

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Limited Distribution

Committee on Balance-of-Payments Restrictions

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CHILE

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dated 4 January 1967 brought into effect the new Customs Tariff established in accordance with Law No. 16,464, which superseded the tariff authorized by Law No. 4,321 of 1928 as later amended.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, preceded by Decree No. 357 of 3 April 1956, as amended by Decree No. 859 of 9 August 1956, Law No. 13,305 of 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 and 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. Since 28 February 1966, however, the Executive Committee has not made use of these powers; so that the time required to clear an import application has been reduced to less than twenty days.

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 in 1956 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; also, the various categories of deposits were abolished in favour of a general rule under which the deposit to be made by each importer had to be equal to the additional taxes chargeable for the goods in question, so that in effect the deposit came to be an advance payment of the entire tax. In the circumstances, cash deposits varied between 0 per cent and 400 per cent of the c.i.f. value of the goods, and it should be pointed out that the new provision involved a considerable reduction in the total number of items, while importers were 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.

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, either in the absence of any national production or under specific equipment programmes.

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 for 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); Law No. 16,500 (Departments of Copiapó, Huasco and Freirina), 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 Ministry of Finance Decree No. 2,141 and Decree Law No. 226 respectively, are exempt from the surcharge. Decree No. 226 covers 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 and the National Sugar Industry.

(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 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.

Since 1965, with the new exchange policy and the improvement in international copper prices, imports have been remarkably stable. As a result, it was possible to rationalize certain regulations, which may be justified in certain periods but are in general not very effective in promoting the national interest. This applies to import deposits.

More specifically, since 12 September 1968, importers have been allowed to use deposits for the payment of import duties and other import charges imposed on the goods to which the deposit relates. This new arrangement frees importers from the need to obtain double cover for a period of several days in order to pay both import duties and the deposit, which could be withdrawn only after the import duties had been paid.

On 1 January 1969, deposit percentages were reduced by an average of about 25 per cent. At the same time, the tax on import registrations was raised by 1 per cent.

On 23 May 1969, the minimum period of ninety days for deposits was abolished, and, with a view to avoiding unnecessary administrative formalities, the deposit requirement for amounts below E^o 100 was also abrogated.

The 10,000 per cent deposit serves as a very effective instrument for the prohibition of imports, which are thus reserved for public market-regulatory agencies. It is also useful for the importation, in limited and planned amounts, of certain goods which under law are exempt from all customs duties or which are covered by a specific equipment programme. Since, however, the list in question was larger than the above considerations would seem to justify, the 10,000 per cent deposit was abolished for thirty-four products on 23 May 1969.

On that date, a list of goods was selected which had been subject to an aggregate amount of customs duties and deposits resulting in a prohibitive cost of importation. Deposits in these cases were abolished.

Lastly, goods subject to a 5 per cent deposit were freed on the same occasion. The effect of the deposit had been minimal, but it had constituted an excessive administrative burden for importers, commercial banks and the Central Bank.

Prohibited imports

On 12 January 1962, in order to combat a serious balance-of-payments situation which developed in late 1961, the Government removed approximately 700 items from its List of Permitted Imports by Decree No. 41. 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.

In recent years, however, the Executive Committee has progressively amended the List of Permitted Imports, as the balance of payments improved, and this has increasingly lengthened that List.

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.

Chile has no compensation agreements.

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 meat and other products.

5. Measures taken between the beginning of 1965 and mid-1969 to relax or otherwise modify restrictions

On 15 January 1965, as has already been pointed out, Law No. 16,101 was published, empowering the Executive Committee of the Central Bank to reject import applications subject to the procedures, conditions and limitations laid down in the Law. Article 3 of that Law abolished the link which had previously existed between import deposits and additional taxes and which required any increase in the taxes to be accompanied by a reduction of the deposit relating to the goods in question. With the entry of the new Law into force, additional taxes can be imposed and applied without reference to the system of prior deposits.

The above provision also amended Article 10 of Law No. 14,999, deleting the sentence added to Article 169 of Law No. 13,305 (which had provided for the possibility of imposing additional taxes): "Once a deposit has been abolished, it cannot subsequently be reintroduced."

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 shipment 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 Executive Committee of 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 Executive Committee of the Central Bank ruled that importers might guarantee, with deferred coverage charged to credits of the Agency for International Development (AID)¹, 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 foreign exchange 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 grs. 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.

¹This deferred coverage system does not apply to private importers, but only to payment of the credit in question by the Central Bank.

The former consisted essentially of the following charges: the specific duty (based on weight) 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 sea-port 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 5 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 18 May 1967 the Executive Committee of 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 to 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.

From 20 June 1967 the Central Bank at its meeting No. 478 permitted 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 the Departments of Copiapó, Huasco and Freirina in the second half of that year.

At its 503rd meeting of 24 October 1967, the Executive Committee decided to reduce to fifty days reckoned from the date of embarkation the general period of sixty days laid down at its 369th and 486th meetings for the purchase of the foreign currency relating to import payments.

On 4 June 1968, Decree No. 985 of the Ministry of Finance reduced by 80 per cent the duties and taxes collected by the Customs for machinery and other material required for the establishment of industries not yet existing in the country, provided that those industries rely for at least 80 per cent of their raw material on domestic sources and that their establishment is authorized

by Supreme Decree following a favourable report by the Department of Industry and Commerce. A similar reduction may be granted in the case of industries established or expanded after a report of the Department of Industry and Commerce confirming that existing industries are inadequate for the supply of the domestic market as regards quantity or quality.

On 6 August 1968, the Executive Committee, at its 546th meeting, decided to repeal the decision adopted by the Governing Body of the former International Exchange Commission at its 448th meeting of 27 October 1958 under which import applications had to be guaranteed in the currency of the country of origin of the goods in question. As from 6 August 1968, import applications must be guaranteed in the currency of payment agreed upon with the supplier, whatever the country of origin of the goods. The Committee also decided to confirm the decision adopted at the 573rd session of the Governing Body of the former International Exchange Commission authorizing coverage and remittance of amounts to pay for imports in any foreign currency. Where a currency is used other than that in which the registration in question was made, the rate of exchange is that quoted in the exchange markets at the time payment is made. This provision does not apply to imports of goods from countries with which reciprocal credit agreements exist; such imports must be registered, covered and paid in the currency provided for in the agreement in question.

At its 550th meeting of 27 August 1968, the Executive Committee decided that no deposit need be made for the import of goods from the United States which are paid for abroad by letters of credit of the Agency for International Development.

At its 543rd meeting of 12 September 1968, the Executive Committee decided that since the deposits which importers are required to make in cash at the time of applying to the Central Bank may be used to pay import duties and other import charges on the goods to which the deposit relates, there is no need to await the expiry of the ninety-day period of retention before the deposit is returned.

At its 563rd meeting of 26 November 1968, the Executive Committee decided to reduce to thirty days the minimum period of sixty days reckoned from the date of the waybill for remitting currency abroad in order to cover import transactions.

At its 574th meeting of 28 January 1969, the Executive Committee decided to amend previous resolutions under which amounts transferred by Chilean or foreign citizens or corporate bodies to Chile in foreign currency and registered in the Central Bank could be freely re-exported in their entirety or in part, without any formality other than the presentation of the relevant certificate to the bank in which the currency for re-export was to be acquired. While the system is maintained for the re-export of amounts transferred which had been remitted before 5 December 1968 and for the re-export of amounts transferred subsequently, this is subject to the condition that partial or total re-export is made after at least one year has elapsed since the amount was remitted in cash. The same rule will be applied to payment of interest and profits produced by capital covered by this paragraph and to interest on capital referred to in the first paragraph.

At its 581st meeting of 18 March 1969, the Executive Committee decided to abolish the minimum period of thirty days reckoned from the date of the waybill for remitting in foreign currency the amounts required to pay for import transactions.

At its 595th meeting of 18 June 1969, the Executive Committee decided to authorize, until 31 December 1969, advance payment of quotas under deferred-payment agreements expiring in the current year, after deduction of the relevant interest payments.

At its 604th meeting of 20 August 1969, the Executive Committee decided to reduce the present deposit percentages governing imports to the following rates:

<u>Existing percentage</u>	<u>Reduced to</u>
15	0
40	30
90	60
180	120

At its 605th meeting of 22 August 1969, the Executive Committee, in pursuance of Decree No. 681 issued by the Ministry of Economy, Development and Reconstruction on 2 December 1965, decided that goods subject to an import prohibition might be imported up to a maximum value of US\$100 c.i.f. without any deposit or previous application and without coverage, provided the transaction is of a non-commercial character and the goods are consigned to private persons or imported by them.