

**Report of the Joint Study Group
on Japan-Chile Economic Partnership Agreement /
Free Trade Agreement**

November, 2005.

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I. BACKGROUND

1. In June 2001, JETRO and DIRECON issued a report on a study on a Japan-Chile Free Trade Agreement – Economic Partnership Agreement. The study was agreed in November 1999, by the Chairman of JETRO and the Chilean Minister of Foreign Affairs. The conclusion of the report was that an EPA/FTA between Japan and Chile would provide an effective means of further strengthening economic relations between the two countries, and that, the maximum efforts should be made to conclude it as soon as possible. (*Study Report on the Japan-Chile Free Trade Agreement*, JETRO, June 2001).
2. In the Japan-Chile Summit Meeting held in October 2002, President Ricardo Lagos Escobar of the Republic of Chile expressed his hope for concluding a Free Trade Agreement (FTA) to Prime Minister Junichiro Koizumi of Japan. In the visit of President Lagos of the Republic of Chile to Japan in February 2003, President Lagos reiterated his hope for concluding the FTA.
3. On November 22, 2004, Prime Minister Junichiro Koizumi of Japan and President Ricardo Lagos Escobar of the Republic of Chile shared the view that both sides would launch the Joint Study Group composed of representatives from government, business and academic sectors of both countries in order to study the possibility of concluding an economic partnership agreement / free trade agreement. Furthermore, the two leaders concurred to work together to hold the first meeting at an opportune moment of the next year.
4. The first Joint Study Group meeting was held in Tokyo on January 31 and February 1, 2005. The second meeting was in Santiago on April 21 and 22. The third meeting was on July 21 and 22 in Los Angeles. The fourth meeting was in Miami on September 22 and 23.
5. Representatives of government, business and academic sectors from the two countries (see Annex) participated in the meetings. A wide range of areas was covered by the discussions throughout the meetings.

II. OVERVIEW

1. Chile and Japan have shared a complementary trade relationship for more than a century, with an increasing momentum since the 1970s, stimulated by Japanese industrial development and Chile's role as an important and reliable supplier of natural resources, including strategic mineral resources.
2. In the field of trade in goods, Japan is the second largest trade partner in export and the sixth in import for Chile in 2004. According to the Trade Indicators issued by the Central Bank of Chile, its trade with Japan accounts for 3.2% of import (US\$ 798 million, the sixth place) and 11.6% of export (US\$ 3 billion and 722million, the second place) in 2004. Japan's trade with Chile accounts for 0.9% of import (451.9 billion yen) and 0.1% of export (78.1 billion yen) in 2004, according to the Trade Statistics issued by the Ministry of Finance, Japan. Japan's import from Chile has continuously exceeded its export, mainly with the result that Chile was a stable supplier of natural resources for Japan, thus Chile has a great amount of trade surplus with Japan (approximately US\$ 2.92 billion in 2004 (source :Trade Indicators of the Central Bank of Chile). In particular, it is observed that Chile is an important mineral resources supplier to Japan (50.6 percent of Japan's import in copper ores and concentrates, 79.6% percent in lithium carbonates and 55.8 percent in roasted molybdenum ores and concentrates come from Chile.) (source: Trade Statistics of the Ministry of Finance, Japan, in quantity). Agricultural, forest and fishery products as well as mineral resources have a large share in exports from Chile to Japan. Especially, fish and fishery products have a 20.7% share of Japanese import from Chile, 93.6 billion yen in 2004 (source: Trade Statistics of Ministry of Finance, Japan). In Chile's import from Japan industrial goods, especially cars, machinery and industrial products have a large share.
3. Private direct investment from Japan to Chile is being made mainly in areas such as fishery, mining and woodchips for paper manufacturing and the first foreign investment from Japan to Chile was made in

fishery area in the late 1970's. In the 1980's, the Japanese enterprises started direct investment in large-scale copper mining development in the northern part of Chile and this has contributed to the stable supply of copper ores to Japan. Chile is actively promoting its policy to attract foreign investment by "Springboard Policy", which encourages foreign enterprises to make use of Chile as a base for expanding their activities in Latin America. Investment from Japan to Chile totals US\$ 1.83 billion and its share in total value of foreign direct investment to Chile is 0.37 %, the thirteenth place, while investment from Chile to Japan remains invisible level in statistics. However, in case the possible Japan-Chile EPA/FTA includes investment promotion and protection measures in its scope, it will be likely that the possible Japan-Chile EPA/FTA encourages Japanese enterprises to invest more in Chile in the future.

4. Japan and Chile share a strong partnership in economic and technical cooperation. JICA and AGGI have implemented a wide scope of projects in Latin America and the Caribbean, This triangular partnership represents around 40% of Chile's total triangular partnership programs in this region. Japan is also one of the largest providers of Official Development Assistance (ODA) to Chile.
5. Taking these elements into consideration, the Joint Study Group conducted detailed discussions in each area, as introduced below, with a view to strengthening further bilateral economic partnership between the two countries.

III. ECONOMIC IMPACT ANALYSIS

1. An economic specialist of each country respectively conducted the study on the economic impact of the possible Japan-Chile EPA/FTA. Both sides confirmed that the study of the specialists does not reflect official views of each government. Usually, "General equilibrium model" and /or "Partial equilibrium model" are used for analysis of effects on EPA/FTA, and as both models have merits and demerits, they should be complementally used, according to purposes.

2. According to Kawasaki's study (*1), Japan-Chile EPA/FTA would increase Chile's GDP by 0.49% and Japan's GDP by 0.002%. In comparison with other EPA/FTAs, it is noted that while the gains of the possible Japan-Chile EPA/FTA for Japan would be ranked behind that of many EPA/FTAs with other countries, the gains for Chile would be placed in a high ranked category. Moreover, regarding trade balance, its improvement is expected only for the Chilean side and the effects of a Japan-Chile EPA/FTA would be generally big for Chile. On the other hand, regarding the impact on bilateral trade, a possible Japan-Chile EPA/FTA would increase the amount of Japan's export to Chile by 42% (approx. US\$ 290 million) and the amount of Chile's export to Japan by 15%(approx. US\$ 380 million).

3. According to Larrain's study (*2), the increase in welfare estimated with general equilibrium models is not symmetric between the parties because the small countries capture a greater proportion of the benefits, since they have the possibility of increasing their production considerably without affecting the price structure of the largest economy. Therefore, the study must focus on the relevant market to the purpose of completing an FTA/EPA and estimate its impact with a partial equilibrium model. It must also capture the increase in imports of capital and intermediate industrial goods related to the expansion of the export activity of Chile. The study concludes that the completion of an EPA/FTA will offer business opportunities for Japan that in the first five years could surpass US\$1,000 million.

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IV. EFFECTS OF THE JAPAN-CHILE EPA/FTA

1. The Japanese side explained that it will examine a Japan-Chile EPA/FTA negotiations in accordance with the "Basic Policy towards further promotion of Economic Partnership Agreements (EPAs)"

(hereinafter referred to as “Basic Policy”), approved by the Council of Ministers on the Promotion of Economic Partnership on December 2004. Furthermore, the Japanese side pointed out the merits and the issues to be considered in a Japan-Chile EPA/FTA as follows:

- (1) Benefit that the Japan-Chile EPA/FTA might bring about
 - (a) Both sides could obtain a gateway to Asian and South American regions.
 - (b) Japan imports indispensable materials for its economic growth such as mineral resources like copper, thus Chile is an important trade partner for Japan. From this viewpoint, the possible Japan-Chile EPA/FTA would make a framework to strengthen the economic ties.
 - (c) The removal of tariffs by the possible Japan-Chile EPA/FTA would encourage the activities of Japanese enterprises in Chile, which would stimulate domestic employment in Chile.
 - (d) The possible Japan-Chile EPA/FTA would contribute to further tightening the relations between the two countries and between Japan and Latin America region as a whole, not only in the economic context but also in the political and diplomatic fields.
- (2) Issues to be considered in a Japan-Chile EPA/FTA
 - (a) Economic effects of the possible Japan-Chile EPA/FTA and the relation between the possible Japan-Chile EPA/FTA and the “Basic Policy”, which indicates the policy to promote economic partnership negotiations with East Asia as its focus, should be explained in a convincing manner to the Japanese people.
 - (b) Due considerations should be given to sensitive products in agricultural, forestry, fishery, leather, footwear and mining sectors.
 - (c) The possible Japan-Chile EPA/FTA should be fully justified to

the people of both countries, as it is generally inevitable that EPA/FTAs will cause certain demerits to specific sectors.

- (d) The resource necessary for negotiations of both countries should be taken into consideration sufficiently in terms of cost and effect in determining which fields to be covered in the negotiations.

2. The Chilean side expressed that an EPA/FTA between Chile and Japan would fulfill the three main criteria identified in the “Basic Policy”. Furthermore, the Chilean side pointed out the merits and the issues to be considered in a Japan-Chile EPA/FTA as follows:

- (1) Benefit that a Chile-Japan EPA/FTA might bring about
 - (a) A comprehensive and high quality EPA/FTA will encourage further complementary relations of both economies. Japan as a main supplier of advanced industrial and capital products, and Chile as a source of import of natural resources, including strategic mineral resources.
 - (b) It will dilute trade diversion against the import of Japanese industrial goods caused by the FTAs in force with the U.S.A., the E.U. and the Republic of Korea.
 - (c) It will also contribute to strengthening the relations between Asian and Latin American regions. In particular, Japan would enhance its access to the Latin American market using Chile as a springboard to the region
 - (d) The removal of tariffs by the possible EPA/FTA would encourage the increase of export of high quality and healthy products from the food industry from Chile to Japan, for the benefit of the Japanese consumer.
- (2) Issues to be considered in a Chile-Japan EPA/FTA
 - (a) The Chilean side pointed out that a future EPA/FTA should contribute to increase bilateral trade through the creation of a

stable framework of disciplines and the liberalization of market access conditions. The expansion and diversification of trade is essential for long term growth and development of the Chilean economy. Due consideration, therefore, should be given to the sensitivities of both Chile and Japan without introducing new barrier to trade nor to the strengthening of economic relations between the two countries.

- (b) Based on its extended experience on FTAs, the Chilean side expressed that a substantive liberalization could be reached while, at the same time, a wide range of instruments allow to take due consideration of the sensitivities of both partners.

3.

- (1) The Japanese industrial sector stated that it was possible to expect that a Japan-Chile EPA/FTA would be a high-qualified agreement which include not only the reduction of tariffs, but also investment rules, trade facilitation, intellectual property, exchange of people such as exchange of experts and liberalization of intra-company transference. The Japanese industrial sector especially mentioned that Japan has grown by importing resources and exporting value-added products, and commented its concern that Japan may relatively lose its international competitiveness, considering that the emerging industrial countries called “BRICs” are actively looking for natural resources and export markets in recent years and expressed their strong hope for a rapid conclusion of a Japan-Chile EPA/FTA.
- (2) The Japanese industrial sector also pointed out that due considerations should be given to those sectors on which negative effects of a Japan-Chile EPA/FTA should be taken care of, such as agriculture, forestry and fishery, not only from the supplier’s viewpoint but also from the consumer’s and user’s ones. The Japanese industrial sector also explained sensitivity of Japanese mining industry and insisted that Japanese mining sector should be given enough consideration on the possible Japan-Chile

EPA/FTA. On the other hand, a view was expressed by Japanese agricultural, forestry and fishery sectors to the effect that in agricultural, forestry, fishery trade, proportion of export from Chile is so large that a possible Japan-Chile EPA/FTA will benefit only Chile.

- (3) The Japanese academic members pointed out the following points:
 - (a) the possible Japan-Chile EPA/FTA would be a materialization of “A Vision for a New Japan-Latin America and Caribbean Partnership”, pronounced by Prime Minister Junichiro Koizumi of Japan in his visit to Latin America in September 2004, and it would not have only economic importance but also political and diplomatic one for strengthening the partnership relations in Asia and Pacific region.
 - (b) in case a Japan-Chile EPA/FTA fails, there will be a serious negative effect.
 - (c) in case a Japan-Chile EPA/FTA is concluded, with regard to agricultural, forest and fishery products which are sensitive for the Japanese side, it will be necessary to develop realistic discussion not to seek a complete elimination of tariffs, but to seek mutually beneficial measures with paying enough consideration to those kind of products.
- (4) Furthermore, from the viewpoint of maximizing positive effect of a possible EPA/FTA between the two countries, a representative of Japanese academic sector pointed out that, while taking due consideration to their sensitivities into account, both countries should strive for an EPA/FTA of enlarging package and avoid resorting to negatively linking their sensitivities.

V. SUMMARY OF DISCUSSIONS

Both sides held Joint Study Group meetings for four times and actively conducted the discussions in a wide range of areas. One of the significant results confirmed at the Joint Study Group is that, in order to ensure that

the EPA/FTA would be a building-block for a long-term strategic alliance and a solid basis for strengthening economic relations, while a flexible approach should be adopted, taking due considerations of sensitive products on both sides, both sides should substantially liberalize the access to its market, in the possible negotiations.

Both sides shared common understandings on Japanese sensitive products in the agriculture, forestry, fisheries, leather, footwear, mining and food processing industries, and Chilean sensitive products in the manufacturing sector.

1. Trade in goods

Both sides studied the impacts caused by the removal or reduction of tariffs on the trade sectors between Japan and Chile which interest both sides. In the study, both sides exchanged the trade statistics and statistical code lists.

(1) Industrial Goods

(a) Manufacture, including Automobile Industry

(i) The Japanese side maintained the necessity of the immediate removal of tariffs to avoid the competitive disadvantages caused by the 6 % tariffs on the Japanese products such as automobiles and related parts, consumer's goods like household electric appliances, tire, capital goods like variety of plants, due to the absence of the Japan-Chile EPA/FTA while the EU, the U.S., the Republic of Korea, MERCOSUR and other countries have already concluded FTA with Chile. Especially, the automobile industry expressed its hopes that Chile would abolish tariffs immediately.

(ii) The Chilean side mentioned that free trade would benefit both countries. The elimination of tariffs on industrial goods would benefit Japanese exports of capital and intermediate products and enhance the competitiveness of the Chilean economy, although it might hurt some sensitive industrial products such as tires, industrial vehicles, buses, automobile parts, glass manufactures, , stoves, refrigerators and office supplies among others. An EPA/FTA would trigger the creation of trade and

offset the diversion of trade in favor of economies that enjoy a preferential access to the Chilean market. In the same vein, free access to the Japanese market of products in which Chile has competitive advantages would benefit Japan. Based on these facts, the Chilean side insisted that it favors a broad and comprehensive elimination of tariffs on a reciprocal basis. The Chilean side stated that both sides should not prejudge in this study which products would be excluded, since they should be discussed on a case by case basis during the possible negotiations.

(b) Mining Industry

- (i) The Japanese side pointed out that Japan's copper industry is a buyer of Chile's copper concentrates as well as an investor to mining projects in Chile so that copper industries of both countries complement each other. Indicating the possibility that the tariff elimination for copper metal by the possible Japan-Chile EPA/FTA might lead to decline of copper smelting industry in Japan and might affect Japan's investment to Chile, the Japanese side insisted on a sufficient consideration to sensitivity of this industry. A member from Japan's copper smelting industry insisted that Japanese environmental regulations on copper smelting is more rigid than the Chilean's ones so that Japan's industry bears higher cost than Chile's does, and that Chilean environmental regulations should be equally improved in terms of global environmental protection.
- (ii) The Chilean side pointed out that the removal of protectionism and the elimination of tariffs would benefit both economies. The Chilean mining sector recognized both the important role of the Japanese industry in the development of mining in Chile during the last two decades and the important role of Chile as a reliable and efficient supplier. The excellent cooperation between both countries has not only contributed to the construction and development of relationships of

confidence but it also has proved to be a winning formula. The Chilean side explained that consumers are the most important beneficiaries of the reduction of trade barriers and that it would strengthen the pace of growth for the whole production chain through a vigorous consumption. The Chilean side also mentioned that they are actively and permanently working on the improvement of environmental regulations and will continue to do so in the future. In this regard, the Chilean side stressed that, although it is ready to discuss the general environmental regulations in the negotiations and establish a chapter on the environment in the possible Japan-Chile EPA/FTA, it is not appropriate to address the environmental regulations related to copper smelting sector specifically as the domestic conditions of each country are different.

(c) Leather and footwear

- (i) Japanese side mentioned that leather and footwear are sensitive products not just because of economic reasons but also of historical reasons.
- (ii) The Chilean side explained that its economy is a net importer of leather and footwear and does not have any comparative competitiveness in relation to Japan.

(2) Agriculture, Forestry and Fisheries

- (a) The Japanese side stated that there are sensitive products in the agriculture, forestry and fishery sectors. The Japanese side referred to sensitive products such as rice, wheat, barley, meat, dairy products, sugar, starch, fruits and their processed or prepared products in the agricultural sector, salmon / trout, sea urchin, tunas, IQ and IQ-related fishery products in the fishery sector, and plywood in the forestry sector. The Japanese side explained that regarding agriculture, forestry and fishery, the possibility of a Japan-Chile EPA/FTA needs to be considered in the light of the “Basic Policy”

- (b) Both sides explained the situation on their production, consumption, trade and their main policies, then exchanged their opinion.
- (c) The Chilean side stated that both Chile and Japan will benefit from liberalization of trade in the agriculture, forestry and fishery sectors. In these sectors, with a few exceptions, Chilean exports to Japan are not significant. In addition, Chile is a net importer of many of the agricultural products that are most sensitive to Japan. The Chilean side also expressed that cultivated area in Chile is smaller than the Japanese and that Chilean agricultural goods are produced in counter season. Based on the fact that Chile has already signed a large number of FTAs that include agriculture, forestry and fishery products, the Chilean side assured the Japanese side that a pragmatic and flexible agreement could be reached.
- (d) The Japanese side insisted that as the products mentioned before are sensitive due to political and economic reasons, regardless of whether or not Chile can export them or has specific interests in them, exclusion of sensitive products from the coverage of trade liberalization under a Japan-Chile EPA/FTA would be appropriate. In addition, concerning the explanation from the Chilean side about the counter-seasonality, the Japanese side explained the fact that Japanese agriculture is under competition with foreign farm products for a longer period because greenhouse cultivation has increased in Japan in order to produce all-year-round, while improved technology on storing/distribution has contributed to a longer availability of perishable farm products. The Japanese side stated that the possible Japan-Chile EPA/FTA should be mutually beneficial for agricultural sectors of the two countries.
- (e) The Japanese side insisted that, the sensitive products are indispensable for food security and multi-functionality of

agriculture and in case the negotiations on a Japan-Chile EPA/FTA is conducted, a sufficient consideration should be given to the sensitive products for the two countries by adopting the flexible measures such as exclusion of sensitive products from the coverage of trade liberalization under the EPA/FTA or renegotiation on the sensitive products. The Japanese side expressed that the concept of the multi-functionality of agriculture has been internationally recognized by OECD, and any indirect impacts on economical, social and environmental aspects recognized as the multi-functionality should also be considered in discussing EPA/FTA.

- (f) The Chilean side stated that the exclusion of some products is one option for dealing with sensitive products but that there are also other modalities. Exclusions should be exceptional and discussed on a case by case basis. The Chilean side also expressed that even if it understands that agriculture has several characteristics in addition to its dimension as an economic activity, Chile does not endorse the concept of the multi-functionality of agriculture, since it leads to the increase of trade barriers, jeopardizing the growth of developing countries with competitive advantage in agricultural products, which also need to expand their exports in order to eliminate poverty and unemployment. The Chilean side explained that the concept of multi-functionality has not been endorsed by other international organizations, except the OECD.
- (g) The Chilean side stated that export subsidies should be eliminated to establish a solid basis for trade and added that measures that have an equivalent impact to export subsidies, as, for example, disproportionately high domestic support that artificially close the market to more competitive producers and exporters should be eliminated as well.
- (h) The Japanese side also stressed the necessity of eliminating any type of export subsidies and regulations under the EPA/FTA. The

Japanese side stated that a country can stop providing export subsidies for a particular country, but it is not the case with domestic support, as the support is not provided against a particular country, and that, therefore, only export subsidies can be dealt with in the bilateral framework such as EPA/FTA.

- (i) The representatives of Chilean agricultural sector insisted that the amount of Chilean export of the agricultural production is so small and the impact on the Japanese market would be very limited. In addition, the Chilean side emphasized its flexibility in the negotiations, explaining some examples of its flexibility in the negotiations of the FTAs that Chile has already agreed with third countries, and the possibility of bilateral safeguard, introduction of transition period and tariff rate quota and exclusion in order to alleviate Japanese concern about a Japan-Chile EPA/FTA.
- (j) The Japanese side explained the sensitivity of its fisheries. The Japanese side expressed its concern that, as Japanese fisheries have been historically contributing to sustainable development of local community and economy, its competitiveness of fisheries would be decreased by the trade liberalization and that the increase of Chilean export to Japan would substantially affect the market as well as the resource management in Japan. The Japanese side also expressed its concern that trade liberalization would expand the unilateral disadvantage of the Japanese fishery sector through trade imbalance between the two countries. The Japanese side insisted that a trade rule of fishery products should be established, taking account of sustainable utilization of fishery resources and sustainable development of fisheries and fishery communities, and that practical and flexible approaches such as exclusion of sensitive products from the coverage of trade liberalization should be taken. The Japanese side stressed the necessity of appropriate bilateral safeguard measures for fishery products. The Japanese fishery private sector requested that a special safeguard scheme, that would be

automatically exercised, should be considered as a part of bilateral safeguard measures. With the aim of establishing well-ordered trade framework of fishery products between the two countries, the Japanese side proposed the establishment of a consultation framework between salmon/trout producers and other representatives of both countries.

- (k) The Chilean side expressed that the expansion of trade in the fishery sector, as well as in the other sectors, would benefit both economies. Exports of fishery products are important for Chilean trade of food and for the country's export-led development. In a possible negotiation, a balance between the treatment of Japanese sensitive products and Chilean interest in export-led development should be reached. An EPA/FTA should contribute to expand trade in the fishery sector and properly address the sensitivities and establish a cooperative relationship. However, the Chilean side stated that the formation of a consultation framework should not aim at establishing artificial barriers to trade or/and managed trade.
- (l) The Japanese side explained that the negative impact of the tariff reduction by the past tariff negotiations was a part of the cause for the depression of self-sufficiency ratio of wood, and asked for understanding of the sensitivity of the plywood, glued laminated timber, particle board and fiber board sectors on which tariffs were imposed. The Japanese side expressed its concern on the further decline of competitiveness of domestic wood industries due to the tariff elimination for these wood products such as plywood, and insisted on the exclusion of forestry products from the coverage of the possible Japan-Chile EPA/FTA. Also, the Japanese side stressed that the Japanese wood industries contributed to land conservation and employment promotion in local community as well as sustainable development and maintenance of forest and forestry, and that plywood industries played an important role in contributing to the global warming prevention policy with promoting utilization

of wood resources and facilitation of 3R policy (reduce, reuse and recycle) for realizing a sound recycling-oriented society and so on.

- (m) The Chilean side expressed the view that a Japan-Chile EPA/FTA will have as its main impact an increase of high quality export of forestry products that complies with very high environmental standards that will substitute products imported from third countries where environmental standards are very low. Thus the growth of Chilean exports would be beneficial for Chile without affecting the total amount of Japanese imported wood products and the Japanese forestry industry.
- (n) Both sides deepened mutual understanding on the situations of forestry and wood industries in both countries.
- (o) With regard to food processing industry, Japanese side explained the actual situation of the alcohol sector as the followings and requested Chilean side to understand its sensitivity.
 - (i) Japanese total alcohol consumption is reaching the ceiling.
 - (ii) Japan consumes diverse alcoholic beverages and this tendency is growing in recent years.
 - (iii) Therefore, the proportion of individual alcoholic beverage including wine to total consumption of alcoholic drink remains low level.
 - (iv) Japanese total consumption of wine is relatively small in contrast with other countries and the consumption trends of wine are reaching the ceiling except periods of boom.
 - (v) Most Japanese wineries are small and their business situation is severe.
- (p) The Chilean side expressed that an assessment of the impact of an EPA/FTA should encompass the whole range of activities in

the food processing industry, and not only one product (wine). Chile is a small but reliable supplier of processed food and a stronger bilateral trade relation would benefit the Japanese consumer with high quality products. The Chilean side explained that in a possible negotiation, a balance between the treatment of Japanese sensitive products and Chilean interest in export-led economic growth should be reached.

- (q) Japanese side explained that in Japan, processed food such as fruit juice could be sensitive products in case raw materials of those products have sensitivity, since they play a very important role in maintaining local communities, in economically disadvantageous situation, that depend on the related industry.
- (r) With regards to SPS measures, the Chilean side proposed, in case the negotiations of a Japan-Chile EPA/FTA is launched, to establish a permanent Working Group of specialists on SPS in order to reconfirm the rights and duties stipulated in the WTO/SPS agreement and to strengthen the cooperative relationships between competent authorities of both countries.
- (s) The Chilean side explained that the main objectives of a possible chapter on SPS measures are to facilitate the operation of the procedures to resolve the problems and to establish a permanent channel of communication and it has no intention of duplicating or diminishing the authority and domain of both countries sanitary agencies.
- (t) The Japanese side stated that the SPS measures are taken based on the WTO/SPS agreement and scientific evidences with the aim of protecting life and health of animals and plants, so it is not appropriate to deal with SPS related issues in the EPA/FTAs, which offer special preferential treatments to particular countries from economic viewpoint. The Japanese side also stated that it is not proper to prejudge what is going to be after launching the negotiations. The Japanese side also stressed

that Japan has faithfully addressed SPS issues based on the WTO/SPS agreement and that existing channels between experts of both countries have been appropriately functioning. Japan also invited Chilean side to contact Japan's relevant authorities if Chilean side has any specific issues or concerns to discuss with Japanese side.

- (u) Through the discussions in this Joint Study Group, both sides shared and confirmed the recognition that a Japan-Chile EPA/FTA requires following points regarding agricultural, forestry and fishery sectors;
 - (i) The possible Japan-Chile EPA/FTA should be mutually beneficial for both countries in the agriculture, forestry and fishery fields and thus a practical and flexible approach should be taken.
 - (ii) Due consideration should be given to sensitive products of both countries through measures such as exclusion of products from the coverage of trade liberalization of the EPA/FTA, tariff quotas or other appropriate flexible measures.
 - (iii) Any form of export subsidies, export taxes and prohibition/restrictions should not be provided.
 - (iv) As to trade of natural resources (especially forestry and fishery products), their conservation and sustainable utilization, and international agreed measures should be considered.
 - (v) In order to alleviate effects of a Japan-Chile EPA/FTA on agricultural, forestry and fishery sectors, appropriate trade remedies should be examined as to the products of which tariff should be eliminated or reduced, in consideration of the sensitivity of both countries.
 - (vi) At international organizations regarding agriculture, forestry

and fishery, both sides should endeavor to establish constructive and cooperative relations between the two countries, with due respect to the basic position of each other. In addition, the two countries should have exchange of information and views on this matter, when necessary.

(vii) Continuous consultations between fishery specialists (including producers) on fisheries of both countries should be conducted to exchange their views and information on fishery market, in order to establish a cooperative framework.

(viii) With a view to supplying good and safe fishery products for consumers of the two countries and developing stable firm fishery market, both countries should consider ensuring quality and safety in fishery production such as in salmon/trout aquaculture. In addition, the two countries should exchange information and views on this matter, when necessary.

2. Rules of Origin and Customs Procedures

(1) The Japanese side insisted on the importance of following points in deciding the Rules of Origin:

(a) preventing circumvention of goods from third countries

(b) not creating unnecessary hindrance to trade

(c) developed and applied in impartiality, neutrality, and consistency, and with due transparency, clarity and predictability; and

(d) easy for traders to understand and simple for customs to implement

The Japanese side also stressed that, regarding agricultural products, originating goods shall be qualified only for goods which is wholly obtained or produced in one party or made from these

goods, because concession of tariff rate in an EPA shall contribute to the development of agriculture, forestry and fishery in the other party. The Japanese automobile industry sector requested that as unnecessarily stringent rules and laborious certification procedures might lead to unproductive cost increases, the rules of origin and certification procedures should be adopted as simple as possible in line with business realities and easy to apply in practice, and that a sufficient consultation between government and the private sector should be realized in a Japan-Chile EPA/FTA negotiation.

- (2) The Chilean side shared the Japanese view on this area. Moreover, both sides shared the view on the importance of a framework to promote wide area of cooperation and mutual support between custom authorities of the two countries, not only on the customs procedures on the rules of origin.

3. Trade remedies

- (1) The Japanese side expressed the view on the importance of adopting or maintaining equitable, timely, transparent and effective proceedings relating to bilateral safeguard measures and of ensuring the consistent, impartial and reasonable administration of its laws, regulations, decisions and rulings governing proceedings of bilateral safeguard measures.
- (2) The Chilean side explained that in the bilateral FTAs that Chile has already concluded it reserves the rights on anti-dumping, countervailing and safeguard measures under the WTO agreement and establishes bilateral safeguard measures as well. The Chilean side also explained that the bilateral safeguard may contain special emergency safeguards measures for specific products depending on the actual trade conditions with the other party in order to deal with sensitive products of both parties' flexibly.

4. Investment

- (1) The Japanese side stressed that, for purposes of promoting the

sustainable development of Japanese and Chilean economies, it is essential to ensure investment stability and that, to further increase the amount of investment, it is necessary to secure legal stability and market transparency as well as to make rules with a high degree of liberalization. The Japanese side expressed that in the possible Japan-Chile EPA/FTA, it is important to include points such as national treatment and most favored national treatment for pre and post establishment of investment, prohibition of comprehensive performance requirements, reservation by negative list approach, expropriation and compensation, free transfer of capital, international arbitration procedures for settlement of disputes between a party and an investor of the other party, and transparency through notification.

- (2) The Chilean side expressed its view that the possible Japan-Chile EPA/FTA should have a comprehensive chapter on investment including, as the essence, provisions such as national treatment, most favored nation treatment, minimum standard of treatment, transfers of capital, nationality of boards of directors, prohibition of performance requirements, non-conforming measures, denial of benefits, expropriation and compensation, and settlement of disputes between a party and an investor of the other party. The Chilean side also stated that the provisions of MFN treatment would not cover procedural issues and a due balance between investor protection and State's right to regulate should be guaranteed. In addition, the Chilean side proposed that it would follow a negative list approach regarding the annexes on non conforming measures, and subject the listed measures to both "stand still" and "ratchet" clauses.

5. Service

- (1) Explaining the Japanese basic position and unilateral offer for voluntary liberalization in the service negotiations of the WTO, the Japanese side stated that supply of cross border service is an important business form and that there are possibilities of developing the bilateral economic relations through the

liberalization of service trade. The Japanese side also stressed that national treatment and most favored nation treatment should be central elements in the possible Japan-Chile EPA/FTA.

- (2) The Chilean side explained its approach to include all sectors and to focus on the trans-border modes of supply (Modes 1, 2 and 4) by incorporating the rules on commercial presence in the investment chapter in the service negotiations of the EPA/FTAs that Chile has already concluded, and thus insisted that the Chilean side hopes to follow such approach in the possible Japan-Chile EPA/FTA. The Chilean side also expressed that it is important that the possible Japan-Chile EPA/FTA includes disciplines such as national treatment, most favored nation treatment, local presence, non conforming measures, denial of benefits, licensing and certification. In addition, the Chilean side expressed its particular interest in the discipline of local presence to promote the service trade through Modes 1 and 4. The Chilean side also expressed that it would like to include an Annex on non discriminatory quantitative restrictions for transparency purposes, and wishes to follow a negative list approach regarding non conforming measures, and subject the listed measures to both “stand-still” and “ratchet” clause.

6. Government Procurement

- (1) The Japanese side stressed that in the possible Japan-Chile EPA/FTA it is important to discuss transparency of government procurement procedures and non discriminatory market access between domestic and foreign suppliers in accordance with international framework concerning government procurement. The Japanese side also explained that it is practicing voluntary measures beyond the obligations under the WTO Government Procurement Agreement and showed its efforts to improve market access in this field.
- (2) The Chilean side agreed with the Japanese side on the importance of transparency and non discriminatory market access concerning

government procurement. The Chilean side explained that the FTAs that Chile has already concluded, include improvement of market access and national treatment, but also due process of government procurement procedures, transparent and simple procedures and encouragement of electronic communication for government procurement, and that a negative list approach is adopted to establish the scope of this field. The Chilean side insisted on its willingness to adopt these approaches in the possible Japan-Chile EPA/FTA.

7. Intellectual Property Rights

- (1) The Chilean side proposed to discuss a possibility of comprehensive EPA/FTA including the Intellectual Property Rights (IPR). The Japanese side stated that IPR is one of the most important issues to be discussed to decide whether to enter in the negotiations on an EPA/FTA or not.
- (2) The Japanese industrial sector expressed its hope that a possible Japan-Chile EPA/FTA would deal with IPR related matters.
- (3) The Japanese side explained the role and competence of the Japanese Custom on border protection of IPR and requested the Chilean side to understand the importance and effectiveness on IPR border regulation. The Chilean side shared this view. Furthermore, both sides shared the view on the importance of a framework in which a wide area of cooperation and support between customs authorities of both countries, including the area of IPR, will be promoted.
- (4) The Japanese side stressed the importance of Chilean accession to UPOV (International Union for the Protection of New Varieties of Plants) 1991 and asked if Chile is to accede it before 2009, mentioning the Chilean answer to the Japanese Questionnaire. The Chilean side explained that Chile is a member of UPOV since 1991 and is in the process of ratifying its accession since 2001.

8. Movement of Natural Persons

- (1) The Chilean side showed that the FTAs that Chile has already concluded, have a comprehensive chapter on this issue, which deals with short stay of business people including, among others, traders, investors, intra-company transferees and professionals with exception of some sensitive sectors based on the domestic policies of both countries such as access to labor market, and explained that in these FTAs sub-committee on entry and temporary stay is established from the viewpoint of transparency and promotion of exchange of information, The Chilean side also requested to include these factors in the possible Japan-Chile EPA/FTA.
- (2) The Japanese side stated that in these days it takes less time to obtain a visa for definitive stay (visa de permanencia definitiva in Spanish). And, in order to revitalize trade and investment between Chile and Japan, the Japanese hopes that this situation on visa will be maintained or even more improved.

9. Competition Policy

- (1) The Chilean side explained the importance of the competition policy for the purpose of realizing liberalization on trade and investment, and explained that the FTAs that Chile had already concluded included following factors;
 - (a) Adoption or maintenance by the Parties of laws that prescribe anticompetitive business conduct,
 - (b) Designation or maintenance of authorities for the enforcement of its national competitions laws.
 - (c) Cooperation in this field between competent governmental authorities of both countries
 - (d) Rules for the conduct of designated monopolies and state enterprises

(e) Rules on transparency and exchange of information

The main objective should be the reinforcement of cooperation in matters related to competition policy and eliminate the possibility that the benefits of the liberalization of the trade of goods and services could be diluted or nullified by non competitive practices. The Chilean side proposed that the possible Japan-Chile EPA/FTA also should include these factors.

- (2) The Japanese side explained that making efforts in the competition area is a kind of “soft infrastructure” for investment of Japanese companies and stressed that the purpose of discussing competition policy at EPA/FTA is to prevent anti-competitive activities from damaging the benefit of trade and investment liberalization for the two countries. The Japanese side also stated that it would like to continue to consider the possibilities of building a framework of cooperation between the competition authorities.

10. Technical Barriers to Trade (TBT)

- (1) The Chilean side expressed its interest in establishing a sub-committee on TBT matters in the possible Japan-Chile EPA/FTA in order to exchange information between the competent governmental authorities of both countries or exchange views on cooperation in multilateral frameworks such as the WTO.
- (2) The Japanese side showed its policy of attaching more importance to multilateral or regional frameworks such as the WTO or APEC and explained the Japanese deliberate position about particular regulations based on bilateral agreements.
- (3) The Chilean side mentioned that both positions are totally complementary and highlighted the excellent cooperation between Japan and Chile in international fora about this matter, especially regarding the need to include business concerns among the topics developed by the APEC Sub Committee on Standards and Conformance.

11. Dispute Avoidance and Settlement

- (1) Both sides shared the view that, as distinct from the WTO's dispute settlement mechanism, the possible Japan-Chile EPA/FTA should equip itself with both a consultation mechanism and, in case where consultations could not settle the differences of views, a dispute settlement system.
- (2) The Chilean side insisted that, with the purpose of rapid implementation of dispute settlement procedures, the automaticity of dispute consultation and dispute settlement mechanism as well as rule based procedures like other FTAs that Chile had already concluded, should be included in the possible Japan-Chile EPA/FTAs.

12. Legal Matters

The Chilean side explained provisions on legal matters in the FTAs that Chile had already concluded as follows;

- (1) Establishing the institutional framework for the implementation, administration and overseeing of the FTA.
- (2) Creating the channels for the exchange of information between the parties in matters that affect the operation of the FTA in order to ensure the transparency.
- (3) Containing general exceptions with necessary modification of the provisions of the WTO (Article 20 of GATT 94 and Article 14 (a)-(c) of GATS) , other exceptions related to national security and BOP (Balance of Payments) and non-applicability of taxation measures.

13. Improvement of Business Environment

- (1) Both sides shared the view on the importance of making effort to improve the business improvement.
- (2) The Japanese side stated that it is beneficial to build a stable system in the possible Japan-Chile EPA/FTA including the private sector for the sound discussion of the business environment in

order to facilitate and expand future business activities between the two countries.

- (3) The Chilean side stated that it is important to create a dialogue mechanism including both governmental and private sectors for purposes of improving the business environment.

VI. RECOMMENDATION OF THE JOINT STUDY GROUP

Based on the detailed discussions reflected in previous chapters and convinced that the Japan-Chile EPA will contribute to further development of close economic relationship in a broad range of areas between Japan and Chile, the Joint Study Group on Japan-Chile EPA/FTA decided to recommend to the Leaders of both countries that the two countries should launch negotiations on the Japan-Chile EPA.



Japan-Chile EPA/FTA Joint Study Group



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