

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Balance-of-Payments Restrictions

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1965 CONSULTATION UNDER ARTICLE XVIII:B

C H I L E

Basic Document for the Consultation¹

1. Legal and administrative bases of the restrictions

The basic legislation governing Chile's foreign trade are Laws No. 9,839 and 12,084, as amended by Decree No. 6,973 of the Ministry of Finance dated 1 September 1956. These rules were amended by Decree Law No. 250 of 6 April 1960. Decree No. 1,272 containing the present amended text of these rules, was issued by the Ministry of Economy, Development and Reconstruction on 7 September 1961. Law No. 16,101, which amended exchange legislation by broadening the powers of the Executive Committee of the Central Bank of Chile, as described later on, came into force on 15 January 1965. Decree No. 10 of the Ministry of Finance dated 4 January 1967, brought into effect the new Customs Tariff established in accordance with Law No. 16,464, which superseded the tariff authorized by Law No. 4321 of 1938 as later amended.

Under this legislation, the Ministry of Economy, Development and Reconstruction formulates the general policy governing export and import trade and foreign exchange operations. The Executive Committee of the Central Bank of Chile is responsible for laying down the general rules applicable to the above-mentioned transactions and for taking the specific decisions which are necessary for implementing the general systems applicable to them.

The Chilean import system is fundamentally based on the provisions of the exchange Law, the amended text of which, as already stated, was contained in Decree No. 1,272 of the Ministry of Economy, Development and Reconstruction, subsequently supplemented by Decree No. 357 of 3 April 1956, as amended by Decree No. 859 of 9 August 1956, Law No. 13,305 of 4 April 1959, Decree No. 8,413 of 15 June 1959, and recently by Law No. 16,101 of 15 January 1965.

2. Methods of restriction

In conformity with the Laws mentioned above, any individual or corporate body may import freely or in any quantity the goods included or which may be included in a List of Permitted Imports (established by Decree of the Ministry of Economy, Development and Reconstruction, upon report made by the Executive Committee of the Central Bank of Chile), provided the application has not been rejected by the Executive Committee in accordance with Law No. 16,101.

¹Statement supplied by the Government of Chile.

This List may be added to or amended at any time under the same procedure. Imports of goods not included in this List are assumed to be prohibited.

Law No. 16,101 referred to above authorizes the Executive Committee of the Central Bank of Chile to turn down all import applications, submitted during the previous calendar month, relating to one or more items on the import lists, if during the time the total value of the applications exceeds by more than 5 per cent the monthly average of the applications cleared during the twelve preceding months. The calculations do not take into account imports approved under the deferred exchange system.

Import applications for goods included in an item on the lists cannot be rejected if, in the calendar month corresponding to the date of their submission, the Executive Committee has accepted the import application for other goods included in the same item. If the Executive Committee does not exercise in due time its above-mentioned right to reject, it must clear the import applications within ninety days of the date of their submission.

As may be seen, Law No. 16,101, which was designed to provide the Central Bank with the means of keeping imports in line with the financial possibilities of the country, authorizes the Executive Committee to reject the import applications corresponding to one or more items of the import lists in those cases where the import requests exceeded certain limits. The new legislation has been especially careful to avoid all possibility of discrimination as can be seen in the previous paragraphs, either with respect to the origin of the goods or to the actual importer. The right to reject may be applied only in respect of all the applications submitted under a particular item and, in addition, the Central Bank cannot reject any applications under any item if in that particular calendar month any application falling under the same item has been approved.

The law specifically provides that the right to reject cannot be applied to a group of imports which are governed by special laws, not can these imports be considered for the computations referred to previously. These import exceptions are as follows:

Imports made in conformity with the regulations established by Law No. 13,039, which created the Africa Development Authority; Law No. 12,937 which established a special import régime for the departments of Pisagua, Iquique, Taltal, y Chañaral; Law No. 12,008 providing exemptions in Chiloé, Aysén and Magallanes; Article 256 of Law No. 13,305 which extends to small and medium-sized companies mining copper for export in the Provinces of Antofagasta the benefits of Articles 18, 19, 20 and 24 of Law No. 12,937; Law No. 15,575, Articles 105 and 106, which extend the above-mentioned benefits of Law No. 12,937 to small and medium-sized metal and non-metal producing mines in the Provinces of Antofagasta and Atacama as well as to the industries located in these Provinces which process raw materials coming from the mines in that region; Law No. 12,858 which authorizes the free importation by the Provinces of Tarapaca and Antofagasta and the departments of Chañaral of the goods mentioned therein; and Decree Laws No. 208 of 1953 and 266 of 1960, which accord exemptions to the fishing industry.

Apart from the measures described above, as a means of protecting the balance of payments and controlling imports, the International Exchange Act authorized the Central Bank to require deposits equivalent to a percentage of the value of imports of the goods specified.

Under a decision adopted by the Executive Committee of the Central Bank, at its 288th meeting held on 12 November 1964, the former basic rules in effect governing import deposits were replaced. Deposits or promissory notes in foreign currency were ended and replaced by deposits in national currency, so that importers have been freed from the inconvenience of having to obtain on the open market the required bonds and promissory notes in foreign exchange, the supply of which was much less than the demand. The earlier import deposits were originally based on percentages of the additional taxes, but a later decree of the Ministry of Economy dated 18 May 1967 established six categories of deposits: 10, 20, 50, 100, 200 and 10,000 per cent.

As an exception, a deposit equivalent to 10,000 per cent was established for goods which in the previous system were subject to a 5,000 per cent deposit, as well as for certain items of agricultural machinery which had been subject to a 1,000 per cent deposit. However, it should be pointed out that these high percentages are generally reserved for those imports which should be prohibited in the general interest, but are required to take care of essential needs, such as ambulances, for example. In this way, these imports are made in practice only by organizations which are exempt from deposit requirements, such as, in the case of ambulances, hospitals, the National Health Service, and so on.

Subject to a favourable report by the Ministry of Economy, Development and Reconstruction, imports made to meet the needs of the national Treasury, public institutions, semi-fiscal and autonomous agencies, are exempt from the above-mentioned deposit. Such a report is not required in the case of imports for national defence. In addition, the following are exempt from the deposit requirements:

- (a) Imports for the larger copper and iron mining, nitrate and iodine companies, and imports financed by credits from International Organizations, as well as those financed through deferred exchange payments.
- (b) Imports of goods originating in countries belonging to the Latin American Free Trade Association and included in the Chilean National Schedule and the Franchise List of Paraguay and Ecuador, as agreed under the Montevideo Treaty.

(c) Imports made in conformity with the special regulations established by Law No. 13,039 (Arica); Law No. 12,937 (Iquique, Pisagua, Taltal and Chañaral); Law No. 12,008 (Chiloé, Aysén and Magallanes); Law No. 12,858 (food supply free zone, provinces of Tarapacá and Antofagasta, and Department of Chañaral), and Article 256 of Law No. 13,305 (small and medium-sized companies mining copper for export in the province of Antofagasta); and Decree Law 266, of 1960, which grants exemptions to the fishing industry.

(d) Imports made by the Steel Company of the Pacific and the fishing industry which, in conformity with Law No. 7,896 and Decree Law No. 266 respectively are exempt from the surcharge. Likewise, imports of fishing nets, and ropes of natural or synthetic fibres, hooks, harpoons, professional divers' equipment, floats for nets, tackle, inboard diesel marine engines and other equipment necessary for the fishing industry. In addition, imports of other marine motors, winches, lines and tackle of artificial fibre, and navigational apparatus and equipment for the use of professional fishermen, provided they are approved by the appropriate maritime authority and by the Fishing and Hunting Department.

(e) Imports made by the following institutions, municipalities and universities recognized by the State: Department of Inter-American Agricultural Co-operation; welfare institutions; fire departments, subject to approval by the Special Commission established by Law No. 12,027; the National Electricity Board; the National Petroleum Board; the National Mining Board; and the following subsidiaries of the Production Development Corporation: Refrigeration Company of the Department of Industries of CORFO; Experimental Plant of Baquedano; Mining Enterprise of Caracoles; Forestry Enterprise of Colicheo; Factory and Smelting Works of Antofagasta. In addition, the National Sugar Industry is exempt from the deposit requirement, up to an annual import ceiling of US\$700,000 and subject to approval by the Ministry of Economy, Development and Reconstruction.

(f) Household and personal effects of travellers, subject to the relevant regulations; goods imported under the decisions adopted at the 116th and 513th meetings of the former Governing Body of the International Exchange Commission (non-commercial imports valued at less than \$100); and goods belonging to immigrants as provided under Decree Law No. 69 of 8 May 1953.

(g) Imports made under agreements for the sale of agricultural surpluses concluded with the Government of the United States of America.

(h) Imports made under Article 133 of Law No. 14,171, to replace machinery and industrial equipment damaged or destroyed in the earthquakes of May 1960 or their after-effects.

The deposit exemptions do not apply unless otherwise decided by the Executive Committee to goods subject to deposits of 10,000 per cent, except for imports made under the provisions of the Treaty of Montevideo referred to in (b) above.

Prohibited imports

On 12 January 1962, in order to combat a serious balance-of-payments situation which developed in late 1961, the Chilean Government removed approximately 700 items from its List of Permitted Imports. Items affected by the import prohibition included alcoholic beverages, tobacco, many food products, leather, textiles, clothing, many chemicals and related products, some steel and certain other metal products, hardware, hand tools, electric motors and transformers, most motor vehicles, all domestic appliances, certain household utensils, photographic equipment, paper products and plastic manufactures.

Annexed to this document is a complete list of permitted imports; products not included in that list are assumed to be prohibited for import.¹

3. Treatment of imports from different sources

In pursuance of the obligations contracted under the Montevideo Treaty, Chile granted exemption from the prior deposit requirement on goods traded by Chile within the LAFTA, which are included in the Chilean National Schedule and in the limited Franchise List, containing privileges granted to countries at a relatively less-advanced stage of economic development within the area, in accordance with Chapter VIII of the Treaty.

Furthermore, and also in pursuance of Chile's obligations as a member of the Montevideo Treaty, when Decree No. 41 of 12 January 1962 was issued, removing various goods from the List of Permitted Imports, an exception was made in respect of products traded by Chile within the area, since the contrary would have implied the withdrawal of the concessions granted, as well as a breach of Chile's obligations.

Chile has bilateral reciprocal credit agreements with the Argentine, Paraguay, Colombia, Mexico, Peru and Venezuela totalling US\$13,600,000. Payment between countries passes through accounts opened with the Central Bank to the order of the other Central Bank. In some cases these include all payments, in others exceptions have been provided. The rule is that importers are free to use the account or not as they choose. Every two months the balance of the account is cleared multilaterally through the Central Reserve Bank of Peru acting as agent, and debtors have to pay their total debt to the system in freely-convertible currency, which the agent distributes among the creditors. The account is kept in US dollars; the exchange rates

¹This list is available at the secretariat and may be consulted by interested governments.

of national currencies are maintained at the same quotations as the freely convertible dollar, and credit may not be accumulated to amounts larger than those agreed nor longer than sixty days. It follows that the rules for payment do not discriminate against other countries nor operate to force trade into directions different from those it would have taken if this system did not exist. The International Monetary Fund has made no objection to these rules.

4. Use of State trading or government monopoly in restricting imports

As already stated, all the goods included in the List of Permitted Imports can be imported freely and in whatever quantity by any natural person or corporate body. No-one may import goods not included in that List.

Only imports made by the Agricultural Trade Enterprise, the legal successor to the National Trade Institute, are exempt from the deposit requirement; the purpose of this privilege is not to restrict imports but to enable the Government to exercise proper control over supplies and domestic prices of goods essential for domestic consumption, as for example wheat and meat.

5. Measures taken between 1965 and mid-1967 to relax or otherwise modify restrictions

On 6 July 1965 the Central Bank resolved that the time-limit stated in the import register, usually 150 days, should relate only to loading, and thus abolished the time-limit for importation.

On 6 December 1965 the Executive Committee of the Central Bank, at its meeting No. 369, ruled that within sixty days from the date of the waybill importers must arrange with a bank a futures purchase to cover the whole of the consignment, the purchase price being paid in cash.

In addition to this requirement the Committee decided on 14 June 1966 that, in the case of deferred coverage transactions, payment should be made against documents, of no less than 10 per cent of the f.o.b. value of the goods plus f.o.b. to c.i.f. expenses, or 20 per cent of the c.i.f. value of the goods imported.

On 28 June 1966 the Central Bank at its meeting No. 416 took note of Decree No. 1,505 of the Ministry of Finance lowering the additional taxes and/or aggregates on various parts of industrial, agricultural and mining machinery. The general tax on industrial machinery, formerly about 90 per cent, was lowered to three separate levels: (1) charges from 1 to 10 per cent, (2) taxes from 20 to 30 per cent, and (3) on some machinery the especially high rate of 50 per cent on its c.i.f. value. The general tax on agricultural machinery, varying between 90 and 100 per cent, was reduced to a flat rate of 20 per cent, and the surcharge on mining machinery, formerly 6 per cent, was reduced to 1 per cent.

At its meeting No. 441 of 29 November 1966 the Central Bank ruled that importers might guarantee, with deferred coverage charged to credits of the Agency for International Development (AID), imports of capital goods such as plants, equipment, machinery, transport vehicles suitable for manufacture or collective transport, spares in general, and those which the Executive Committee considered of national importance. By way of exception to this order, importers of books were given a period up to two years from the date of arrival for remitting the funds in full.

On 4 January 1967 the new customs tariff came into force in virtue of Law No. 16,464, superseding Law No. 4,321 of 1928 as later amended.

The new tariff contains only two kinds of charges: specific charges expressed in "pesos" with a content of 0.183057 gr. of fine gold per tariff unit; and taxes ad valorem expressed in percentages of the c.i.f. value of the goods. It was therefore necessary to incorporate in this simplified system the taxes of every kind which had been levied through the customs, and when the tariff was compiled every product was given as nearly as possible the same general treatment as it was then receiving. Where this was impossible, allowance was made for a margin of variation up to 15 per cent of the previous charge.

The charges levied by the Customs under the old system and taken into account in fixing the new tariff may be divided into strictly customs charges, and charges with equivalent effect.

The former consisted essentially of the following charges: the specific duty established by Law No. 4,321; the tax ad valorem on the value of similar goods of domestic manufacture (3 per cent, 30 per cent, 62 per cent); the consular duty on waybills and trade invoices; the tax imposed by Law No. 3,852 on loading and discharge, as amended, which was only taken into account when it substantially affected the determination of the tariff; the seaport discharge tax imposed by Law No. 13,305, article 131; and special taxes on vehicles and their spares and on petrol and other motor spirits imposed by Law No. 12,084 as amended, and by Decree Law No. 206 of 1960.

Apart from customs duties, the customs service collects and supervises payment of the additional taxes imposed by Law No. 13,305, article 169, the percentages and amendments of which were established by a decree of the Ministry of Finance, repealed by Law No. 16,464, and reincorporated in the new tariff.

Goods exempt from import duties and taxes except those to which Law No. 16,464, article 190, applies, pay a clearance tax of 2 per cent of their c.i.f. value.

On 8 February 1967, by decision of the Executive Committee of the Central Bank at its meeting No. 456, the time-limit for covering imports was shortened from seventy to sixty days.

On 27 February 1967 the Central Bank at its meeting No. 458 resolved to regard imports of agricultural machinery in consignment as exempt from deposit up to a total of US\$15,058,700 under the agricultural mechanization programme of the Production Development Corporation.

On 18 May 1967 the Central Bank, at its meeting No. 473, took note of Decree No. 427 of the Ministry of Economy, Development and Reconstruction enacting a new List of Permitted Imports, corresponding in its arrangement with those in the relevant chapter of the Brussels Tariff Nomenclature. This new arrangement of items also corresponds with the relevant chapter of the Customs Tariff, so that the designation of imports can easily be found both in the List and in the Tariff.

On 30 May 1967 the Central Bank resolved, at its meeting No. 475, in compliance with Decree No. 95 of the Ministry of Mines of 6 October 1965, to fix at US\$4 million the allocation for imports authorized by the Copper Corporation for small and medium-sized copper mines, to take effect during the second half of 1967.

From 20 June 1967, the Central Bank at its meeting No. 478 permitted authorized banks to sell currency on futures to pay for imports, provided only that these are covered by a duly-guaranteed import register.

On 14 July 1967 the Executive Committee resolved at its meeting No. 483 to establish in virtue of Law No. 16,590, published in the Official Journal of 6 January 1967, import quotas for goods entering in the second half of this year the Departments of Copiapó, Huasco and Freirina.