

**PREFERENTIAL TRADE AGREEMENT
BETWEEN
THE REPUBLIC OF INDIA
AND
THE REPUBLIC OF CHILE**

PREAMBLE

The Government of the Republic of India and the Government of the Republic of Chile, (hereinafter referred to as the "Parties");

CONSIDERING that the expansion of their domestic markets, through economic integration, is a vital prerequisite for accelerating their processes of economic development;

BEARING in mind the desire to promote mutually beneficial bilateral trade;

CONVINCED of the need to establish and promote free trade for strengthening intra-regional economic cooperation and the development of national economies;

FURTHER RECOGNISING that progressive reduction and elimination of obstacles to bilateral trade through a bilateral preferential trading arrangement (hereinafter referred to as "The Agreement") would contribute to the expansion of world trade; and

FURTHER ACKNOWLEDGING the creation of the Joint Study Group, in accordance with the Framework Agreement signed by the two Parties in January 2005, to study the feasibility of moving towards a Free Trade Agreement/Comprehensive Economic Cooperation Agreement between Chile and India, and due consideration that should be given to its recommendations,

HAVE agreed as follows:

**Article I
Objectives**

1. The Parties agree to establish a Preferential Trade Agreement in accordance with the provisions of this Agreement and in conformity with the relevant Agreements of the World Trade Organization (WTO).
2. The objectives of this Agreement are to:
 - (a) promote through the expansion of trade the harmonious development of the economic relations between India and Chile;
 - (b) provide fair conditions of competition for trade between India and Chile;

- (c) pay due regard to the principle of reciprocity in the implementation of this Agreement;
- (d) contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

Article II **Definitions**

For the purpose of this Agreement:

goods of a Party means originating goods as defined in Article 2 of Annex C;

measure includes any law, regulation, procedure, requirement or practice which may be applied to originating goods;

preferential treatment means any concession or privilege granted under this Agreement by a Party through the progressive reduction and/or elimination of tariffs on the movement of goods;

tariffs means any customs or import duty and a charge of any kind imposed in connection with the importation of a good , but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the General Agreement on Tarrifs and Trade 1994 (GATT 1994); in respect of like, directly competitive, or substitutable goods of the Party, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;
- (b) antidumping or countervailing duty; and
- (c) fee or other charge in connection with importation commensurate with the cost of services rendered.

the Committee means the Joint Administration Committee referred to in Article XVII.

Article III **Scope and Coverage**

Except as otherwise provided, this Agreement applies to trade in goods of a Party.

Article IV
Elimination of Tariffs

1. The Parties hereby agree to establish a Preferential Trade Agreement for the purpose of free movement of goods between their countries through elimination or reduction of tariffs on the movement of goods in accordance with the provisions of Annexes A & B.

2. On the request of either Party, the Parties shall consult to consider accelerating the elimination or reduction of tariffs set out in their Schedules to Annex A & B or to include new products to these Annexes. An agreement between the Parties to accelerate the elimination or reduction of a tariff on a good or to include new products for elimination of tariffs shall supercede any duty rate or staging category determined pursuant to their Schedules to Annex A & B for such good when approved by each Party in accordance with Article XVII and its applicable legal procedures.

Article V
National Treatment

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994.

Article VI
State Trading Enterprises

1. Nothing in this Agreement shall be construed to prevent a Party from maintaining or establishing a state trading enterprise, as understood in Article XVII of GATT 1994.

2. Each Party shall ensure that any state enterprise that it maintains or establishes acts in a manner that is not inconsistent with the obligations of the Parties, under this Agreement and accords non-discriminatory treatment in the import from and export to the other Party.

Article VII
Rules of Origin

Goods covered by the provisions of this Agreement shall be eligible for preferential treatment provided they satisfy the Rules of Origin as set out in Annex C.

Article VIII
Import and Export Restrictions

Except as otherwise provided in this Agreement and in accordance with Article XI of GATT 1994, neither Party may adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party.

Article IX
Agricultural Export Subsidies

The Parties share the long term objective of establishing a fair and market oriented agriculture trading system under the aegis of the WTO. They agree to work towards the conclusion of the agriculture negotiations to secure elimination by a credible date of export subsidies, substantial reduction in all forms of trade distorting domestic support and substantial improvements in market access with operationally effective special and differential treatment for developing countries which is integral to all aspects of the negotiations and their outcome consistent with the WTO Doha Ministerial Declaration (WT/MIN(01)/DEC1) and the Decision adopted by the WTO General Council on 1 August 2004 (WT/L/579).

Article X
Global Safeguards

1. The Parties shall retain their rights and obligations to apply safeguard measures consistent with Article XIX of GATT 1994 and the WTO Agreement on Safeguards.
2. This Agreement does not confer any additional rights or obligations on the Parties with regard to actions taken pursuant to Article XIX of GATT 1994 and the WTO Safeguards Agreement.

Article XI
Preferential Safeguard Measures

The Parties can apply preferential safeguard measures under this Agreement subject to the provisions established in the Annex D.

Article XII
Technical Barriers to Trade

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement on Technical Barriers to Trade (TBT Agreement).
2. The Parties shall strengthen their co-operation in the field of standards, technical regulations and conformity assessment, with a view to increasing the mutual understanding of their respective systems and facilitating access to their respective markets.
3. The bilateral cooperation shall include opportunities to promote technical cooperation between regulatory agencies such as, information sharing, training programme to improve and update technical knowledge of the concerned personnel of both the Parties, facilitate the acceptance of technical regulations and conformity assessment procedures in the most efficient way possible, including mechanisms such as Mutual Recognition Agreements in mutually agreed areas.
4. The Parties agree to hold consultations where one of the Parties considers that the other Party has taken measures which are likely to create or have created an obstacle to trade, in order to find an appropriate solution.

5. Activities referred to in the above paragraphs shall be carried out by the Director of the Foreign Trade Department of the Ministry of Economy, for the Chilean side and the Joint Secretary, Latin America Division, Department of Commerce for the Indian side. The activities shall be reported to the Committee.

Article XIII **Sanitary and Phytosanitary Measures**

1. The Parties affirm their existing rights and obligations with respect to each other under the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement).

2. The Parties agree to facilitate the cooperation in the field of the SPS Agreement between them and to promote and develop trade of animals, animal products, plants, plant products, and food products, preventing the introduction or spread of pest or disease, and to enhance plant and animal and food safety.

3. The Parties agree to exchange information on the application of sanitary and phytosanitary measures; to exchange regulations, standards, procedures, model of certification and technologies related to animal and plant quarantine, food safety, biosecurity, risk management and international standards. Both Parties agree to exchange information and experiences on the implementation of the SPS Agreement and the international standards, guidelines and recommendations developed by the International Office of Epizootics, the International Plant Protection Convention and the Codex Alimentarius.

4. The Parties agree to hold consultations where one of the Parties considers that the other Party has taken measures which are likely to create or have created an obstacle to trade in order to find an appropriate solution. Any matters, on which it has not been possible to find a satisfactory solution, shall be referred to the Committee through a notification.

5. Activities referred to in paragraphs 2, 3 and 4 shall be carried out by the Director of Bilateral Economic Relations, DIRECON, Ministry of Foreign Affairs, for the Chilean side and the Joint Secretary, Latin America Division, Department of Commerce for the Indian side. The activities shall be reported to the Committee.

6. The Parties shall also try and explore the possibilities of Mutual Recognition Agreements (MRA) in mutually agreed areas.

Article XIV **Customs Valuation**

On matters related to Customs Valuation, the Parties shall be governed by Article VII of GATT 1994 and the WTO Agreement on the Implementation of Article VII of GATT 1994.

Article XV
Customs Cooperation

In order to facilitate cooperation in customs matters, including compliance issues, the Parties agree to establish a Working Group on Customs, which would negotiate a mechanism/protocol for customs cooperation within a period of six months from the date of entry into force of this Agreement. The Working Group shall meet as often as required and shall report to the Committee.

Article XVI
Anti-Dumping and Countervailing Duty Matters

1. The Parties maintain their rights and obligations under Article VI of GATT 1994, the Agreement on Implementation of Article VI of GATT ("Agreement on Antidumping") and the Agreement on Subsidies and Countervailing Measures, which are part of the WTO Agreement.
2. Antidumping actions taken pursuant to Article VI of GATT 1994 and the Agreement on Antidumping, or countervailing actions taken pursuant to Article VI of GATT 1994 and the Agreement on Subsidies and Countervailing Measures shall not be subject to Article XVIII.

Article XVII
Joint Administration Committee

1. A Joint Administration Committee shall be established at Secretary or equivalent level. The Committee shall meet at least once a year to review the progress made in the implementation of this Agreement and to ensure that benefits of trade expansion emanating from this Agreement accrue to the Parties equitably. The Committee may set up Sub-Committees and/or Working Groups as considered necessary.
2. The Committee shall accord adequate opportunities for consultation on representations made by either Party with respect to any matter affecting the implementation of the Agreement. The Committee shall adopt appropriate measures for settling any matter arising from such representations within six months of the representation being made. Each Party shall implement such measures immediately.

Article XVIII
Settlement of Disputes

Any dispute that may arise in connection with the interpretation, application or non-compliance with the provisions of this Agreement, shall be submitted to the procedure established in Annex E.

Article XIX
General Exceptions

Nothing in this Agreement shall prevent any Party from adopting measures according to Article XX and Article XXI of the GATT 1994.

Article XX
Amendments

1. The Agreement may be modified or amended through mutual agreement of the Parties. Proposals for such modifications or amendments shall be submitted to the Committee by either Party and upon acceptance by the Committee, shall be approved in accordance with the applicable legal procedures of each Party¹. Such modifications or amendments shall become effective when confirmed through an exchange of diplomatic notes and shall constitute an integral part of the Agreement.
2. Provided however that in emergency situations, proposals for modifications may be considered by the Parties and if agreed, given effect to through an exchange of diplomatic notes.

Article XXI
Annexes

The list of items covered under preferential tariff by the Government of Chile is at Annex - A and the list of items covered under preferential tariff by the Government of India is at Annex-B. Annexes A, B, C, D and E, as well as the footnotes therein are integral parts of this Agreement.

Article XXII
Duration and Termination of Agreement

This Agreement shall remain in force until either Party terminates this Agreement by giving six months written notice to the other of its intention to terminate this Agreement.

¹ Chile shall implement the actions of the Committee, regarding any modification of the list of items covered under Annexes A and B and the Rules of Origin under Annex C, *through Acuerdos de Ejecucion*, in accordance with article 50, numeral 1, second paragraph, of the *Constitucion Politica de la Republica de Chile*.

Article XXIII
Entry into Force

1. The Agreement shall enter into force on the day after the Parties hereto have notified each other that their respective constitutional requirements and procedures have been completed.
2. In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.
3. Signed at New Delhi on the Eighth day of March of 2006 in two originals each in Hindi, Spanish and English languages, all of them being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

(S N MENON)
Commerce Secretary

GOVERNMENT OF
THE REPUBLIC OF INDIA

(JORGE HEINE)
Ambassador of Chile to India

GOVERNMENT OF
THE REPUBLIC OF CHILE