the Senate completes Congressional Approval.

September 3

At a White House Ceremony, President Bush signs implementing legislation

Chilean Approval of the Agreement
Exchange of notes – Modification of tariff schedules.

January 1, 2004 U.S. – Chile Free Trade Agreement Enters into Force.

What does the U.S.- Chile FTA do?

The U.S. Chile – Free Trade Agreement liberalizes trade in all products, even the most sensitive ones. And it does so rapidly, making over 87 percent of current trade duty free immediately, and nearly 95 percent after just four years. At the same time, it includes reasonable transition periods for certain sectors, including Chile's price band products, that need more time to adjust to free trade. It uses a negative list on services, meaning that anything not expressly prohibited is permitted. This resulted in a high degree of openness for the most rapidly growing sectors of both the U.S. and the Chilean economies. And, of course, the agreement includes cutting edge provisions that incorporate, among other things, strong protections for labor rights and the environment while safeguarding each country's sovereignty. It also sets in motion some valuable bilateral cooperation initiatives to improve labor practices and environmental protection.

The FTA is an ambitious, balanced and modern agreement that addresses the needs and promotes the interests of both countries. The rapid legislative approval of the FTA both in the United States and Chile is a testament to how well its provisions reflect the

political will in both countries. Thanks to this widespread support, the FTA entered into force as scheduled on January 1, 2004. Now it belongs to thousands of individual businesses in the U.S. and Chile who have new opportunities as well as a more transparent, predictable framework in which to operate.

The U.S.-Chile FTA also represents an important step forward for free trade in our Hemisphere. While no two trade pacts are identical, the imprint of the U.S.-Chile FTA will be apparent in a number of areas in other agreements. Other countries and sub-regions have seen that it is possible to negotiate successfully with the United States and that a high degree of ambition can benefit all parties. The U.S.-Chile FTA will be especially important in shaping the higher-level, plurilateral agreement that we have begun to explore within the framework of the FTAA.

The U.S. and Chile together have been able to advance not just the well being of our own citizens, but also contribute to the continuing economic development of our region.

Susan P. Cronin
Director for Brazil and the Southern Cone
Office of the United States Trade Representative

For additional details regarding the U.S. – Chile Free Trade Agreement, please visit www.ustr.gov