

# **Economic Complementarity Agreement for the Establishment of an Enlarged Space between Colombia and Chile (ACE No. 24)**

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

Whereas:

The desirability of promoting greater economic complementarity between our countries and promoting a more active participation in the global economy.

The importance of strengthening the Latin American Integration Association (ALADI), and achieve the objectives set out in the Montevideo Treaty 1980, through the conclusion of bilateral and multilateral agreements the widest possible.

Colombia's participation in the Cartagena Agreement and the commitments of the related to this country.

The agreement in the guidelines of trade policies of the two countries in both tariff and in the guidelines of their economic policies.

The significance in the development of both countries may take appropriate cooperation in the areas of trade, industrial and services.

The desirability of achieving a more active involvement of the economic operator both public and private, both countries in efforts to increase the mutual exchange.

Agree:

In conducting an economic complementarity agreement for the establishment of an enlarged economic area in accordance with the Montevideo Treaty 1980 and resolution 2 of the Council of Ministers of ALADI. this Agreement shall be governed by the provisions and rules are set out below.

## **Chapter I. Objectives of the Agreement**

### **Article 1.**

This agreement aims:

- (a) Establish, in the shortest time possible, an enlarged economic area between the two countries, allowing the free movement of goods, services and factors of production;
- (b) Intensify economic and trade relations between the signatory countries through a total release of taxes and restrictions on imports originating in the same;
- (c) Encourage coordinated action in international economic forums, as well as in relation to the industrialized countries, aimed at improving access for products of the signatory countries to world markets;
- (d) Coordinate and complement the economic activities, especially in the areas of industrial and services;
- (e) Encourage investments aimed at an intensive use of markets of the signatory countries and strengthen their competitiveness in the global exchanges; and
- (f) To facilitate the establishment and operation of multinational companies bilateral and regional character.

## **Chapter II. Release Programme**

## Article 2.

The products included in the schedule of tariff relief referred to in article 3 of this Agreement shall enjoy, from 1 January 1994 the total elimination of non-tariff restrictions, except those referred to in Article 50 of the Montevideo Treaty 1980.

Furthermore, the signatory countries shall not introduce any new restrictions on the reciprocal trade.

## Article 3.

The signatory countries agree free of charge their reciprocal trade by 1 January 1999. to this effect, have agreed as follows:

(a) Apply, from 1 January 1994 for the reciprocal trade, liens listed below:

Programme of relief of Chile: for products whose tariff applicable to the signature of this Agreement is 11%:

The 1-i-94 30-vi-94 to:

8. 5%

The 1-vii-94 31-xii-94 to:

6. 5%

The 1-i-95 31-xii-95 to:

4. 5%

The 1-i-96 31-xii-96 to:

2. 5%

With effect from 1-i-97:

0%

Programme of relief of Colombia: for products whose tariff applicable to the signature of this Agreement is:

The 1-i-94 30-vi-94 to:

The 1-vii-94 31-xii-94 to:

The 1-i-95 31-xii-95 to:

The 1-i-96 31-xii-96 to:

With effect from 1-i-97:

(b) The products listed in Annex N or 1 shall be subject to tariff relief that shall begin on 1 January 1994 and conclude on 1 January 1999, according to the following schedule:

Programme of relief of Chile: for products whose tariff applicable to the signature of this Agreement is 11%:

The 1-i-94 31-xii-94 to:

8. 5%

The 1-i-95 31-xii-95 to:

7. 5%

The 1-i-96 31-xii-96 to:

6. 5%

The 1-i-97 31-xii-97 to:

4. 5%

The 1-i-98 31-xii-98 to:

2. 5%

With effect from 1-i-99:

0%

Programme of relief of Colombia: for products whose tariff applicable to the signature of this Agreement is:

20%

15%

10%

5%

The 1-i-94 31-xii-94 to:

15%

12%

8%

4%

The 1-i-96 31-xii-96 to:

11%

9%

6%

3%

The 1-i-97 31-xii-97 to:

7%

6%

4%

2%

The 1-i-98 31-xii-98 to:

3%

3%

2%

1%

With effect from 1-i-99:

0%

0%

0%

0%

(c) If at any moment a signatory reduces its tariff charges to third countries for one or more products covered by this Agreement, proceed to adjust the charge applicable to the reciprocal trade in accordance with the proporcionalidades set

out in subparagraphs a. and b. as appropriate.

#### **Article 4.**

The products listed in Annex 2 to this Agreement which are part of the agreement of partial scope. 14 signed between Chile and Colombia within the framework of ALADI, enjoy n the tariff preferences that listed in annex under the conditions laid down therein.

#### **Article 5.**

The schedule of tariff relief referred to in article 3 of this Agreement shall not apply to the products referred to in chapter IV and Annex N or 3.

#### **Article 6.**

The signatory countries may agree special programmes to incorporate the products contained in annex N 3 or for the release of this Agreement. it may at any time Accelerate the schedule of tariff relief for products or groups of products as mutually agreed.

#### **Article 7.**

For the purposes of trade covered by this Agreement are understood by "taxes" customs duties and other charges of equivalent effect, fiscal, monetary, exchange-rate or of any nature that focus on imports or exports. are not included in this concept when similar fees and charges commensurate with the cost of services rendered.

The term "restrictions" any measure of administrative, financial, exchange or of any kind, through which prevents or hinders a party, by unilateral decision, its imports or exports.

### **Article III. Origin**

#### **Article 8.**

The signatory countries shall apply to imports under the programme of release of this Agreement, the general rules of origin of ALADI established by resolution 78 of the representatives of the Association committee.

Transported goods in transit through a third country, since a signatory to the territory of the other signatory, with or without transshipment or temporary storage under the surveillance of the customs authority competent in such countries shall be considered as direct consignment provided that:

(a) Are not intended to use or trade, employment in the country of transit; and

(b) None during transport, storage, and any other operation than unloading and reloading or handling to keep them in good condition or to ensure its preservation.

In addition to the documentation required by article 7 of resolution 78, the certificates of origin issued for the purposes of tariff relief under this Agreement, shall contain an affidavit of the final producer or exporter of goods in that expresses its full compliance with the provisions on the origin of the Agreement.

#### **Article 9.**

Notwithstanding the above, administering the Commission established in article 33 of this Agreement shall be empowered to set and modify the rules of origin to goods or specific sectors other than the general regime established in this chapter.

### **Article IV. Automotive Sector**

#### **Article 10.**

Imports of products included in annexes and N N or 4 or 5 originating in the signatory countries shall be released of taxes and restrictions from 1 January 1994. the marketing of these products, in the territory of the importing country shall be made without any restriction that taxes that each country applied internally.

## **Article 11.**

Motor vehicles and transport of goods and persons referred to in the annex N or (4) shall be considered as originating in the signatory countries where the destination port CIF value of materials used in the assembly or assembling, originating in non-member countries of this Agreement does not exceed 60 per cent of the FOB value of exports of the vehicle. this percentage shall be calculated on the basis of the procedures established by the IMF.

## **Article 12.**

As regards the parties and spare parts for vehicles referred to in the preceding article specified in Annex N or 5 shall be governed by the rules of origin contained in this Agreement, and shall benefit from the provisions of article 10 of this chapter.

The administrative commission established in article 33 of this Agreement is empowered to incorporate new products to annex N or 5.

## **Article 13.**

Trade between signatory countries of the products covered by this chapter does not grant direct incentive or for export.

## **Article V. Safeguard Clauses**

### **Article 14.**

Prior notice, the signatory countries may apply to imports under the programme of release of this Agreement, the regional regime of the safeguard of ALADI approved by Resolution 70 representatives of the Association of the Committee with the following limitations:

(a) In the event that the reasons of imbalances in the overall balance of payments of a signatory, measures may be taken up to a year and shall not be discriminatory or selective applied tariff couples surcharges affecting the total imports.

(b) In cases in which the importation of one or more goods benefiting from the application of chapter II of this Agreement causes or threatens to cause significant damage to the domestic production of the like or directly competitive goods, the signatory countries may apply temporary safeguard clauses, and in a non-discriminatory manner, for the period of one year.

The extension of the safeguard clauses for a further period, require a joint review by the signatory parties, the background and reasons for their implementation, which must be reduced in its intensity and extent to which the expiration of the additional period, which may not exceed one year.

The administrative commission established in article 33 of this agreement shall define, within 90 days of its Constitution, which shall mean significant damage and establish procedures for the implementation of the provisions of this chapter.

## **Article VI. Unfair Trade Practices**

### **Article 15.**

If in the reciprocal trade situations of dumping or other unfair trading practices as well as distortions arising from the application of export subsidies or grants equivalent internal nature, the country concerned may apply the measures provided for in its domestic legislation. without prejudice to the foregoing be conducted simultaneously, an exchange of information through the competent national bodies referred to in article 33 of this Agreement.

To this end, countries may impose anti-dumping, countervailing or surcharges ad-valorem, according to their respective national legislation on positive evidence of serious injury caused to the domestic production of the threat of injury to the production of material retardation or at the beginning of the same.

Fees or surcharges above shall not exceed, in any case, the margin of dumping or the amount of the subsidy as appropriate and shall be limited to the extent possible, to the extent necessary to prevent injury, threat of injury or delay.

In any case, both countries shall apply their regulations in these fields, in accordance with the General Agreement on Tariffs and Trade (GATT) and shall take as a reference codes Anti-dumping and Subsidies and Countervailing Measures of this Agreement.

## **Article 16.**

The signatory countries recognise that pricing policies public may have distortive effects on bilateral trade. accordingly, agree not to resort to public policies and practices that pose a nullification or impairment of benefits arising directly or indirectly under this Agreement.

The administrative commission established in article 33 of this Agreement, monitored pricing practices and policies in specific sectors to detect cases that would lead to significant distortions in bilateral trade.

## **Chapter VII. Treatment of Internal Taxation**

### **Article 17.**

In accordance with article 46 of 1980, the Montevideo Treaty countries signatory to this Agreement shall grant to imports originating in the territory of the member countries, a treatment no less favourable than that applied to like domestic products in respect of taxes, taxes and other internal charges. the recovery of internal taxes on imports originating should be based on the CIF value over the applicable customs duties.

## **Chapter VIII. Government Procurement**

### **Article 18.**

The Commission, article 33 shall define during the first year of implementation of the Agreement, the scope and terms governing the procurement by governmental between the signatory countries. for this purpose, taking into account the criteria set out in the General Agreement on Tariffs and Trade (GATT) for the signatory countries enjoy open, transparent, equitable and competitive with respect to government procurement.

### **Article IX. Trade Promotion**

#### **Article 19.**

The Parties to this Agreement, concluded of trade promotion programmes, inter alia, exhibitions, fairs and exhibitions, as well as meetings and reciprocal visits entrepreneurs, information on supply and demand and market studies.

Furthermore, the signatory countries, undertake to facilitate participation in fairs, by streamlining administrative procedures.

### **Article X. Investments**

#### **Article 20.**

The signatory countries shall promote the development of the investments establishment and constitution of companies in their territories, both with capital of one or both countries as to the possible participation of third parties.

#### **Article 21.**

The signatory countries with the participation of their respective private sectors; encourage the development of economic complementarity á REAs in the production of goods and services.

#### **Article 22.**

The signatory countries within their respective laws on foreign investment shall grant the best treatment to investors of another signatory, whether this corresponding to the domestic and foreign capital.

### **Article XI. Technical Standards**

#### **Article 23.**

The Management Committee referred to in article 33 of this Agreement; discussing technical standards of the signatory

countries and recommend actions that it considers necessary to prevent those developed or implemented with the aim of creating obstacles to trade.

To this end administering the Commission shall consider, inter alia, the following principles:

- (a) Use of existing international standards, when necessary to the development of standards and technical specifications;
- (b) Granting to goods from the territory of the other signatory, national treatment and treatment no less favourable than that accorded to similar goods from any other country;
- (c) Notification and exchange of information between the signatory countries, in due time, in relation to to amend or adopt any measure of standardisation;
- (d) Compatibility, as far as possible, the standardization of the signatory countries;
- (e) Seek the mutual recognition of their systems, laboratory testing and certification tests and results of conformity assessment, prior necessary assessments and specification of procedures for such examinations.

The Management Committee shall establish procedures to address differences that presents a country, when it is adversely affected by a measure of the other signatories country related to technical regulations.

## **Article XII. Phytosanitary and Zoosanitary Standards**

### **Article 24.**

The signatory countries undertake to prevent phytosanitary and zoosanitary standards from becoming non-tariff barriers to reciprocal trade. For this purpose and in order to facilitate and expedite the exchange of plant and livestock products, they have signed a "Cooperation and Coordination Agreement on agricultural health between the Agricultural and Livestock Service of the Republic of Chile and the Colombian Agricultural Institute of the Republic of Colombia", which shall be in force as from the entry into force of this Agreement. The text of this Agreement is included in Annex No. 6.

## **Article XIII. Other Services**

### **Article 25.**

The signatory countries shall promote the adoption of measures to facilitate the provision of services in another country. To this end, entrusted to the Commission, established in article 33, to make proposals, considering the negotiations within the framework of the Uruguay Round on these matters.

## **Article XIV. Coordination of Economic Policies**

### **Article 26.**

The signatory countries to initiate a process of mutual exchange of information in various fields of economic and financial, monetary and fiscal policies, with the aim of facilitating the convergence of such policies and contribute to the achievement of the objectives of this Agreement.

### **Article 27.**

The signatories undertake to harmonize all other such standards as may be necessary for the further development of this Agreement. For this purpose, the signatory countries analysed treatments and incentives to exports and measures that significantly affect prices relating to correct distortions which might significantly affect trade flows between the signatory countries.

## **Article XV. Maritime and Air Transport**

### **Article 28.**

The signatories undertake to accord a free access to cargoes, whether or not reserved its external trade flag vessels of both countries, under conditions of reciprocity and also those that are of reputed national flag, in accordance with their respective laws. it shall be applicable in the bilateral maritime trade and to or from third countries.

Maritime authorities of the signatory countries shall ensure that no dumping "" or unfair competition in the provision of services.

## **Article 29.**

The signatories undertake to promote, in the framework of this Agreement and their bilateral instruments in the field of air transport, a process of opening stimulating competition and efficiency of air services. as a first step, the two countries agree to ratify the record signed between the aeronautical authorities on 16 July 1993, in the sense that companies of each country wishing to do so may freely exercise the rights of traffic between their territories and with third countries in the Latin American region with the number of frequencies and flight they deem convenient in accordance with the conditions laid down in this Act.

## **Article 30.**

The signatory countries shall encourage the efficient operation of air and maritime transport services to provide appropriate tariffs for the reciprocal exchange. for this purpose they shall establish a joint programme and to develop specific actions.

## **Article XVI. Evaluation**

### **Article 31.**

The signatory countries periodically assess progress of this Agreement with a view to seeking their development and ensure a bilateral integration process to strengthen and develop an enlarged economic area, based upon an appropriate reciprocal promotion of fair competition and the active participation of public and private operators.

## **Article XVII. Settlement of Disputes**

### **Article 32.**

For the settlement of disputes that may arise as a matter of interpretation of the provisions of this Agreement and its implementation or non-implementation, or of any other nature, other than that provided for in Chapter VI, the signatory countries shall be subject to the following procedure:

(a) The Party concerned shall require the competent national authority referred to in article 33 of this Agreement, which immediately begin consultations with the competent authority of the other party.

If within 20 days from the filing of claims shall not result in resolving the conflict raised by the competent national body that initiated the consultations shall request the administering the Committee referred to in article 33 of this Agreement.

(b) The Commission will in administering awareness and waivers concerned may request, technical reports of the case, for the purpose of reaching a mutually satisfactory solution, either by the Commission itself, or with the participation of a mediator chosen from a list of the names of experts to the Commission shall annually for this purpose.

The procedure referred to in this subparagraph shall not extend beyond 30 days from the date on which it was requested the intervention of the Commission.

(c) If the dispute cannot be settled in this way, administering the Commission shall immediately an arbitral group composed of experts of each signatory, chosen from the list referred to in the preceding paragraph and a third arbitrator who shall chair the 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 accrue to the Secretary-General of ALADI, or the designated person.

(d) The arbitration procedure shall be subject to the rules that the effect of the Commission.

Without prejudice to the arbitrators decide on the dispute submitted to him, shall take into account, primarily, the rules contained in this Agreement and the rules and principles of international conventions that are applicable to the kind as well as general principles of international law.

Where the decision of the arbitrators shall contain specific measures that may apply the country affected by either the non-compliance, the misinterpretation, or by any action or omission that violates the rights arising out of the implementation of the Agreement.



The specific measures referred to in the preceding subparagraph may relate to any suspension of concessions equivalent to any injury caused to a total or partial withdrawal of concessions, or any other measure within the implementation of the provisions of the Agreement.

The arbitrators shall within 30 days, extendable for the same period has elapsed from the date of appointment, for its decision.

This decision shall not be subject to appeal and its non-compliance cause the suspension of the agreement in both cases that does not cease to exist. If this situation, the signatory concerned may invoke the grounds of non-compliance as denunciation of the Agreement.

## **Article XVIII. Administration of the Agreement**

### **Article 33.**

With a view to achieving a better functioning of this Agreement; the signatory countries agree to establish a committee, chaired by the Ministry of Foreign Affairs, in the case of Chile; and by the Ministry of Foreign Trade, in the case of Colombia, or their designees At its representation. In special cases, depending on the nature of the items, to consider administering the Commission shall be co-chaired by Ministers with competence in the area concerned.

This committee shall be established within 120 days from the Entry into Force of this Agreement and establish its own rules of procedure.

Each signatory to designate a competent national authority to act as a national secretariat of this Agreement. The functions of these bodies shall be established by the Commission regulation.

The Commission shall have the following functions:

- (a) Evaluate and monitor the implementation of the provisions of this Agreement;
- (b) Recommend to Governments PA! SES signatories, amendments to this Agreement;
- (c) Propose to the Governments of the signatory countries recommendations that it considers appropriate to resolve disputes that may arise regarding the interpretation and application of this Agreement;
- (d) Mediators and arbitrators appointed for the resolution of disputes;
- (e) Regulate the procedures for the settlement of disputes;
- (f) Propose and set specific requirements of origin;
- (g) Review the rules of origin of this Agreement and propose amendments thereto;
- (h) Defining the procedures for the application of safeguard clauses;
- (i) Done at the request of either party A review of policies and practices in specific sectors to detect cases that would lead to significant distortions in bilateral trade;
- (j) Monitoring mechanisms to exports applied in member countries, with the aim of identifying possible distortions to competition arising from their application and Promote harmonisation of the same, as the release of reciprocal trade;
- (k) Establishing mechanisms and bodies that ensure the active participation of representatives of business sectors;
- (l) The signatory countries to submit a report on the operation of this Agreement with such recommendations as it considers desirable for improvement and a fuller use; and
- (m) The other arising from this Agreement or conferred by the signatory countries.

## **Article XIX. Duration**

### **Article 34.**

This Agreement shall apply from the date of its signature and shall have an indefinite duration.

## **Article XX. Denunciation**

## **Article 35.**

The signatory to oneself of this Agreement, it shall communicate its decision to the other signatory countries with one hundred and eighty (180) days prior to the deposit of instrument of the complaint with the General Secretariat of ALADI.

After the conclusion of the complaint automatically cease complaining to the country the acquired rights and the obligations assumed under this agreement, except as regards the treatment received and granted for the import of products traded, which shall remain in force for a period of one year following the date of deposit of the instrument of denunciation, except that in the complaint, the signatory countries agree to a different period.

## **Article XXI. Accession**

### **Article 36.**

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.

## **Article XXII. Other Provisions**

### **Article 37.**

The signatories undertake to accord to intellectual and industrial property adequate protection, within its national legislation.

### **Article 38.**

The parties undertake to keep abreast on its laws and external trade statistics, through the competent national bodies established in article 33 of this Agreement. any modification of the arrangements for foreign trade shall be communicated within 30 days of its issuance.

### **Article 39.**

The signatory countries shall encourage the active participation of their economic operators in their actions relating to the implementation and operation of this Agreement, which corresponds to them.

### **Article 40.**

It is recommended that contracts agreed between individuals among themselves, as a result of the use of the instruments of the Agreement, is used primarily for the rules of the Inter-American Commission of Commercial Arbitration.

The signatory countries shall immediately comply with the procedures required to conclude this economic complementarity agreement in ALADI, in accordance with the provisions of the Montevideo Treaty 1980 and the resolutions of the Council of Ministers.

It shall carry out the formalities relating to terminate the agreement of partial scope No 14, signed by both countries within the framework of ALADI treatments and mutually agreed trade agreements to which they are party.

The present economic complementarity agreement for the establishment of an enlarged economic area was signed in two copies of equal value and lines, equally authentic.

Done in the city of Santiago, six days of December 1993. FDO (.): by the Government of the Republic of Colombia: Noemí Sanín de Rubio, Minister for Foreign Affairs; Juan Manuel Santos Calderón, Minister of Foreign Trade; by the Government of the Republic of Chile: Enrique Silva Cimma, Minister for Foreign Affairs; George Marshall Rivera, Minister of Economy, Development and Reconstruction.