

Economic Complementation Agreement between the Republic of Chile and the Republic of Venezuela

The Government of the Republic of Chile and the Government of the Republic of Venezuela.

CONSIDERING: The convenience of stimulating greater economic complementation between our countries and promoting a more active participation in the world economy;

The importance of strengthening the Latin American Integration Association (ALADI), and achieving the objectives foreseen in the Treaty of Montevideo 1980, through the conclusion of bilateral and multilateral agreements as broad as possible;

The participation of Venezuela in the Cartagena Agreement and the commitments that derive from it for this country;

The coincidences in the guidelines of the commercial policies of both countries, both in tariff matters and in the basic orientations of their economic policies;

The significance that an adequate cooperation in the commercial, industrial and services areas may have for the development of both countries;

The convenience of achieving a more active participation of the economic agents, both public and private, of both countries, in the efforts tending to increase the reciprocal exchange.

AGREE: To enter into an Economic Complementation Agreement for the establishment of an expanded economic space, in accordance with the provisions of the Treaty of Montevideo 1980 and Resolution 2 of the ALADI Council of Ministers. This Agreement shall be governed by the aforementioned provisions and the rules set forth below:

Chapter I. Objectives

Article 1.

The objectives of this Agreement are:

- a. Establish, in the shortest possible time, an expanded economic space between the two countries, allowing the free circulation of goods, services and productive factors;
- b. Intensify economic and commercial relations between the signatory countries, by means of a total liberation of taxes and restrictions on imports originating from them;
- c. Promote a coordinated action in international economic forums, as well as in relation to industrialized countries, tending to improve the access of the products of the signatory countries to world markets;
- d. To coordinate and complement economic activities, especially in the industrial and services areas;
- e. To stimulate investments aimed at an intensive use of the markets of the signatory countries and to strengthen their competitive capacity in world exchanges; and
- f. To facilitate the creation and operation of binational and multinational companies of a regional and international character.

Chapter II. Liberation Program

Article 2.

The products included in the tariff reduction program established in Article 3 of this Agreement shall enjoy, as of July 1,

1993, the total elimination of non-tariff restrictions, with the exception of those referred to in Article 50 of the Treaty of Montevideo 1980. Likewise, the signatory countries undertake not to introduce new restrictions on imports originating in the other Party.

Article 3.

The signatory countries agree to free their reciprocal trade of taxes no later than January 1, 1999. To this end, they agree:

a. To apply, as of January 1, 1993, for reciprocal trade, the levies indicated below:

CHILE: LEVIES TO VENEZUELA

1/7/1993	1/1/1994	1/1/1995	1/1/1996	1/1/1997
8.5%	6.5%	4.5%	2.5%	0%

VENEZUELA: LEVIES TO CHILE

1/7/1993	1/1/1994	1/1/1995	1/1/1996	1/1/1997
15%	11%	7%	3%	0%
12%	9%	6%	3%	0%
8%	6%	4%	2%	0%
4%	3%	2%	1%	0%

b. The products included in Annex 1 shall be subject to a special rate of tariff reduction beginning July 1, 1993, and ending January 1, 1999, according to the following schedule:

CHILE: LEVIES TO VENEZUELA

1/7/1993	1/1/1994	1/1/1995	1/1/1996	1/1/1997	1/1/1998	1/1/1999
8.5%	8.5%	7.5%	6.5%	4.5%	2,5%	0%

VENEZUELA: LEVIES TO CHILE

1/7/1993	1/1/1994	1/1/1995	1/1/1996	1/1/1997	1/1/1998	1/1/1999
15%	15%	13%	11%	7%	3%	0%
12%	12%	11%	9%	6%	3%	0%
8%	8%	7%	6%	4%	2%	0%
4%	4%	3%	3%	2%	1%	0%

c. If at any time a signatory country reduces its levies to third countries, it shall proceed to adjust the levy applicable to reciprocal trade in accordance with the proportionalities established in paragraphs a. and b., as the case may be.

Article 4.

The products included in Annex 2 of this Agreement shall continue to enjoy the tariff preferences established in the Partial and Regional Scope Agreements signed between Chile and Venezuela within the framework of the ALADI, until such time as, by application of the relief program established in Article 3 of this Agreement, such preferences are superseded.

Article 5.

The tariff reduction schedule set out in Article 3 of this Agreement shall not apply to the products referred to in Chapter IV and Annex 3. The automotive products included in Annexes 4 and 5 shall be subject to the conditions set out in Chapter IV of this Agreement.

Article 6.

The signatory countries may agree on special programs to incorporate the products contained in Annex 3 to the Schedule of Liberation of this Agreement. Likewise, at any time, they may accelerate the tariff reduction program for those products or groups of products that are mutually agreed upon.

In addition, at any time, a signatory country that so desires may transfer a product contained in its own Schedule to Annex 1 to the tariff reduction schedule set forth in Article 3(a); or a product contained in its own Schedule to Annex 3, to its own Schedule to Annex 1 or to the tariff reduction schedule set forth in Article 3(a).

Article 7.

For the purposes of this Agreement, "charges" shall mean customs duties and any other surcharges of equivalent effect, whether of a fiscal, monetary, exchange or any other nature, affecting imports. Similar fees and surcharges are not included in this concept when they are equivalent to the cost of the services rendered. "Restrictions" shall be understood as any measure of an administrative, financial, exchange or any other nature, by means of which one of the Parties prevents or hinders, by unilateral decision, its imports.

Chapter III. Origin

Article 8.

The signatory countries shall apply the ALADI General Regime of Origin, established by Resolution 78 of the Committee of Representatives of the Association, to imports made under the Liberalization Program of this Agreement. Goods transported in transit through a third country, from a signatory country to the territory of the other signatory country, with or without transshipment or temporary storage, under the supervision of the competent customs authority in such countries, shall be considered as direct shipment provided that:

- a. They are not intended for trade, use or employment in the country of transit; and,
- b. Do not undergo, during transportation and storage, any operation other than loading and unloading or handling to keep them in good condition or ensure their conservation.

Article 9.

Notwithstanding the foregoing, the Administrative Commission established in Article 33 of this Agreement shall be empowered to establish rules of origin for specific products or sectors other than the General Regime established in this Chapter.

Chapter IV. Automotive Sector

Article 10.

Beginning July 1, 1993, imports of the products included in Annexes 4 and 5, without use, originating in the signatory countries will be free of customs duties and non-tariff restrictions. The marketing of these products, in the territory of the importing country, will be carried out without any restriction other than the taxes applied internally by each country.

Article 11.

The motor vehicles and vehicles for the transport of goods of total weight with maximum load less than or equal to 3.6 tons, contained in Annex 4, shall be considered as originating in the signatory countries when the CIF port of destination value of the materials used in their assembly or assembly, originating in countries not members of this Agreement, does not exceed 65% of the FOB export value of the vehicle. This percentage shall be calculated on the basis of the procedures established by ALADI.

Article 12.

Motor vehicles for the transport of goods of a total weight with a maximum load exceeding 3.6 tons and motor vehicles for the collective transport of persons with a capacity exceeding 10 seats, contained in Annex 5, shall be considered as originating in the signatory countries, when the CIF port of destination value of materials

The percentage of the vehicle's FOB export value used in its assembly or mounting, originating in countries that are not members of this Agreement, shall not exceed 65 percent of the vehicle's FOB export value. This percentage shall be calculated on the basis of the procedures established by ALADI.

Article 13.

With respect to parts and pieces for the vehicles referred to in Articles 11 and 12, included in Annex 6, they shall be governed by the rules of origin contained in Chapter III of this Agreement, without prejudice that they shall benefit from the provisions of Article 10 of this Chapter. The Administrative Commission established in Article 33, is empowered to incorporate new products to Annex 6.

Chapter V. Safeguard Clauses

Article 14..

With prior notice, the signatory countries may apply the ALADI Regional Safeguard Regime, approved by Resolution 70 of the Committee of Representatives of the Association, to imports made under the Liberalization Program of this Agreement, with the following limitations:

- a. In cases where reasons of imbalances in the global balance of payments of one of the signatory countries are invoked, the measures adopted may have a term of up to one year and may not be discriminatory or selective, applying even tariff surcharges affecting all imports;
- b. In cases in which the importation of one or several products benefited by the application of Chapters II and IV of this Agreement causes or threatens to cause significant damage to the domestic production of similar or directly competitive goods, the signatory countries may apply safeguard clauses, of a transitory nature and in a non-discriminatory manner, for a period of one year.

The extension of the safeguard clauses, for a new period, shall require a joint examination by the signatory parties of the background and grounds justifying their application, which shall necessarily be reduced in its intensity and magnitude until its total expiration at the expiration of the new period, which may not exceed one year.

The Administrative Commission established in Article 33 of this Agreement shall define, within 90 days following its constitution, what shall be understood by significant damage and shall define the procedures for the application of the provisions of this Chapter.

Chapter VI. Unfair Trade Practices

Article 15.

In the event of situations of dumping or other unfair trade practices in reciprocal trade, as well as distortions arising from the application of export subsidies or domestic subsidies of an equivalent nature, the affected country may apply the measures provided for in its domestic legislation. Without prejudice to the foregoing, an exchange of information shall take place simultaneously through the competent national agencies referred to in Article 33 of this Agreement.

For this purpose, countries may impose antidumping or countervailing duties or ad valorem surcharges, as provided for in their respective domestic legislation, upon positive proof of material injury to domestic production, threat of material injury to such production, or material delay in the commencement of such production.

The duties or surcharges herein indicated shall in no case exceed the margin of dumping or the amount of the subsidy, as the case may be, and shall be limited, as far as possible, to what is necessary to prevent injury, threat of injury or delay.

In any event, both countries undertake to apply their rules in these matters in accordance with the provisions of the General Agreement on Tariffs and Trade (GATT) and shall adopt as a reference the Antidumping and Subsidies Codes of the said General Agreement.

Article 16.

The signatory countries recognize that the actions of state enterprises affecting bilateral trade shall be carried out in a non-discriminatory manner and exclusively in accordance with commercial considerations, in particular with regard to pricing, quality, available quantities, commercial qualities of goods, transportation and other conditions of purchase or sale.

The Administrative Commission provided for in Article 33 of this Agreement shall, at the request of one of the Parties, carry out an examination of pricing practices and policies in specific sectors, in order to detect those cases that could cause significant distortions in the bilateral exchange.

Chapter VII. Treatment In Matters of Internal Taxes

Article 17.

In compliance with Article 46 of the Treaty of Montevideo 1980, the signatory countries of this Agreement undertake to grant to imports originating in the territory of the member countries, a treatment no less favorable than that applied to similar domestic products, in terms of taxes, duties and other internal charges. The collection of internal taxes on originating imports shall be based on the CIF value plus applicable customs duties.

Chapter VIII. Government Procurement

Article 18.

The Administrative Commission, as established in Article 33, will define during the first year of the Agreement, the scope and terms that will regulate government procurement among the signatory countries. For this purpose, it shall take into account the criteria established in the General Agreement on Tariffs and Trade (GATT) for signatory countries to enjoy open and competitive access in government procurement.

Chapter IX. Commercial Promotion

Article 19.

The signatory countries of this Agreement shall agree on trade promotion programs that include, among other actions, the holding of samples, fairs and exhibitions, as well as meetings and reciprocal visits of businessmen, information on supply and demand and market studies. Likewise, the signatory countries undertake to facilitate participation in trade fairs by expediting the corresponding administrative procedures.

Chapter X. Investments

Article 20.

The signatory countries shall promote the development of investments aimed at the establishment and constitution of companies in their territories, both with capital from one or both countries and with the eventual participation of third parties.

Article 21.

The signatory countries, with the participation of their respective private sectors, will promote the development of economic complementation actions in the productive areas of goods and services.

Article 22.

The signatory countries, within their respective legislations on foreign investment, will grant the best treatment to the capital of the other signatory country, whether it corresponds to national or foreign capital.

Chapter XI. Technical Standards

Article 23.

The Administrative Commission referred to in Article 33 of this Agreement shall analyze the technical, industrial, commercial, safety and public health standards of the signatory countries, and shall recommend the actions it deems necessary to prevent this matter from constituting an obstacle to reciprocal trade.

Chapter XII. Other Services

Article 24.

The signatory countries shall promote the adoption of measures to facilitate the supply of services from one country to another. To this end, they instruct the Administrative Commission, established by Article 330, to formulate the necessary proposals, taking into account the negotiations carried out within the scope of GATT on these matters.

Chapter XIII. Coordination of Commercial Policies

Article 25.

The signatory countries shall initiate a process of reciprocal exchange of information on various economic matters such as financial, monetary and fiscal policies, in order to facilitate the convergence of such policies and contribute to the achievement of the objectives of this Agreement.

Article 26.

The signatory countries undertake to harmonize all other regulations deemed indispensable for the improvement of this Agreement. To this effect, the signatory countries will analyze the treatments and incentives to exports, as well as those measures that considerably alter relative prices, in order to correct distortions that could significantly affect trade flows among the signatory countries.

Chapter XIV. Maritime and Air Transportation

Article 27.

The signatory countries undertake to grant free access to the cargoes, whether or not reserved, of their foreign trade to the flag vessels of both countries, under reciprocity conditions and also to those that are considered national flag vessels, in accordance with their respective legislations. The above will be applicable in bilateral maritime trade and from or to third countries.

The maritime authorities of the signatory countries shall ensure that there is no unfair competition or "dumping" in the provision of services.

Article 28.

The signatory countries are committed to undertake a process of air transport liberalization, through the negotiation of a broad exchange of traffic rights and total openness in terms of multiple designation of air carriers, frequencies, flight equipment and mode of service.

Article 29.

The signatory countries shall promote the efficient operation of maritime and air transportation services, so that they offer adequate rates for reciprocal exchange. To this effect, they will establish a joint and specific program of actions to be developed.

Chapter XV. Evaluation

Article 30.

The signatory countries shall periodically evaluate the progress of this Agreement in order to seek its improvement and to ensure a bilateral integration process that consolidates and develops an expanded economic space, based on adequate reciprocity, the promotion of fair competition and an active participation of public and private economic agents.

Chapter XVI. Settlement of Disputes

Article 31.

For the settlement of disputes that may arise in connection with the interpretation of the provisions contained in this Agreement, as well as their application or non-application, or of any other nature, other than that provided for in Chapter VI, the signatory countries shall submit to the following procedure:

a. The affected party shall complain to the competent national agency referred to in Article 330 of this Agreement, which shall immediately initiate consultations on the case with the competent agency of the other Party;

If within a period of 15 days, counted from the filing of the complaint, it is not possible to resolve the conflict raised, the competent national agency that initiated the consultations shall request the intervention of the Administrative Commission referred to in Article 330 of this Agreement;

b. The Administrative Commission shall evaluate in conscience the corresponding charges and discharges, being able to request the technical reports of the case, for the purpose of reaching a mutually satisfactory solution, either by action of the Commission itself, or with the participation of a mediator chosen from among the names included in a list of experts that the Commission shall prepare annually for these purposes;

The procedure indicated in this paragraph may not be extended beyond 30 days, counted from the date on which the intervention of the Commission was requested.

c. If the dispute cannot be resolved in this way, the Administrative Commission shall immediately appoint an Arbitration Group composed of an expert from each signatory country, chosen from the list indicated in the preceding paragraph, and a third arbitrator who shall preside over it, who may not be a national of the signatory countries;

If there is no agreement on the appointment of the third arbitrator, the appointment shall be made by the Secretary General of ALADI, or the person designated by him;

d. The arbitration procedure shall be subject to the Regulations issued by the Administrative Commission for this purpose.

Without prejudice to the arbitrators deciding the dispute submitted to them in conscience, they shall take into account, mainly, the rules contained in this Agreement and the rules and principles of the International Conventions applicable in the case in question, as well as the general principles of International Law.

If applicable, the arbitrators' decision shall contain the specific measures that may be applied by the injured country, either for non-compliance, erroneous interpretation, or for any action or omission, which undermines the rights derived from the execution of the Agreement.

The specific measures referred to in the preceding paragraph may refer to a suspension of concessions equivalent to the damages caused, to a partial or total withdrawal of concessions, or to any other measure framed in the application of the provisions of the Agreement.

The arbitrators shall have a term of 30 days, extendable for the same period, counted from the date of their appointment, to issue their decision.

This Resolution shall not be subject to any appeal and failure to comply with it shall entail the suspension of the Agreement until the causes that gave rise to it cease to exist. Should this situation persist, the affected signatory country may invoke the non-compliance as grounds for denouncing the Agreement.

Chapter XVII. Accession

Article 32.

In compliance with the provisions of the Treaty of Montevideo 1980, this Agreement, by means of the corresponding negotiation, is open for accession by the other Member Countries of ALADI.

Chapter XVIII. Administration of the Agreement

Article 33.

In order to achieve the best functioning of this Agreement, the signatory countries agree to constitute an Administrative Commission, chaired by the Ministry of Foreign Affairs, in the case of Chile; and by the Ministry of Foreign Affairs through the Institute of Foreign Trade, in the case of Venezuela. In special cases, depending on the nature of the issues to be considered, the Administrative Commission may be chaired by the Ministers with competence in the respective area.

This Commission shall be constituted within thirty days following the signing of this Agreement and shall establish its own rules of procedure.

Each signatory country shall designate a competent national agency to act as the national secretariat of this Agreement. The functions of these bodies shall be established in the rules of procedure of the Administrative Commission.

The Commission shall have the following attributions:

- a. Evaluate and ensure compliance with the provisions of this Agreement;
- b. Recommend to the Governments of the signatory countries, modifications to this Agreement;
- c. Propose to the Governments of the signatory countries the recommendations it deems convenient to resolve conflicts that may arise from the interpretation and application of this Agreement;
- d. Appoint mediators and arbitrators for the settlement of disputes;
- e. Regulate the procedures for the settlement of disputes;
- f. Propose and set specific origin requirements;
- g. Define the procedures for the application of the Safeguard Clause Regime;
- h. Carry out, at the request of any of the parties, a review of pricing practices and policies in specific sectors, in order to detect those cases that could cause significant distortions in bilateral trade;
- i. To follow up on the export promotion mechanisms applied in the member countries, in order to detect possible distortions to competition derived from their application and to promote their harmonization, as reciprocal trade liberalization progresses;
- j. To establish mechanisms and instances that ensure an active participation of the representatives of the business sectors; and,
- k. Any others derived from this Agreement or that may be entrusted to it by the signatory countries.

Chapter XIX. Validity

Article 34.

This Agreement shall be effective from the moment of its signature and shall be in force indefinitely.

Chapter XX. Denunciation

Article 35.

The signatory country wishing to withdraw from this Agreement shall communicate its decision to the other signatory countries one hundred and eighty (180) days prior to the deposit of the respective instrument of denunciation with the General Secretariat of ALADI.

As from the formalization of the denunciation, the rights acquired and obligations contracted under this Agreement shall automatically cease for the denouncing country, except for the treatments received and granted for the importation of

negotiated products, which shall continue in force for a period of one year as from the deposit of the respective instrument of denunciation, unless the signatory countries agree on a different term at the time of the denunciation.

Chapter XXI. Other Provisions

Article 36.

The signatory countries will gradually establish rules aimed at facilitating the movement of labor, as well as modern services, such as technology, engineering services, etc., required for productive and commercial activity, all with a view to achieving the objectives of the Agreement.

Article 37.

The signatory countries undertake to keep each other informed of their foreign trade regimes and statistics, through the competent national agencies established in Article 33 of this Agreement. Any modification to the foreign trade regimes shall be communicated within 30 days of its promulgation.

Article 38.

The signatory countries shall encourage the active participation of their economic agents in their actions inherent to the application and operation of this Agreement, which correspond to them.

Article 39.

It is recommended that in the contracts agreed upon by individuals among themselves, as a result of the use of the instruments of the Agreement, the rules of the Inter-American Commercial Arbitration Commission should be used as a matter of preference.

Transitory Provisions

The signatory countries shall immediately proceed with the necessary formalities to formalize this Economic Complementation Agreement within ALADI, in accordance with the provisions of the Treaty of Montevideo 1980 and the Resolutions of the Council of Ministers.

Likewise, they shall carry out the corresponding formalities to annul Partial Scope Agreement No. 16, subscribed by both countries within the framework of LAIA and the reciprocal treatments agreed upon in the trade agreements to which they are parties.

This Economic Complementation Agreement, for the establishment of an expanded economic space, is signed in two copies of equal value and tenor, equally authentic. Done in the city of Santiago, Chile, on the second day of the month of April 1993, in two equally authenticated originals.

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE

ENRIQUE SILVA CIMMA

MINISTER OF FOREIGN AFFAIRS

JORGE MARSHALL RIVERA

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FOR THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA

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