

TRADE, ASSOCIATION, AID

**-Has the Association Agreement between the European Union and
the Republic of Chile fulfilled its purposes?**

Master Thesis

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Abbreviations

AA The Association Agreement between the European Community and the Republic of Chile

Andean Community Bolivia, Colombia, Ecuador and Peru

APEC Asia-Pacific Economic Cooperation, Association of 21 nations

DCs Developing Countries

DSU Dispute Settlement Understanding of the WTO

EC European Community

EU European Union

FDI Foreign Direct Investment

FTA Free Trade Agreement

ILO International Labour Organisation

LAC Latin America Caribbean

Mercosur Mercado Comun del Sur (the Common South Market) Argentina, Bolivia, Paraguay, Uruguay and Venezuela (Venezuela not yet ratified)

MFN Most Favoured Nation

OECD Association of the 30 most developed countries in the world

WTO World Trade Organisation

Abstract

An Association Agreement between EC and Chile came into force in February 2003. The agreement includes three elements; Political dialogue, Cooperation and Trade. The AA is said to be a “fourth generation +” agreement, the most ambitious FTA that EU has signed with a non European Party and the most ambitious agreement ever signed by Chile that has been called the “world champion in Free Trade”.

The thesis starts with an overview of the material extent of the Association Agreement and thereafter it passes on to the question of the purposes of the Agreement. The purpose of this thesis is to answer the question about whether this Association Agreement has fulfilled its purposes or not. A big part of the agreement is of course the free trade provisions but as the customs between the Parties were already low before the Agreement came into force the main reason for signing the agreement might not have been increasing the free trade between the Parties. For this reason it must be asked, what are the purposes of the Association Agreement between EC and Chile? The purposes of the agreement have been found to be three main purposes; Trade and Trade related matters (Trade, Investment, Standards), Association (WTO, Mercosur, “Change of image) and Aid (Democracy and Human rights, Fight against Poverty, Gender, Education, Labour and Environment).

The main focus of the thesis will be on the purposes of the European Union. The official purposes should be the same for EU and for Chile but there are other purposes that can be individual for each Party. In some aspects the purposes of Chile is touch up on but in general the thesis takes a European perspective and focuses on why EC choose to sign an association agreement with such a small country and the outcome of the agreement from the point of view of EC. In a separate chapter in the end of the thesis some unwanted side effects in Chile is touch up on and the work carried out by the Institutional frame work is also dealt with in a closing chapter.

1 Introduction

In 2002 an Association Agreement (AA) was established between the European Community and its Member States and the Republic of Chile. The AA that came into force the 1st of February 2003 includes three elements; Political dialogue, Cooperation and Trade. Various studies and evaluations have been done about the trade part of the agreement, less have been said about the political dialogue and the cooperation. In the interest of both Parties is to show that trade has increased drastically and that the AA has been successful. Official studies that have been done evaluating the increase of trade between the Parties all show a great increase. However, when looking closer to the statistic, has trade really increased that much? And even if this is the case, has the increase been caused by the Association Agreement? The customs between the Parties were already low before the AA came into force which means that the Free Trade part of the agreement have probably not affect the trade significant. While signing the agreement, the EU might not have been expecting a very high increase in trade. One must therefore ask, what are the purposes of the Association Agreement between EC and Chile? First when the purposes of the Agreement have been determined the question about its fulfilment of these purposes can be answered.

The reason for choosing the Association Agreement between EC and Chile is because this agreement is unique. The AA is sad to be a “fourth generation +” agreement, the most ambitious FTA that EU has signed with a non European Party¹. It is also the most ambitious agreement ever signed by Chile², the “world champion” in Free Trade. This is further described in the chapter about the Parties and the Agreement.

Another reason for choosing the Association Agreement between the European Community and Chile is that the fact that Chile has so many agreements with other countries and the trade between Chile and third countries has increased a lot. This means that there is a lot of statistic to compares the changes in trade between the Parties with. The purpose of this thesis is to answer the question about whether the Association Agreement between the European Community and the Republic of Chile has fulfilled its purposes or not. The main focus will be on the purposes of the European Union. That the purposes are those of EU does not necessary mean that the effects of the AA is shown in EU. In many aspects the purposes concerning cooperation is giving technical and/or economical aid to Chile and in this cases the eventually effects will of course be seen in Chile. The purposes, at least the official ones, should also be the same for EU and for Chile. In some aspects the purposes of Chile will be touch up on but in general the thesis will take a European perspective and focus on why EC choose to sign a Association Agreement with a small country as Chile and the outcome from the point of view of EC. When studying the result the AA had on Chile I came across some unwanted side effects in Chile and I decided to gather them in a special chapter in the end of this work.

¹ European Commission, Chile Country Strategy Paper 2007-2013, p. 34

² European Commission, Chile Country Strategy Paper 2007-2013, p. 13

1.1 Purpose

The purpose of this thesis is to answer the question about whether the Association Agreement between the European Community and the Republic of Chile has fulfilled its purposes or not. The main focus will be on the purposes of the European Union. That the purposes are those of EU does not necessarily mean that the effects of the AA is shown in EU. In many aspects the purposes concerning cooperation is giving technical and/or economical aid to Chile and in this cases the eventually effects will of course be seen in Chile. The purposes, at least the official ones, should also be the same for EU and for Chile. In some aspects the purposes of Chile will be touch up on but in general the thesis will take a European perspective and focus on why EC choose to sign a Association Agreement with a small country as Chile and the outcome from the point of view of EC. When studying the result the AA had on Chile I came across some unwanted side effects in Chile and I decided to gather them in a special chapter in the end of this work.

1.2 Method

The thesis will commence with an exposition of the material extent of the AA content and the answer for the following questions; what does the AA include? In what sense is it innovative? Is there anything special that can be said about the material extent of the agreement? Thereafter the purposes of the AA will be identified, both the purposes stated in the Agreement and other documents and underlying purposes. The legal obligations of the Parties respectively in order to fulfil those purposes will be examined as well as the work that has been done and is being done in order to reach the purpose. For each identified purpose the question; has the purpose been fulfilled? will be answered or at least tried to be answered .

For the material extent mainly the AA itself will be analyzed but to some extent also what has been written about it in official statement and analysis. To find out what changes there have been it the trade of goods official statistic such the one that can be found at Banco Central de Chile and DG Trade (Eurostat) will be used. For identifying the official purposes once again look at the Agreement itself will be used as well as the country strategy paper and other official documents and statements of the Parties, among them the reports from the four summits between Europe and Latin America that have taken place between 1999 and 2008. Finally, for identifying underlying purposes of the AA less official documents such as speeches and political declarations will be used.

For answering the main question of this thesis; Have the AA fulfilled its purpose various sources will be used. Among them news paper articles and web sites, the EC Country strategy paper for Chile, interviews with Chilean citizens and own observations.

While talking about signing the Agreement the term EC will be used but for the rest of the dissertation the term EU or European Union will mainly be used. The term "Both Parties" will also be used even though all the Member States are parties to the agreement. To simplify the writing and understanding EC/EU will be used even in the cases when the Member States are the ones that will perform an action, e.g. in the case with readmission of nationals under article 46 about illegal immigration. As the main purpose of this dissertation is not to see what

effect the AA has had on trade great effort have not been put into looking for or comparing different sources for the statistics concerning trade. Statistics from Direcon, from the Central Bank of Chile and from Eurostat have been used but the figures have not been compared in detailed. As the purpose rather is to look into the trends and change of the trade no effort have been put into comparing the values of USD and euro and the changes in values. Only statistic until and including 2007 have been used. The figures include all the Member states of the European Union as the Union looks *today*. The reason for this is to not get any sudden increase in the trade 2004 that does not have to do with the AA but with the enlargement of the European Union. However, some of the increase in 2004 can be explained by the excess to the European Union by the ten new Member States that joined the Union this year.

1.3 The Parties and the Agreement

The Association Agreement is a typical mixed agreement, concluded, on the one hand, by Chile and, on the other hand of the EC and the member states of the EU. From the point of view of EC the agreement is concluded under Article 310 of the EC Treaty.

1.3.1 The Agreement

Association agreements are concluded by the EC under Article 310 of the EC Treaty. Association agreements have been used in different ways by EC. Many countries, as Sweden, had association agreements with EC before becoming a member. Other countries, as Turkey, have had association agreements for many years. Also countries which can not become members of EU as Chile, Mexico and South Africa have association agreements with EC. An association agreement can also be instead as membership of EU as in the case of the EES-countries that all have association agreements with EC. An association means that a special relationship to the European Union is created. The cooperation may lead to a membership of the EU, stay at level of close institutional cooperation or also include special benefits such as free trade areas, custom unions or preferential systems. The agreements are primarily based on regulations concerning trade but do also include cooperation in other areas. The most important trade mark for an association is that the EC together with the third country creates mutual institutions with representatives from both Parties up to Ministers' level. The decisions that are made in these institutions are binding for the Member Countries of the European Union and are an integrated part of the Community law.

The main part of the AA between the European Community and the Republic of Chile came into force the 1st of February 2003. This part included the areas where the EC, in accordance with article 133 of the Treaty, has the competence to make agreements as for everything concerning trade³. The remaining parts of the AA, including Services, Financial services, Inversions, Intellectual Property and Current Payment and Capital Movement were signed by EC 1st of March 2005. The reason why these parts took so long was that EC and the member states have divided competence in these areas and all member states first had to sign and ratify the AA before the remaining parts could come into force. The European Parliament unanimously gave its assent to the AA on the 12th of February 2005⁴.

A traditional free trade agreement or a "first generation agreement" only includes free trade in goods. A "second generation agreement" includes trade in goods, trade in services, investment and public procurement. A "third generation agreement" is not limited to liberalizing trade, but does also include issues like investment, services, intellectual property rights, government purchases and regulations to fight unfair competition. A further step beyond third generation agreement is a "fourth generation's agreement". Such an agreement also contemplates the adoption of substantive cross-border competition law provisions. Fourth generation agreements are not very common, they are usually agreed between two parties that maintain a high degree of economic integration⁵. The Association Agreement between EC and Chile is said to be a "fourth generation + agreement" and, so far, the most advanced free trade agreement that EC had entered into with a non-European state.

³ *Activities of the European Union Summarises of legalisation*, <http://europa.eu/scandplus/leg/en/lvb/r14015.htm>

⁴ *Activities of the European Union Summarises of legalisation*, <http://europa.eu/scandplus/leg/en/lvb/r14015.htm>

⁵ Taylor, *International Competition law: A new dimension*, p. 21

1.3.2 The Parties

As mentioned above, The AA is signed and ratified on one hand by the Republic of Chile and on the other hand of the member states of the European Union *and* the European Community. This means that the Parties to the EC-Chile Agreement are; Chile and a) the European Union *or* b) The European Union *and* the Countries of the European Union *or* c) The Countries of the European Union.

1.3.3 Chile

Chile is a small South American country between the Pacific Ocean and the Andes. The population is about 16 million people. Between 1970 and 1973, under the government of President Allende, Chile had an extremely protectionist trade policy, the goal was to be totally self-sufficient. After the military coup 1973, when General Pinochet took the power, Chile opened its frontiers to the world and stake on export. Every since Chile has been one of the most open countries in the world and is constantly negotiating new Free Trade Agreements. This politic has given great result for Chile that is now one of the countries in Latin America with highest standard of living and also with a great annual growth. Until about 2005 Chile was on the OECD list of developing countries but has now been invited to join the OECD and is an accession candidate country for OECD since 2006⁶.

Chile is one of the countries in the world with most Free Trade Agreements e.g. agreement with the European Union, with the United States, with China, with Japan and with Chorea. Chile is member of APEC and strives to be the gate between Latin America, the Pacific Ocean area and Asia. In 2007 90.8 % of Chile's total trade was between Chile and countries with which Chile had Free Trade Agreements with. The most important export product of Chile is copper. The copper part amounts to a whole 66 % of the total value of Chile's export. The Chilean economy is closely linked to the world copper price. The European Union is Chile's most important trading Party⁷.

⁶ www.oecd.org

⁷ DIRECON; *Informe Comercio Exterior de Chile 4o trimestre 2007*, www.direcon.cl

1.3.4 European Union

The European Union has 27 Member Countries and 500 million habitants. Although its population is less the 10 % of the worlds population the Union has a fifth of the world's trade. The biggest trading party of the European Union is the United States. In 2006 Chile was the 34th biggest trading party of the European Union⁸. The European Union has sector agreements with Canada and India and FTA with Australia. EC has a Euro-Mediterranean Partnership with Algeria Egypt, Israel, Jordan, Palestine, Syria, Tunis and Turkey. Furthermore, it has Association Agreements with; Chile, South Africa, Lebanon, Mexico, Morocco and EEA with the EES-countries. EC is negotiating agreements with Iran and Iraq and an Association Agreement with Mercosur; Argentina, Brazil, Paraguay and Uruguay.

It is natural that the European Union is such a big trading party to Chile but Chile is only one of many trading Parties to the Union as the market of the Union is so much greater than the Chilean market. Even if all the export of Chile went to the European Union it would only covered a very small percentage of the demand.

⁸ DG Trade, EU bilateral trade and trade with the world ; Chile

2 Material extent

The Association Agreement (AA) is divided into five parts;

- I) General and Institutional Provisions
- II) Political dialogue
- III) Cooperation
- IV) Trade and trade-related matters
- V) General Provisions

The parts are then divided into titles, the first part is composed by two titles, the second part is not divided, the third part is divided into seven titles, the fourth part is divided into eleven titles and the fifth part is not divided. The trade part plays a superior part. The AA gives the frames for the political dialogue and by signing the AA the Parties agreed to deepen the co-operation in areas concerning economical and financial questions as well as deepen cultural, social, educational, and technical and science co-operation.

2.1 General and Intuitional Provisions

2.1.1 Title I Nature and Scope of the Agreement

The AA establishes a Political and Economic Association between the Parties. This association is, according to article 2, based on reciprocity, common interest and the deepening of the relationship in all areas of application⁹. The Agreement provides for; political dialogue, cooperation, participation in framework programmes and expansion and diversification of trade¹⁰.

2.1.2 Title II Institutional Framework

The Association Agreement established an Association Council that shall meet at ministry level with regular intervals not exceeding two years¹¹. The Council is being composed of the President of the Council of the EU, assisted by a representative of the EU and the Minister of Foreign Affairs of Chile¹². The Association Council shall be chaired in turn by The Minister of Foreign Affairs of Chile and a Member of the Council of the EU¹³. The work of the Council is to supervise the implementation of the Association Agreement¹⁴. The decisions of the Association Council are binding on the Parties, Article 5 paragraph 2. of the Association Agreement states that “The decisions taken [by the Association Council] shall be binding on the Parties, which shall take all the measures necessary to implement them in accordance with each Party’s internal rules.”

⁹ AA Article 2 paragraph 1

¹⁰ AA Article 2 paragraph 4

¹¹ AA Article 3 paragraph 1

¹² AA Article 4 paragraph 1

¹³ AA Article 4 paragraph 4

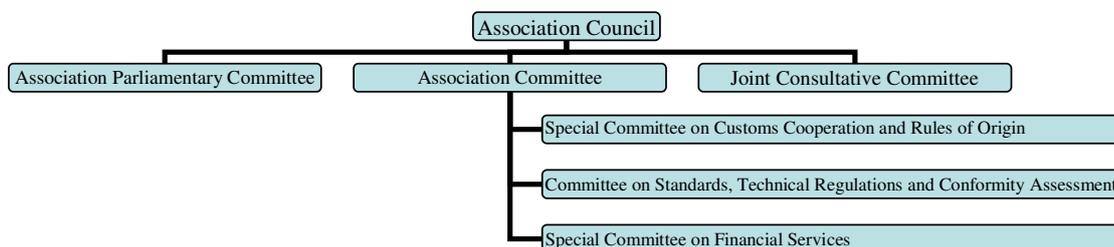
¹⁴ AA Article 3 paragraph 1

The Association Council is being assisted by an Association Committee. The work of the Committee is to be responsible for the general implementation of the Association Agreement. The Committee is being composed of representatives of the Members of the Council of the EU and of the EC and of representatives of the Government of Chile. The Association Committee shall meet every year, every second year in Brussels and every second year in Santiago de Chile and shall also be chaired alternatively by a representative of each of the Parties¹⁵.

The Association Agreement also established a “Joint Consultative” committee; the work of this committee is to promote dialogue and cooperation between economic and social organisations of civil society in the EU and in Chile. The Committee is composed by members of the European Economic and Social Committee and by members with a corresponding institution of Chile¹⁶¹⁷.

The agreement also established an Association Parliament Committee. This Committee shall be a forum for members of the Chilean National Congress and members of the European Parliament where they can meet and exchange views. The Parliament Committee shall meet at intervals that it may self decide, the meeting chaired every second time by a representative of the European Parliament and every second time by a representative of the Chilean National Congress. The Committee may make recommendations to the Association Council.

Furthermore some special committees were being established by the Association Agreement, these are described in other parts of the agreement; article 81 established a Special Committee on Customs Cooperation and Rules of Origin, Article 88 established a Committee on Standards, Technical Regulations and Conformity Assessment and article 127 established a Special Committee on Financial Services. The special committees report to the Association Committee. The Committee on Standards, Technical Regulations and Conformity Assessment shall meet every year and the other two shall meet when agreed upon by the Parties.



The tasks of the Committees are also mention in other parts of the AA. As in Article 54 found under Part III, Cooperation. The article states that the Association Committee shall assist the Association Council of its functions regarding cooperation related matters, supervise the

¹⁵ AA Article 6

¹⁶ Ministerio de Relaciones Exteriores de Chile, *La Agencia de Cooperación Internacional de Chile (AGCI)*

¹⁷ AA Article 10

implementation of the cooperation framework agreed by the Parties and make recommendations on the strategic cooperation between the Parties. The Association committee shall also report regularly to the Association Council about the application and fulfilment of the objectives concerning cooperation¹⁸. The set up for Services is a little bit different; according to article 100:1 of the AA the Parties shall review the chapter every three years with a view to further deepening liberalisations. When that is done the Association Committee shall examine the operation and submit appropriate proposals to the Association Council.

Concerning the title about Government Procurement, Article 162 of the AA states that the Association Committee shall review the title every two years. The Committee shall consider any issue arising and take appropriate actions. Article 171 of the AA that can be found under TITLE VI Intellectual Property Rights is really interesting. The article gives the Association Committee the possibility to include further multilateral conventions in article 170 of the AA. Article 170 is, in my opinion, the most legalistic article of the whole AA and includes all the laws and conventions that the Parties must follow when it comes to Intellectual Property Rights.

Finally title X provides Specific tasks in trade matters of the bodies established under the agreement. The title includes functions that shall be carried out by the Association Committee concerning trade. Among them are the following functions concerning the area of trade:

- to supervise the implementation and proper application of the provisions of the AA.
- to oversee the further elaboration of the provisions of the AA evaluate the results obtained in its application
- to resolve disputes that may arise regarding the interpretation or application concerning trade (in accordance with the provisions of Article 183)
- to assist the Association Council in the performance of its functions.
- to supervise the work of all the Special committees established

and

- to carry out any other function assigned to it under this Part of the Agreement or entrusted to it by the Association Council, concerning trade-related matters¹⁹

According to article 193 the Association Committee have the possibility to set up any special committees or bodies to deal with matters falling within its competence. The Committee may also consider any issues regarding trade-related matters, and take appropriate action in the exercise of its functions as well as take decisions or make recommendations on trade-related matters, in accordance with Article 6.(Article 6 is the article about the Association Committee)

¹⁸ AA Article 54

¹⁹ AA Article 195

2.2 Political dialogue

The chapter concerning Political dialogue is divided in four articles; objectives, mechanism, cooperation in the field of foreign and security policy and cooperation against terrorism.

2.2.1 Mechanism

Article 13 of the Agreement states that the political dialogue shall be carried out by regular meetings between the Heads of State and Government, periodic meetings between the Foreign Ministers of the Parties and meetings between other Ministers as well as annual meetings between senior officials of the Parties²⁰. Along with article 13 there is a Declaration by the Community saying that the President of the Commission as well as the High Representative of the European Union shall participate in the regular meetings between the Heads of State and Government²¹. Article 13 also states that the Parties shall make maximum use of the diplomatic channels²².

2.2.2 Cooperation in the fields of foreign and security policy

This sector of the Agreement is very short, only one article, article 14, which states that “The Parties shall, as far as possible, coordinate their positions and undertake joint initiatives in the appropriate international fora, and cooperate in the field of foreign and security policy”²³.

²⁰ AA Article 13 paragraph 1

²¹ Joint Declarations (to the AA) p. 5

²² AA article 13 paragraph 4

²³ AA article 14

2.2.3 Cooperation against terrorism

Article 15 of the Agreement states that the Parties shall cooperate in the fight against terrorism. This shall be done in accordance with International conventions as well as in accordance with the laws and regulation of the Parties. The Parties also agree to implement the Resolution 1373 of the United Nations²⁴ that was passed the 28 of September 2001, shortly after the 11 of September attack. Among other things the resolution states that all States that have signed the resolution shall; prevent and suppress the financing of terrorism acts, criminalize all means of funds with the fine of terrorism acts and freeze such existing funds. All States shall also refrain from providing any support to terrorism groups, take all necessary steps to prevent the commission of terrorism acts, deny safe havens for each and everyone associated with terrorism and ensure that any such person will be brought to justice²⁵.

The Association Agreement also states that the Parties shall exchange information about terrorism groups and exchange methods and experience concerning the fight against terrorism²⁶.

²⁴ AA article 15

²⁵ UN Security Resolution 1373 (2001)

²⁶ AA article 15. (b)

2.3 Cooperation

Part III of the AA that is about Cooperation includes seven titles and is rather detailed.

2.3.1 Title I Economic cooperation

The title about Economic cooperation includes important areas such as industrial cooperation, cooperation on energy, transport, agriculture, fisheries, and environment as well as cooperation on standards and technical regulations, promoting investments, data protection, consumers protection, intellectual property rights and public procurement.

Article 18 states that Cooperation on standards, technical regulations and conformity assessment is a key objective in order to avoid and reduce technical barriers to trade. Cooperation in this area shall aim at promote efforts in, among other things, compatibility of technical regulation on the basis of international and *European* standards.

Article 21 is about Promoting investment and it lies down that the aim of cooperation is to help the Parties to promote an attractive and stable reciprocal investment climate. Further the article says that cooperation will develop a legal framework for the Parties that favours investment, by conclusion, where appropriate of bilateral agreements between the Member States and Chile to promote and protect investment and avoid dual taxation.

For Cooperation on Energy goes that the aim of the cooperation is to consolidate economic relations in key sectors such as hydroelectricity, oil and gas, renewable energy, energy saving technology and rural electrification. Among the objectives is assistance for Chilean institutions dealing with energy matters and the formulation of energy policy²⁷.

Article 23 about Transport is another of few articles where Chile is mentioned by name. The article says that Cooperation concerning transport will focus on restructuring and modernising Chile's transport system, improving the movement of passengers and goods and providing better access to the urban, air, rail and road transport market.

Consumer protection, article 29, is more aimed at avoid barriers to trade than to protected consumers. Cooperation in this field should seek to make the consumers programmes in the Parties compatible. It shall cover making consumers legalisation more compatible in order to avoid trade barriers.

2.3.2 Title II Science technology and information society,

This title includes cooperation on science and technology, information society, information technology and telecommunication. Concerning Cooperation on science and technology article 36 stresses the importance of policy dialogue and exchange of scientific and technological information. Cooperation in the form of joint researched projects, scientific meetings and the development of links between the public and the private sectors shall be encouraged.

²⁷ AA article 22

2.3.3 Title III Culture, education and audio-visual cooperation,

About Education and training can be read in article 38, under title II, Culture, Education and Audio-Visual that the Parties will significantly support pre-schooling, basic intermediate and higher education, vocational training and life-long learning. The article also states that special attention will be paid to access to education for vulnerable social groups such as the disables, ethnic minorities and the extremely poor.

The Parties also agrees to promote the cooperation in the area of the audio-visual field according to article 39 of the AA.

When it comes to Culture article 40 of the AA states that special attention must be paid to promoting joint activities in fields as press, cinema and television. Translation of literary works, conservation and restoration of national heritage and promotion of local culture are mention as example on culture that can be cooperated on.

2.3.4 Title IV State reform and public administration

This is a title that is not reciprocal. The title aims at reforming the Chilean State and public administration. The Title about State reform includes articles concerning Public administration and inter-institutional cooperation.

Cooperation in the area of Public administration shall aim at the modernisation and decentralisation of public administration and encompass overall organisational efficiency²⁸. Cooperation in this area may, between others, involve programmes concerning:

- Modernisation of the State and of public administration
- Decentralisation of the State and of public administration
- Job creation and vocational training programmes
- Development, rural housing or land management projects
- Health and primary education programmes

An interesting thing about this title is than when almost all other texts of the AA talks only about *the Parties* Article 41:3 states that “The means of cooperation in this area will be technical assistance to Chilean policy-making and executive bodies, including meetings between staff of the European institutions and their Chilean counterparts.

²⁸ AA article 41:1

2.3.5 Title V Social cooperation

This is another title that is not reciprocal. The title is focused on changing and promoting social conditions in Chile in different ways.

The title about Social cooperation includes three articles, Social dialogue, Social cooperation and Cooperation related to gender. The article about Social Cooperation says that the Parties will give priority to the creation of employment and respect for fundamental rights, notably by promoting conventions of the International Labour Organisation²⁹. Between other thing, the Parties shall give priority to measures aimed at:

- Promoting the role of woman
- Promoting human development and reduce poverty. Special attention shall be paid to low-income families and disabled persons
- Developing an efficient and equitable health system, based on solidarity principles
- Promoting respect for human rights, democracy and citizens' participation.

Farther the Cooperation related to gender states that the cooperation will contribute to ease the access of women to all necessary resources for the full exercise of their fundamental rights. In particular the cooperation shall lead to ensure that gender and gender related issues will be taking into account at every level and to promote the adoption of positive measures in favour of women.

²⁹ AA article 44

2.3.6 Title VI, Other cooperation areas

This is a title that includes Cooperation on illegal immigration and Cooperation on drugs and combating organised crime. For the Cooperation on illegal immigration the Member states as well as Chile agree to readmit any of its national being illegally present on the other Party's territory³⁰. For this purpose the Parties also agree to provide all their nationals with appropriate identity documents³¹. In case of a request for doing so, the Parties agree to conclude an agreement regulating the special readmission obligation of Chile and of the Member States, including an obligation to readmit nationals of other countries and stateless persons³². Chile also agrees, upon the request of any Member State, to conclude bilateral agreement with individual Member States regulating the specific readmission obligation between Chile and the Member State concerned, including the obligation to readmit nationals of other countries and stateless persons³³.

Concerning Cooperation on drugs and combating organised crimes the Parties undertake to coordinate and increase their effort to prevent and reduce the illicit production of, trade in and consumption of drugs and the laundering of profits from drug-trafficking. They also undertake to combat drug related organised crime through the intermediary of international organisations and bodies³⁴. In particular the Parties will cooperate in:

- Projects for treatment, rehabilitation and family, social and labour reinsertion of drug addicts
- Joint study and research programmes
- Joint training programmes relating to prevent the consumption of drugs
- Exchange of relevant information

³⁰ AA article 46. 1.

³¹ AA article 46. 2.

³² AA article 46. 3.

³³ AA article 46. 4.

³⁴ AA article 47

2.3.7 Title VII General Provisions

The General Provisions deals with participation of civil society in cooperation, regional cooperation and regional integration triangular and bi-regional cooperation, future development clause, cooperation within the association relationship, resources, specific tasks of the Association Committee in cooperation matter. Article 49 states that both Parties shall use all existing cooperation instrument to promote activities aimed at developing an active and reciprocal cooperation between the Parties and Mercosur as a whole. Priority shall be given to promote trade and investment in Latin America as well as promoting regional cooperation on the environment.

The cooperation as a whole shall mainly be carried out by the Association Committee. According to Article 54 Specific tasks of the Association Committee in cooperation matters, the Committee shall supervise the implementation of the cooperation framework agreed between the Parties. The Association Committee shall also make recommendations on the strategic cooperation between the Parties. The recommendations shall serve to set long-term objectives. The Committee is also to regularly report to the Association Council on the application and fulfilment of the objectives and matters of the Cooperation part of the Agreement.

2.4 Trade and Trade related matters

This part is the most extensive part of the agreement. Along with the eleven titles comes various annexes and the elimination schedules includes almost 1000 pages and 30 000 products. Shortly can be said that the customs shall be phased out over ten years. After ten years 97.1 % of the trade between the countries shall have been liberalised. The industry products shall be totally liberalised while the liberalisation for agriculture products will only be 80.9 % and the liberalisation for fishery products will be 90.8 %³⁵. For Chilean export 85.1 % of the products entered free of customs from the start of the agreement. After four years, in 2007, this number had increased to 95.2 %. After ten years, 2013, 99.7 % of all Chilean products will enter the European Union without customs or other duties.

2.4.1 Title I General Provisions

This title includes the objectives of the free trade area of the agreement³⁶ and gives the Parties the right to conclude Customs unions and free trade areas with third parties³⁷. One objective is “the progressive and reciprocal liberalisation of trade in goods in conformity with GATT” and another is “the adequate and effective protection of intellectual property rights, in accordance with the highest international standards”³⁸.

2.4.2 Title II: Free movement of goods

This title includes regulations concerning Customs duty in article 59 and Elimination of Customs duties in article 60. The most important provisions of this title is that no new customs duties shall be introduced³⁹, that customs duties on imports shall be eliminated in accordance with the AA and that all customs on export shall be eliminated from the coming into force of the AA⁴⁰.

³⁵ *Activities of the European Union Summarises of legalisation*,
<http://europa.eu/scandplus/leg/en/lvb/r14015.htm>

³⁶ AA article 55

³⁷ AA article 56

³⁸ AA article 55 (f)

³⁹ AA article 61

⁴⁰ AA article 60

2.4.2.1 Industry products

Industry products are discussed in articles 64-66 and in Annex I of the AA. From the entering into force of Agreement medicines and medical equipment, paper and pasteboard, farming machines, machines and like products in general, furniture, optical instrument as well as wood, steel, textiles, shoes and clothes have been custom free, this amounts to a total of 91 % of all the Industry products. For both Parties the tariffs for glass and ceramics have been redacted during the years from the coming into force of the Agreement. Regarding export from the European Union the custom for vehicles and some metals are products that have been and will be phased out. All import of Industry products to the European Union from Chile is free of custom and tariff today and has been so since January 1, 2006. For the export to Chile all Industry Products will be freely traded at the latest January 1, 2010.

2.4.2.2 Fishery

Article 67, 68 and 69 of the AA are about fish and fisheries products, from these articles and from Annex 1 it can be understand that more than 99 % of all fish and seafood products are included in the AA. For tuna the custom will continue even after 10 years have passed, the custom will be one third of the Most Favoured Nation-price at the time of the import. Some tuna fish filets, called loins, are totally excluded from the AA.

EU adopted safeguards measures concerning all farmed salmon in February 2005⁴¹.

2.4.2.3 Agriculture

Agricultural and processed agricultural products are covered of articles 70-74 with article 73 being an emergency clause. In general can be said that a large part of the tariffs on agriculture products will be paste out during a ten years period but after ten years only 80.9 % of the agriculture products can be imported free. The reductions will be done in different paste for different products.

For export from Chile some products are totally excluded from the tariff reductions, among them are several dairy products, most meat, grain, sugar, olive oil, flour, tobacco and some fruits and vegetables. Products with protected designations, as wine, spirits, and cheese, are being excluded from the custom reductions and some products, as meat and cheese, will be given tariff-rate quota . The quotas will be increased by 5 or 10 % every year and they will be given either to the first ones that applies for them or through licenses. Some Chilean products are totally being excluded from all facilitation measures⁴². Regarding export from the EU to Chile fewer products are being excluded. Among these products, dairy products, wheat, sugar, and some oils can be found. Tariff-rate quotas without custom will be opened for, among other products, cheese and some oils, the quotas will be given to the first ones that apply for them. As in the case with export from Chile, some products will not be included neither by tariff reductions nor quotas. For wine the tariffs will be paste out in four years except for the products that have protected designations⁴³. For the export from EU to Chile;

⁴¹ www.globefish.org

⁴² Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile*, p. 19

⁴³ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile* p. 21

between 1997 and 2001 only 3-4 % of the total products exported were agriculture products. When it comes to the export from Chile to EU on the other hand, during the same years between 25 and 28 % of the total export was agriculture products⁴⁴. Contrary to the AA between EC and Mexico the AA does not include any restrictions against export subvention. This is surprising as Chile is a member of the Cairns group, a group very negative to export subvention⁴⁵.

Article 73, Emergency clause for agricultural and processed agricultural products, gives the Parties a possibility to take appropriate measure in a case where a product is being import from the other Party in such quantities that and under such conditions that it does or is about to cause serious injury or disturbance in the market of that, or like, product⁴⁶.

2.4.2.4 Standards, technical regulations and conformity assessment procedure

Section 4 of the trade part covers standards and technical regulations. The section holds several references to the WTO TBT regulations⁴⁷ and the regulations are in line with the TBT regulations as well as the policies and strategies that have been developed within the union. They are also in line with the external cooperation of the union such as ASEM (Asia Europe Meeting). It is stressed in the Agreement that all standards shall be *International Standards* when possible. The section is, according to the Swedish Board of Trade, well written and could stand model for future agreements of the EC⁴⁸.

2.4.2.5 Sanitary and phytosanitary measures including wine and spirits

Section 5 deals with sanitary and phytosanitary measures. The objective of this section is to facilitate trade between the Parties and at the same time safeguarding public, animal and plant health by further implementing the principles of the WTO on the Application of Sanitary and Phytosanitary Measures. An additional objective of this section is to consider animal welfare standards⁴⁹. The Association Agreement is more concrete than the Association Agreement between EC and Mexico. In the later it is only stated that the Parties shall cooperate in the sanitary and phytosanitary area.⁵⁰

Section 6 deals with Wines and Spirits. This is the section that was the hardest part of the Agreement to negotiate because of the trade in wines. EU is very protective regarding wine and this is really the only export sector where Chilean products are in strong competition with the European ones. Finally the negotiations could be concluded when Chile agreed to drop the descriptions "reserva" and "chateau" from its wines and allowed Europe to sell the wine with the label "New world wines". Together with the articles in the AA there are four joint declarations, two declaration of the Community and six declarations of Chile concerning Wine and Spirits⁵¹. Sector 6 can be seen as TRIPS +⁵².

⁴⁴ Kommerskollegiet *Analys av Associeringsavtalet EU-Chile*, p. 41

⁴⁵ Kommerskollegiet *Analys av Associeringsavtalet EU-Chile*, p. 22

⁴⁶ AA article 73 paragraph 1

⁴⁷ AA article 83, 84, 85 and 86

⁴⁸ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile* p. 37

⁴⁹ AA article 89:1

⁵⁰ Kommerskollegiet *Analys av Associeringsavtalet EU-Chile*, p. 32

⁵¹ Joint Declarations (to the AA)

⁵² García M. J, Trade in EU Foreign Relations: The EU-Chile Free Trade Agreement, p. 8

2.4.3 Title III: Trade in service and establishment

2.4.3.1 Service

A big part of the sector about service is based on GATS and does not go very much further than GATS. The Parties are granted full access to the market of the other Party and non-discrimination is being guaranteed in several important sectors. Audio-visual services, national maritime cabotage, air transport services and computer reservation services are excluded from the AA⁵³.

From the beginning the Parties were negotiating for a more far going agreement when it comes to services but Chile withdrew its offer as a protest to the narrow offer by the EC. It is possible that the Association Agreement between EC and Mexico will turn out to be more far going concerning services than the AA as the Mexican AA has regulations concerning the removing of all remaining obstacles to trade⁵⁴.

After the conclusion of the Association Agreement the Parties have signed a horizontal agreement in the field of air transport that will bring all bilateral air services agreements into conformity with EC law⁵⁵. Chile was the first country in the world to sign a horizontal agreement on certain aspects of air service with the EU. There are intentions to further strengthen the air transport relation between the Parties including the possibility to negotiate an even more ambitious air transport agreement⁵⁶.

⁵³ AA article 95

⁵⁴ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile* p. 44- 45

⁵⁵ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 36

⁵⁶ III EU-Chile Association Council

2.4.3.2 General provisions

The most interesting parts about services are the clauses found under General provisions, which include National treatment⁵⁷, Domestic regulations⁵⁸ and Mutual recognition⁵⁹. Annex VII holds a schedule of specific commitments and the regulations in the AA is only applicable to the services mentioned in the schedule.

The AA has special “Best endeavour” regulations concerning domestic regulations and laws. The aim of the “Best endeavour” regulations is that there should be no domestic certificates or license that will be an obstacle to trade or an unnecessary burden on the trade relation. The regulations are only valid for the areas where special undertaking have been done. These regulations can be of great importance when it comes to simplify trade, both for national and international companies⁶⁰. The regulations state that each Party shall make its best endeavours to implement and apply in its territory internationally agreed standards for regulation and supervision in the financial services sector and for the fight against money laundering. For this purpose, the Parties shall cooperate and exchange information and experience within the Special Committee on Financial Services referred to in Article 127.

2.4.3.3 International Maritime Transport (Cabotage)

The Parties shall continue to apply the principle of unrestricted access to the international maritime market. Also in this area the treatment is granted to be “no less favourable” than the treatment to ships of the territory instead of just as good as the treatment of ships from the “Most favoured nation”. The Parties are not allowed to introduce cargo-sharing clauses in other bilateral agreements with the only exception being the case where the Party can not have an effective opportunity to ply for trade to and from the country concerned if it does not do so. For cargo-sharing concerning dry and liquid bulk trade no exceptions are applicable. The Parties also agreed to abolish all hindrance on trade that could have a restrictive or discriminatory effect on the service in international maritime transport⁶¹.

⁵⁷ AA article 98

⁵⁸ AA article 102

⁵⁹ AA article 103

⁶⁰ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile*, p. 42

⁶¹ AA article 106-108

2.4.3.4 Telecommunication service

The section about Telecommunication service, article 109 to 115 of the AA, is more aimed at the fight against corruption. Between other things it states that the regulatory authorities shall be separated from the supplier and that the decisions in this area shall be impartial. It also includes transparency clauses and competition clauses⁶².

The section is based on GATS and it is not so far reaching in the sense that the bilateral incumbents do not go any further than GATS and also that only long distance service is included and not the local network. On the other hand, it clarifies more legal questions than GATS which should have a positive influence on the trade between the Parties⁶³.

2.4.3.5 Financial service

Article 119 of the Agreement grants the Parties National Treatment in the area of Investment and the chapter about Financial Services is long and detailed. However, just as in the case with telecommunication service the incumbents in the financial service do not go further than the GATS. The financial does only include local establishment and the providers of services only have the possibility to provide one service⁶⁴.

2.4.3.6 Establishment

Chile has a long history of being investment friendly for foreigners. The investment laws have been enacted primarily to attract foreign investors and the Chilean government has a favourable attitude towards foreign investment⁶⁵.

EU declared that the Association Agreement creates "the most open investment regime ever granted by Chile to any third country." The method of "National Treatment" has been chosen instead of the less favourable "Most Favoured Nation"- treatments⁶⁶. Annex X of the AA enumerates a long list of sectors where the Parties shall be given a treatment that is no less favourable than the treatment that domestic investors are being given while doing a similar economic activity. The Annex X contains various pages and one schedule for Chile and one for the European Union. In the latter each and every country of the European Union has done its own reservation⁶⁷.

Annex XIV holds special provisions concerning investment in Chile. It states that when an investment is done in Chile by any investor from the European Union the transfers from Chile of proceeds from the sale of the investment can not be done until a period of 1 to 5 years have passed from the date of transfer to Chile.

⁶² AA article 109-115

⁶³ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile*, p. 42

⁶⁴ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile* p. 55

⁶⁵ International Financial Law Review, www.iflr.com

⁶⁶ AA article 132

⁶⁷ AA p. 1339

2.4.4 Title IV: Government procurement

The Government procurement chapter has articles concerning national treatment and non-discrimination⁶⁸, prohibition of offset and national preference⁶⁹, Transparency⁷⁰ and Tendering procedures⁷¹. The **trade facilitation** part in the AA is very far going and the Swedish National Board of Trade has expressed that the Agreement could serve as a template for the WTO negotiations concerning trade facilitation⁷². The chapter ensures respect for the principle of national treatment, non-discrimination and transparency. It also has clear procedural rules for government procurement. The agreement also states that the Parties shall “take further steps wherever possible, towards the reduction, simplification and standardisation of data in the documentation required by customs, including the use of a single customs entry document or data message and a single customs exit document or data message, based on international standards and relying as far as possible on commercially available information”.

Article 161 of the Agreement have some exceptions regarding this title, the exception includes restrictions necessary for protecting public morals, order or safety; human life, health or security; animal or plant life or health; intellectual property as well as measures related to goods or services of handicapped persons, of philanthropic institutions or of prison labour.

2.4.5 Title V: Current payment and capital movement

Article 163 of the AA states that the Parties shall aim at the liberalisation of current payment and capital movement. The agreement ensures the free movement of payments and transfers between Chile and the EU, as well as capital movements related to direct investment. Chile preserved its Central Bank's right to require that a set percentage of borrowed funds and portfolio investment from foreign sources be placed in a non-interest bearing account for one year. This mechanism is known as “encaje” and it aim is to maintain the stability of the Chilean peso by discouraging the use of financing sourced abroad⁷³.

⁶⁸ AA article 139

⁶⁹ AA article 140

⁷⁰ AA article 142

⁷¹ AA article 143

⁷² Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile* p. 35

⁷³ US Chamber Chile, www.uschamber.com/portal/uscftc/fta/trade/factsheets/fact_fta2.htm

2.4.6 Title VI: Intellectual property rights

This title is interesting partly because the EC always is trying to get minimum standards in their agreements and partly because Chile a country with a less than good reputation concerning Intellectual Property rights. Article 170 of the Agreement is extremely detailed and legalistic and includes a long list of which conventions concerning intellectual property rights that shall be implemented by the Parties and when.

The agreed terms goes further than the TRIPS agreement and can be classified as TRIPS +. The Immaterial Rights goes far compared to other agreements that EC has conclude the last years, e.g. Mexico that has a similar association agreement, negotiated about the same time. Chile and EC agree to adhere to international conventions at a specific time and to provide adequate and effective means in order to guarantee protection according to these conventions⁷⁴. The Intellectual Property Right has been a big problem in Chile, mostly when it comes to pharmaceutical with as much as 78 % of all pharmaceuticals sold in Chile being copies. The total value of the pharmaceuticals was 600 million US dollars/year. Although modified during the last years the Chilean law did not fulfil TRIPS and Chile used to be on a “red list” used by the US concerning countries not having Intellectual Properties regulations good enough or not good enough observance of the legislations. Chile has recently implemented the WTO Trips Agreements through national law⁷⁵. As the Chilean intellectual property laws were as they were it was of great importance for the European Union to conclude such a far going agreement in this area.

2.4.7 Title VII: Competition

Article 172, paragraph 3 of the Agreement states that the Parties agree to cooperate and coordinate for the implementation of competition laws. The competition laws of the Parties are specified in article 173. The regulations concerning competition in the AA goes further than the most agreements concluded by EC. The clauses provide settings for the cooperation between the Parties in the competition area. There are forms for cooperation concerning notification, coordination, consultation, ex-change of non-confidential information and technical support. The competition clause is not subject to the dispute settlement mechanism of the AA.

The title about Competition is equivalent to the regulations about competition in the agreement between EC and Mexico⁷⁶.

⁷⁴ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile*, p. 54

⁷⁵ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 35

⁷⁶ Kommerskollegiet, *Analys av Associeringsavtalet EU-Chile*, p. 56

2.4.8 Title VIII: Dispute settlement

Many free trade Agreements have dispute settlement provisions that are based on negotiations and cooperation. This is not the case with the AA. The AA has a legalistic dispute settlement provision; after each Party have nominated members for a panel list⁷⁷ and the panel list is established no further consensus is necessary in order to establish an arbitration panel⁷⁸. The provisions have been inspired by article 21 and 22 in the WTO Dispute Settlement Understanding but the AA goes further,⁷⁹ e.g. the time limit for the ruling of the panel is shorter, only five months compared to 15 months in the DSU⁸⁰. The dispute settlement regulations of the AA are divided into two parts; consultation⁸¹ and arbitration⁸². First the Parties shall aim for consultation under what is referred to as “Dispute Avoidance” in the AA. If the dispute has not been decided after about 45 days from the request for consultation the complaining Party may request the establishment of an Arbitration panel.

The dispute settlement is applicable to the entire agreement except for competition⁸³. When it comes to Financial Service the Agreement contains some further regulations⁸⁴. The outcome of any case shall be published but so far there have not been any cases.

2.4.9 Title IX: Transparency

Regulation concerning transparency can be found in a particular chapter that states that each Party shall establish a contact point to facilitate the communication between the Parties⁸⁵. Both parties shall also publish or make publish available all laws, procedures and rulings concerning any trade matter relating to the AA⁸⁶. Transparency is also mentioned in the chapters concerning economic cooperation, Custom and related matters, Standards, Technical regulations and conformity assessment procedures, Service, Governmental procedure⁸⁷, Competition and in Annex IV concerning Sanitary and Phytosanitary measures. The chapter about Governmental Procedures mention Transparency several times and also stress the fact that electronic means of communication shall be used in order to facilitate the communication and the transparency⁸⁸. The transparency chapter is detailed and far going.

2.4.10 Title X: Specific tasks in the trade matters of the bodies established under this agreement

Article 193 of the AA provides regulation for the Association Committee. These functions have been discussed above in the chapter about Part I of the Agreement.

⁷⁷ AA article 185

⁷⁸ García B., Dispute Settlement in the EU FTA , Lesson learned? p. 2

⁷⁹ Ibid.

⁸⁰ DSU, article 21:4

⁸¹ AA article 183

⁸² AA article 184-188

⁸³ AA article 180

⁸⁴ AA article 129

⁸⁵ AA article 190

⁸⁶ AA article 192

⁸⁷ AA article 142

⁸⁸ AA article 156

2.4.11 Title XI: Exceptions in the area of trade

Exceptions can be found both under this title and in the Chapter about trade. The Association Agreement is narrower than the GATT when it comes to the General Exceptions. The text of the AA found in article 91 under the Agreement is a direct copy of the GATT text concerning public moral, protection of life, exportation of gold and silver, necessary to compliance with laws and regulations, products made by prisoners as well as protection of national treasures and conservation of exhaustible resources. But while the GATT has further exceptions concerning restrictions on export of domestic materials and products in general and also concerning measures undertaken in pursuance under an intergovernmental commodity agreement, these exceptions mentioned above are the only General Exceptions in the AA.

There is also a national security clause, article 194, in the Agreement, the wording is as in the WTO article XXI about Security exceptions but with the amendment that nothing in the Agreement shall prevent a Party from taking any action with it considers necessary for its essential security interest relating to government procurement indispensable for national security or for national defence purposes⁸⁹. Also, contrary from the WTO exceptions all measures taken under the National Security clause shall, as far as possible, be notified to the Association Committee.

The Agreement does not hold its own provision concerning Safeguards but refers to the WTO Agreement of Safeguards and Article XIX of GATT in article 92. The right of suspension referred to in Article 8(2) of the WTO Safeguard Agreement shall not be exercised between the Parties for the first 18 months that a safeguard measure is in effect, provided that the safeguard measure has been taken as a result of an absolute increase in imports and that such a measure conforms to the provisions of the WTO Safeguard Agreement⁹⁰.

EC adopted safeguards measures applicable to all farmed salmon in February 2005. The safeguards measures include a mixture of minimum import prices for the various products of salmon, annual duty-free quotas for the most important salmon exporting countries to EU, additional duties to be paid beyond the quotas and a financial guarantee to be raised by the importer. The measures were mainly aimed at Norwegian salmon but Chilean salmon export was also affected by the safeguards. The measures came into force the 6th of February 2005.

Chile challenged the Safeguards only two days after they have come into force. Chile did not use the Dispute Settlement measures in the AA but launched challenges to the WTO. It could do that as the AA states that when a Party seeks redress of a violation of an obligation under the Agreement that is equivalent to an obligation under the WTO Agreement it shall have recourse to the relevant rules and procedures of the WTO Agreement. Norway requested to join the consultation on the 18th of February 2005 and this request was accepted by the EC in March. The consultations seem to have gone well as the safeguard measures were terminated on the 27th of April the same year. Two weeks later, on the 12th of May, Chile formally withdrew its request⁹¹.

⁸⁹ AA article 194

⁹⁰ AA. article 92

⁹¹ DS 326

2.4.11.1 Shortage clause

The shortage clause in article 93 of the Agreement is aimed at situations where compliance with the agreement leads to a critical shortage, or threat thereof, of foodstuffs or other products essential to the exporting Party; *or* a shortage of essential quantities of domestic materials for a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilisation plan; *and* where the situations referred to above give rise *or* are likely to give rise to major difficulties for the exporting Party, that Party may take appropriate measures under the conditions and in accordance with the procedures laid down in this Article⁹².

The provision of the AA is not very different from the exceptions that can be found in GATT article XIX under the name Emergency Action on Imports of Particular Products and it is more narrow. When GATT XIX talks about any product the shortage clause is just valid for some specific products as foodstuffs. The Association Agreement between EC and Mexico also holds a shortage clause that is resembled to the clause in the AA⁹³.

2.4.11.2 Anti Dumping

As for the Safeguards, the Association Agreement does not hold any provisions concerning anti dumping. Instead article 78 of the AA references to WTO; "If a Party determines that dumping and/or countervailable subsidisation is taking place in its trade with the other Party, it may take appropriate measures in accordance with the WTO Agreement on Implementation of Article VI of the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures⁹⁴.

2.4.11.3 Balance of payment difficulties

In the case that either Party has a serious problem with Balance of payment it might restrict the trade in goods and/or services according to article 195 of the Agreement. The possibility to use this clause is less than in WTO as the Association Agreement state that any measure shall be in accordance with the conditions established in the WTO Agreement and consistent with the article of Agreement of the International Monetary Fond.

2.4.11.4 Taxation

The Association Agreement shall not affect the possibility of the Parties to collect taxes. If the AA and any convention concerning taxes may distinguish, the convention shall prevail⁹⁵.

⁹² AA article 93

⁹³ Kommerskollegiet, Analys av Associeringavtalet EU-Chile, p. 39

⁹⁴ AA article 78

⁹⁵ AA article 196

2.5 Final Provisions

Article 197 defines the Parties and article 198 talks about the entry into force of the agreement. Article 199 says that the agreement shall be valid indefinitely but can be denounced by any Party after six months notice. Article 200 of the AA is important as deals with Fulfilment of the obligations. Article 200 is discussed more exhaustive below. Article 201 is also worth mention as it is about the possibility Future developments of the agreement.

2.6 Legal Obligations

The Association Agreement between EC and Chile is not very legalistic in the meaning that it includes legally binding obligations. The obligations are, without exceptions, equal for both Parties e.g. there is not explicit obligation for only Chile to change its national legislation in order to comply with the Association Agreement.

There are some areas where the Parties are obligated to bring or maintain its laws in accordance with the Association Agreement. These are articles concerning trade that normally are legally binding in Free Trade Agreement. Among these Article 61, Free movement of goods Article 76, prohibition of quantitative restrictions, article 77, national treatment and article 79 Customs and related matters can be found.

But there are also some other articles that are more or less legally binding. When it comes to Standards Article 86 “The Parties confirm their rights and obligations under the TBT Agreement and their commitment to its comprehensive implementation”

The most specified obligations of the agreement concern Intellectual Property Rights and Competition. Article 170 concerns Intellectual Property Rights. The article numerates several International conventions and is very clear about the obligations that shall be implemented and when they shall be implemented. The Conventions are separated in four parts, the ones that shall already be implemented, the ones that should be implemented from 1st of January 2007, the ones that shall be implemented from the 1st of January 2009 and the ones that shall be implemented at the earliest possibility opportunity. According to article 171 the Association Council can also include further conventions in art Article 172.

Article 172, concerning Competition, states that that the Parties undertake to apply their respective competitions laws in a manner consistent with the AA. Article 173 names the competition laws of the European Union and of Chile that article 172 apply to. The most legalistic part of article 172 is paragraph 3 that makes clear that the Parties agree to apply to cooperate and coordinate among themselves for the implementation of competition law. The cooperation includes notification, consultation, exchange of non-confidential information and technical assistance.

There are no obligations for implementation of national laws concerning non-trade purposes such as labour, gender or environment, only aims and goals. In general can be said that the agreement is formulated with precaution, it is filled with expressions as “best effort”, “wherever possible”, “where appropriate” “promote”, “encourage” and “according to their own capabilities”.

Instead of demanding implementation in national law the agreement is subject to arbitration with very few exceptions and article 200 Fulfilment of the obligations (Part V, Final Provisions) states that “The Parties shall adopt any general or specific measures required for them to fulfil their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement⁹⁶”.

“Measures” are not defined in nor Part V neither in Part I, General Provisions but if possible to define “measures” as done in the area of Financial Service “ “measures” means any measure by a Party, whether in the form of law, regulation, rule, procedure, decision, administration action, or any other form”⁹⁷.

Article 200 further states that; “If one of the Parties considers that the other Party has failed to fulfil an obligation under this Agreement it may take appropriate measures. Before doing so, it must supply the Association Council within 30 days with all the relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Parties⁹⁸”.

In the case of a breach of the very essence of the Agreement as stated in Article 1 paragraph 1; “Respect for democratic principles and fundamental human rights as laid down in the United Nations Universal Declaration of Human Rights and for the principle of the rule of law underpins the internal and international policies of the Parties and constitutes an essential element of this Agreement⁹⁹” the other Party “may immediately take appropriate measures in accordance with international law¹⁰⁰”. The decisions of the Association Council are, however, binding on the Parties, Article 5 paragraph 2. of the Association Agreement states that “The decisions taken [by the Association Council] shall be binding on the Parties, which shall take all the measures necessary to implement them in accordance with each Party’s internal rules.”

⁹⁶ AA Article 200 paragraph 1

⁹⁷ AA Article 117 . 1.

⁹⁸ AA Article 200. 2.

⁹⁹ AA Article 1. 1.

¹⁰⁰ AA Article 200. 3.

2.7 Summary of the Material extent:

Summarizing the material extent can be said that it is easy to understand why the Association Agreement between EC and Chile is considered to be a “fourth generation +” agreement. The cooperation goes far in all areas and the Swedish board of trade has expressed that several titles of the AA could serve as a model for WTO and/or future EC agreements.

The trade liberalisation concerning trade in goods is far reaching; all industrial products are included in the agreement and almost all products entered in both countries free of customs from the day the Agreement came into force. When it comes to fishery, more than 99 % of all fish and fish products are included, also very positive. The Agriculture sector included less commitments but the liberalisation is still more far going than other free trade agreements.

Concerning trade in services the AA is less ambitious even though some writing concerning domestic regulation, mutual recognition and “Best endeavour” can be seen as a new and interesting way to tackle the situation. As mention above, Chile withdrew its offer when EC was not prepared to go further. In order to conclude a far going AA it would have been positive if the AA, just as the AA between EC and Mexico, had stated that all remaining trade restrictions should be removed. It would have been interesting to see a farther going conditions for service and what that could lead to. There are possibilities for the Parties to extend the agreement, maybe farther going commitments concerning trade will be negotiated in the future.

Transparency and trade facilitation is far going and when it comes to Intellectual Properties the Agreement can be classified as TRIPS +. The title of competition is also farther going than many of the free trade agreements entered into by the EC. It is special worth mentioning the Dispute settlement provision which is very legalistic and far going. If the dispute settlement of the WTO has not been used instead of the dispute settlement of the AA in the case of the Salmon dispute there had been a possibility to evaluate the dispute solution provision. Maybe this can be seen as a sign of that the Parties do not really rely on the agreement but prefer to use the better known dispute settlement of the WTO.

The exceptions, Safeguards, Anti-dumping etc, are all in line with the WTO safeguards and in general even more narrow. In order to have an effective agreement it is important that the exceptions are not too generous. An agreement, no matter how good negotiated, does not fulfil its purpose if the safe guards are too generous.

It opens up for an even more far reaching agreement that the Agreement states that the Parties will negotiate a deeper association for areas already negotiated and also has the possibility to include other areas¹⁰¹.

As mentioned under trade in service new agreements have been concluded and more far going undertaking concerning trade in service is being negotiated. The Agriculture section states that the Parties have the possibility to negotiate further advantages after three years.

The “Political dialogue”- chapter holds a new approach. There are several ongoing Political dialogues and others in the pipeline that might have a big influence on both Parties

¹⁰¹ AA article 2. 3.

The AA established an Association Council, an Association Committee, a Joint Consultative and an Association Parliament Committee as well as some further groupings for specific purposes. The groups are composed of different members on different level and shall simplify the contact, the understanding and the further negotiations between the Parties. The institutional framework can be compared with a Government where the Association Council is the decision-making body and the Committees are working group that can and shall propose changes to the AA to the Council.

3 Purposes of the Agreement

There used to be two super powers in the world – USA and Russia. Today we have USA and EU and maybe China. There used to be cold wars – and warm wars. Today we have Free Trade Agreement, UN resolutions, WTO voting and Digital standards. The wars that were once fought over communism or capitalism are today being fought over European capitalism or American capitalism. The Association Agreement between EC and Chile can be seen as a small battle in that big war or, with another metaphor, as a part of the race between US and EU for the world in general and Latin America in particular.

The European Union did not become interested in Latin America until President George Bush introduced “Enterprise for the Americas” in the 90tees. “Enterprise for the Americas” was President Bush’s plan for the creating of a free trade area in the whole American continent. 1994 EU commence a new strategy toward the region built on economic interests, mainly done out of the fear that the US should absorb the region¹⁰².

When EU showed interest in Chile US were not late to follow. While EC were negotiating an association agreement with Chile US began to negotiate a FTA with Chile. The negotiations between Chile and US led to an escalation of the negotiations between EC and Chile and the Association Agreement between EC and Chile was negotiated in less than two years¹⁰³. The FTA agreement between US and Chile was signed on 6th of June 2000, only four months after the AA between EC and Chile came into force. The American-Chilean FTA came into force the 1st of January 2004. After the European Union had negotiated the Agreement with Chile it was not a secret that US wanted to negotiate an Agreement that was at least as far going as the EU Agreement and, if possible, a Agreement that would be further going than the AA in the trade area. The big different between the American Free Trade Agreement and the European Association Agreement with Chile is that American agreement does not include political cooperation, economic development or exchange of ideas but is a traditional Free Trade Agreement¹⁰⁴.

When US signed its FTA with Chile the Swedish Embassy in Chile expressed that; “There is a risk that the old truth about Europe as an economical giant and a political dwarf is about to be cemented in the case of Chile. In order to balance the American dominance in the region, the EU must work very hard to make come truth the concrete areas of cooperation of the AA. If EU does not do so the risk is that Chile will be anchored even deeper in the orbit around the United States”,¹⁰⁵.

But what is the “war” about? For US it is mainly about trade. The US Chamber wrote in 2002/2003: *While European firms build market share and boost profits, U.S. companies will continue to face a six-percent tariff on most exports to Chile. European companies already have roughly 30 percent more trade with Chile than the United States does. The new EU-Chile FTA will certainly help European firms expand that share at the expense of their American competitors should the recently signed US-Chile free trade agreement be further delayed in Congress.*

¹⁰² Dykmann, *Perception and Politics, The foreign relations of the European Union with Latin America*, p. 45-46

¹⁰³ Dykmann, *Perception and Politics, The foreign relations of the European Union with Latin America* p. 51

¹⁰⁴ Dykmann, *Perception and Politics, The foreign relations of the European Union with Latin America* p. 45-46

¹⁰⁵ Rodin, *Frihandelsavtalet Chile-USA undertecknat*, p. 5

The European Union, on the other hand, is fighting for something else, something more, something that maybe, maybe not, can be expressed in economical terms. A more far going influence. A reputation. Changing the image of Europe. "Helping" the Chileans becoming more European. This something can be sensed when the Swedish Embassy said that "EU must work very hard to make come truth the concrete areas of cooperation of the AA. If EU does not do so the risk is that Chile will be anchored even deeper in the orbit around the United States".

For example; a concern of the Swedish Embassy in Chile was that the Chilean economy was so inspired by the US. The Chilean economic system that led to the development of the country is a construction of Pinochet's "Chicago Boys", economists with University education from Chicago. Many of the Chilean academics also have a University degree from US and the Chilean Market is very inspired by the US and companies such as Microsoft and IBM. The ambassador sad that "the fact that the AA came into force one year before the American FTA is not enough to give any lasting market advantages for European Companies"¹⁰⁶. But did the Ambassador only mean market advantage? Maybe what could not be said out loud was that the time was not long enough to gain the Chilean friendship. Because EU wants friends; friends that can be manoeuvred. Friends that act in line with, or on behalf of, the European Union. And Chile is, as it will be showed an ideal friend. Or at least seemed to be an ideal friend.

¹⁰⁶Rodin, *Frihandlavtalet Chile-USA undertecknat*, p. 5

4 Purpose 1: Trade and trade related issues¹⁰⁷

4.1 Trade¹⁰⁸

The trading part is the easiest one to measure as there are numbers and statistics available. This does not mean that measuring changes in trade is uncomplicated. A problem with measuring changes in trade is that normally the value of trade is being reported, not the volume. This means that while the trade is actually decreasing the statistic will show an increase if the increase in price only is high enough e.g. because of inflation. With the Chilean economy being so closely connected to the world price of copper, the copper price changes in the world influence the statistic for Chilean trade heavily. If the copper price in the world rises the statistic might show an increase in the trade in copper even though the volume of the export actually has gone down. Another problem, as we will see below, is what to measure; changes in value, changes in percentage or changes of trade as a part of total trade of a Party?

4.1.1 Trade: Mission:

Of course the agreement is about trade. In this material world no nation would think about negotiating or signing a Free Trade agreement without having economical reasons for doing so. All countries want more trade than other countries and they also want to get better conditions than the other countries are being given.

4.1.2 Trade: Legal obligations

As mentioned in the chapter about legal obligations trade is one of the areas with most legally binding obligations. Being partly a free trade agreement it is not surprising finding legal obligations as free movement of goods¹⁰⁹, national treatment¹¹⁰ and prohibitions of quantitative restrictions¹¹¹.

The trade between EU and Chile is a typical “North-South trade” where Chile exports raw material and EU exports industrial components. The main export from Chile to EU is copper, wine and fruit and vegetables while the main export from EU to Chile is machinery and transport equipment¹¹².

¹⁰⁷ AA part IV

¹⁰⁸ AA part IV Title II

¹⁰⁹ AA article 61

¹¹⁰ AA article 76

¹¹¹ AA article 76

¹¹² DG Trade, *EU bilateral trade and trade with the world; Chile*

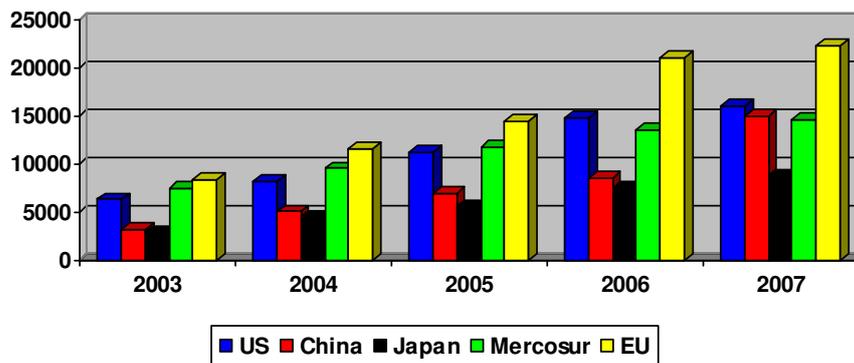
4.1.3 Trade:Result

4.1.4 Chile's trade

Chile's total trade has increased with 186 % between 2003 and 2007¹¹³.

4.1.4.1 Chile's total trade

Chiles largest trading Parties 2003-2007 (in millions US dollars)



Source: DIRECON, Banco central de Chile

US: Free Trade Agreement since 2003

China: Free Trade Agreement came into force in October 2006

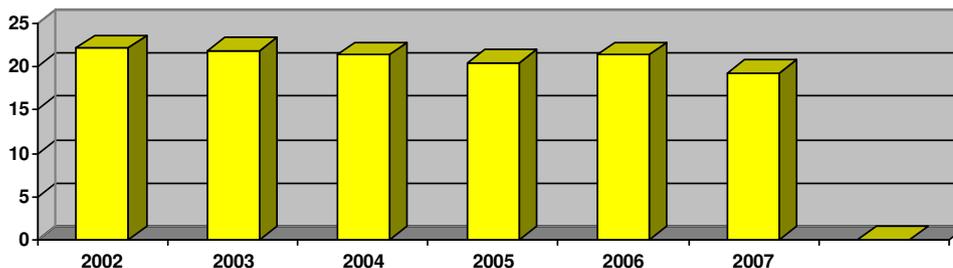
Japan: Free Trade agreement since March 2007

Mercosur: Chile is an associate member to Mercosur since 1996

Since many years the European Union is the biggest trading party of Chile. The trade between the Parties has increased in value since the coming into force of the AA, the trade between the countries was 8415 million US dollars in 2003, an increase with 988 million US dollars since the years before. In 2004 the trade between the Parties increased to 11,654 million US dollars. In 2005 the value of the trade was 14,509 million US dollars. There was a major increase in 2006; the value went up to 21,128 million US dollars. 2007 there were some increase; the trade between the countries had a total value of 23,354 million US dollars.

¹¹³ DIRECON, *Informe Comercio Exterior de Chile 4o Trimestre 2007*, www.direcon.cl

Trade between EU and Chile 2002-2007 in % of Chile's total trade:



Source: DIRECON, Banco central de Chile

Comparing the trade as percent of Chile's total trade it is showed that the trade has change almost nothing these 5 years. The trade between the Parties as a share of Chile's total trade went down some from 2002 to 2003, to 21.8 % and some more in 2004 to 22.1 %. In 2005 it dropped to 20.5 % of Chile's total trade but thanks to the big increase in trade in 2006 it was back to 21.3 % in 2006. But in 2007 the value of the trade between the countries decreased to only 19.3 % of Chile's total trade. This was of course because of the Free Trade Agreement that Chile had signed with China in October 2006 which made the trade from China rise with 75 % from 2006 to 2007. The increase in the trade between Chile and China has been amazing. In 1999 the trade between the countries only had a value of 1,019 million US dollar. 2006 this value was 8,595 million US dollar, an increase with 743 %!

Chile's Trade with the world in millions of US dollars 2000-2007

To:	2000 (\$)	2003 (\$)	2007 (\$)	Increase 2000-2003	Increase 2003-2007	Increase in \$ 2003-2007
US:	6,522	6,282	16,035	-9 %	155 %	9,753
China:	1,859	3,156	15,007	70 %	376 %	11,851
Japan:	3,258	2,924	8,849	-10 %	203 %	5,925
Mercosur:	6,512	7,43	14,684	27 %	98 %	7,254
EU:	7,553	8,414	22,355	11 %	166 %	13,941
FTA countries:	31,773	34,794	99,571	16 %	186 %	64,777
Non FTA countries:	3,494	3,497	10,097	0 %	189 %	6,6
Total:	35,268	38,291	109,668	9 %	186 %	71,377

Source: DIRECON, Informe Comercio Exterior de Chile 4o Trimestre 2007

The changes for the non FTA countries are in fact even bigger. The reason for this is that the calculations are based on the countries that have FTAs today. China did not have a FTA until 2006 but the Chilean-Chinese trade between 2000 and 2003 rose with a whole 331 % that really should be added to the non FTA countries and subtracted from the FTA countries.

For the value can be said that even though EU lost shares of Chile's total trade, the trade with EU increased the most, with 11,263 million US dollars. Nor US neither Japan did increase its trade with Chile even half as much, US with only 5,039 million US dollars and Japan with only 4,951 US dollars. China increased its trade with 8,256 million US dollars and became Chile's second biggest trading party although the gap to EU is still more than 6,000 US dollars, or more than 50 % of China's trade with Chile.

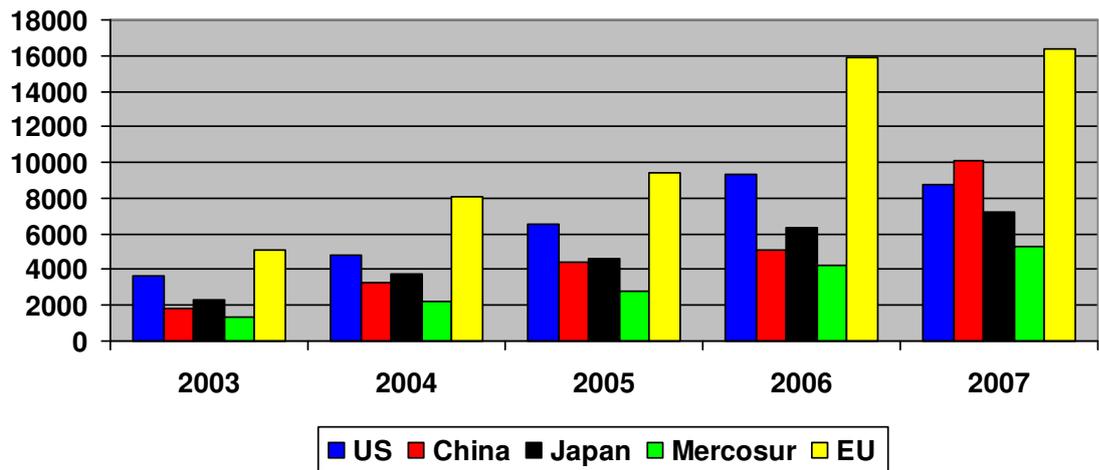
The trade between EU and Chile in % increased less than Chile's average trade, mainly because of the huge change in trade between China and Chile. The trade between Chile and Mercosur also increased more than the average 2003-2007 but the trade between the parties was lower in 2003 than in 2000. What is interesting is that the trade between Chile and countries that does not have Free Trade Agreements with Chile increased more than the trade between Chile and countries with such agreements. EU is still, by far, Chile's biggest trading Party.

4.1.4.2 Chile's export to the world in million US dollars 2000-2007

Trading Party	2000 (\$)	2003 (\$)	2007 (\$)	Increase	Increase	Increase \$
				2000-2003	2003-2007	2003-2007
US:	3,088	3,705	8,744	20 %	136 %	5,039
China:	907	1,865	10,121	106 %	443 %	8,256
Japan:	2,549	2,286	7,237	-10 %	216 %	4,951
Mercosur:	1,938	1,375	5,283	-29 %	284 %	3,908
EU:	4,627	5,086	16,349	10 %	221 %	11,263
FTA countries	31,773	34,794	99,571	10 %	186 %	64,777
Non FTA countries:	3,494	3,496	10,097	0 %	189 %	6,601
Total:	18,425	20,627	66,719	12 %	223 %	46,092

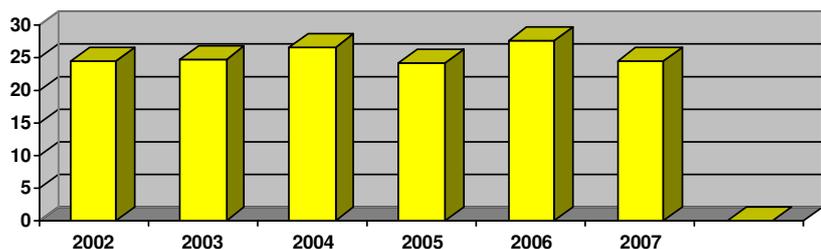
Source:
DIRECO
N,
Informe
Comercio
Exterior
de Chile
4o
Trimestre
2007

Chiles export 2003-2007 in million US dollar



Source: DIRECON, Informe Comercio Exterior de Chile 4o Trimestre 2007 p. A3

Chile's export to EU in % of Chile's total export between 2002 and 2007:



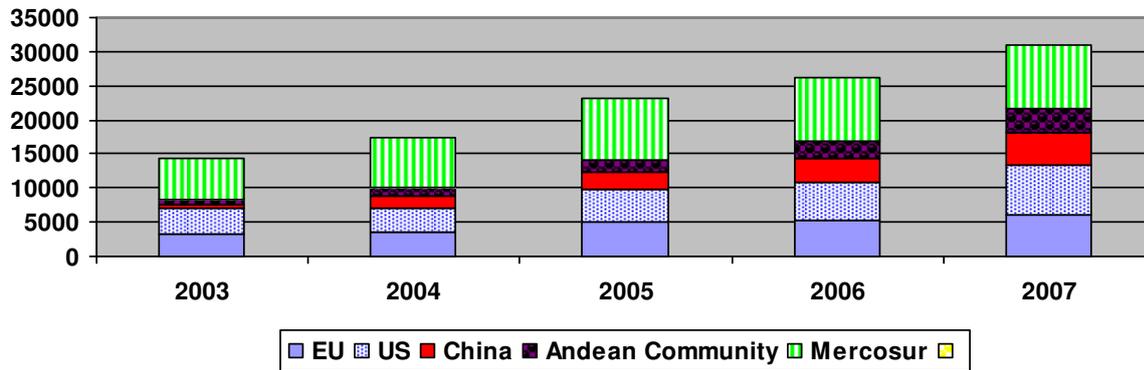
Source: DIRECON, Informe Comercio Exterior de Chile 4o Trimestre 2007

One reason because the export does not have increased more is that Chile has FTAs with countries representing a grand majority of the world's GNP. Chile can not meet the demand for Chilean goods, the trade have increased to all countries with FTAs with Chile, as well as to countries without FTAs, and probably the export could not have increased more because Chile does not have any more to export. Chile has been trying to find a way to cooperate with the neighbour country Argentina in order to meet with the demand for Chilean goods¹¹⁴.

¹¹⁴ InfoCampo, *El Medio de Campo*, www.infocampo.com.ar

4.1.4.3 Chile's import

Chile Import 2003-2007



Source: DIRECON, Informe Comercio Exterior de Chile 4o Trimestre 2007

Chiles import from the world in million US dollar between 2002 and 2007 0

From:	2000	2003	2007	Increase 2000- 2003	Increase 2003- 2007	Increase 2003- 2007
US:	3338	2577	7291	-22%	183%	4714
China:	951	1290	4886	36%	279%	3595
Andean Community	756	744	3384	-2%	355%	2640
Mercosur:	4574	6055	9401	32%	182%	3346
EU:	2925	3328	6005	14%	80%	2677
FTA countries:	15222	16251	38748	7%	138%	22497
Non FTA countries:	1619	1412	4201	-13%	198%	2789
Total:	16842	17663	42949	5%	143%	25286

Source: DIRECON, Informe Comercio Exterior de Chile 4o Trimestre 2007

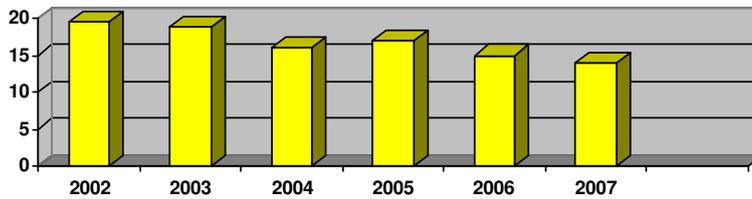
The import to Chile from EU is the area that has changed the least since the AA came into force. When the AA came into force in 2003 the value of the import from EU to Chile were 3,328 \$. In 2004 the import increased with 8 %, to 3,597 \$ and in 2005 there were a big increase, 41 %, to 5,069 \$. In 2006 there were little changes, the import rose to 5,229 \$, an increase with 3 % but in 2007 the increase was 15 % and the value of Chile's import from EU this year was 6005 \$. The total increase since 2003 until 2007 was 80 %. However, EU is the country that has increased its trade to Chile least between 2003 and 2007. The total Chilean import increased with 143 % during this years; the import from the Andean Community increased with 355 %, the import from China with 279 %, the import from the U.S. with 183 % and the import from Mercosur with almost as much as the import from the U.S. What is interesting to notice is that while the import from countries that have FTAs with Chile increased with 138 %, the trade with countries without FTAs rose with a whole 198 %.

For the changes in value goes that the import from EU has increased with 2,677 million dollars between 2003 and 2007. It is a little more than the import from the Andean Community but a lot less than the import from Chile's other main parties. The import from U.S. increased with 4,714 million USD, the import from China increased with 3,595 million USD and the import from Mercosur increased with 3,346 million USD.

Comparing the figures in percent of Chile's total import it is obvious that the import from EU not only slowed down but inclusive decreased. While 19.6 % of Chile's import came from EU in 2002 the import went down after the AA came into force and was only 18.9 in 2003 and even less in 2004, 16 %. In 2005 the import went up a little to, 16.9 % but then it went down again to 15 % in 2006 and as low as 14 % in 2007.

The conclusion is that, no matter how the calculations are done, the import from EU has increased a lot less that the import from Chile's other trading Party and EU has become less important to Chile when it comes to import.

Chile's import from EU in percentage of Chile's total import.



Source: DIRECON, Informe Comercio Exterior de Chile 4o Trimestre 2007

4.1.5 EU trade

While Chile has 16 million habitants the European Union has half a billion habitants, more than 30 times as many. Even if the EC would like to import all of its products from Chile and Chile had no other trading Parties there is no way that Chile could provide EC with all the import the area requires. This must be kept in mind when looking on EU's trade and Chile part of EU's total trade.

4.1.5.1 EU total trade

The biggest trading Party of EU is the United States, followed by China, Russia, Switzerland and Japan. Chile was the 34th biggest trading Party of EU 2006¹¹⁵.
The total trade with Chile was only 0.6 % of EU's total trade.

The trade between EU and Chile is not big enough to show in relevant numbers compared to the EU trade as a whole. A better way might be to compare the trade between EU and Chile compared to EU's trade with developing countries.

Three of the non European countries with Association Agreements with EC, Chile, Mexico and South Africa, is the groups of countries that shows the highest increased in trade with EU between 2005 and 2006. The average of the increase in trade was 22 %. Of this three countries Chile was, by far, the country that increased its trade the most, with 53, 6 %. The second best were Mercosur that increased its trade with 35 %. Just a few other countries increased their trade with EU with more than 20 %. The trade between Chile and EC in 2006 amounted to € 12 billions, while the trade with Mexico amounted to € 10 billions and the trade with South Africa amounted to € 18 billions¹¹⁶.

4.1.5.2 EU's export

The main export from EU goes to the United States followed by Switzerland and Russia Chile is the 42nd major export partner of EU. In 2006 0.4 % of EU's total export went to Chile¹¹⁷. The total export from EU to Chile in 2006 was € 4.256 million compared to € 3.162 millions in 2002 and only € 3.118 millions in 2004.

There is not a lot to say about the export from EU to Chile, the export has decreased and Chile has gone from big a not so important destination for export to becoming an even less important destination. Maybe a future increase of Chilean salary and wealth will change this with Chilean citizens being consumers of European products to a greater extent than is the case today.

¹¹⁵ DG Trade, EU Bilateral trade and trade with the world; Chile

¹¹⁶ DG Trade, Putting trade policy at the service of development, p. 22

¹¹⁷ DG Trade; EU Bilateral trade and trade with the world; Chile

4.1.5.3 EU's import

The biggest import source for EU is China, followed by US, Russia and Norway. Chile is the 26th major import partner of EU. In 2006, 0.9 % of the total EU import came from Chile. Although the import from Chile has increased from € 4.886 million in 2002 to € 12.079 million in 2006 the import from Chile has decreased as part of the European total import since 2002¹¹⁸.

If the import is not compared to the European import in total but to the import from developing countries, (DCs), the picture will be another. From 2003 to 2006 EU's import from Chile increased with 53.6 %, the biggest increased of all DCs. That can be compared to the import from the other Latin American developing countries; the import from Mercosur during the same time increased with 13 %, from € 26 billion in 2003 to 36 in 2006. The import from the Andean Community in the same time was the second highest concerning import from a Developing Country, 35 %, from € 8 billion in 2003 to € 15 billion in 2006. The import from Central American countries did not increase during those years. The import from Latin America did not increase from any country before 2003¹¹⁹.

Comparing Chile to other developing countries that have Association Agreements with EC such as South Africa and Mexico, we can also note that the increase in the import from Chile is much larger. The AA between EC and Mexico came into force already in 2000 but the increase in import from Mexico has not showed the same rise as the import from Chile does. In 2000 the import from Mexico was € 7 billion and the import from Chile was € 5 billion. In 2003 neither the import from Chile nor the import from Mexico had increased.. The increase in import from Mexico did not start until 2005 while the import rose to € 9 billion. The increase in Chilean trade, as seen above, started right away from 2003 and had rose to € 8 billion in 2005. In 2006 the import from Chile, € 13 billion, had passed the import, € 11 billion, from Mexico.

The AA between EC and South Africa also came into force in 2000. The increase in import from South Africa resembles to the import from Mexico. In 2000 EC imported goods from South Africa to a value of € 15 billion, 2003, after a rise in 2001 and 2002, the value decreased to € 15 billion again and 2006 the value had increased to € 19 billions¹²⁰.

The copper became an even more important part of the EU import from Chile between 2002 and 2006. In 2002 53.6 % of the import from Chile was Primary Products except for agriculture products. In 2006 this number was 72.4 %¹²¹.

¹¹⁸ DG Trade, EU bilateral trade and trade with the world; Chile

¹¹⁹ DG Trade, Putting Trade Policy at the service of development, p. 22

¹²⁰ DG Trade, Putting Trade Policy at the service of development, p. 22

¹²¹ DG Trade, EU bilateral trade and trade with the world ; Chile

4.2 Investment

Investment is an important purpose of the agreement, both as an official purpose and important to EU. When the AA was concluded EU was proud to declare that “the Association Agreement creates the most open investment regime ever granted by Chile to any third country¹²².”

4.2.1 Investment: Mission

The mission of investment is to give European companies access to the Chilean market. According to the AA it is also the promotion of the European Investment Bank¹²³.

4.2.2 Investment: Legal Obligations

An interesting provision concerning investment can be found in article 53 paragraph 2 of the agreement. It states as follows; “The Parties shall take all appropriate measures to promote and facilitate the European Investment Bank's activities in Chile, in accordance with its own procedures and financing criteria and with their laws and regulations, and without prejudice to the powers of their competent authorities”. Even though the article is veiled and both mentions “in accordance with laws etc” and “without prejudice to the authorities” I would say that this article is one of the most legal binding ones in the agreement, concerning how many of the other articles that only state that the Parties shall “promote” or “use best effort”.

4.2.3 Investment: Methods and Costs

According to article 21 of the AA the aim of the cooperation concerning the Promoting of investment is to help the Parties promote an attractive and stable reciprocal investment climate¹²⁴. This will be done partly by developing a legal framework for the Parties that favour investment and the aim is that Chile and the Member States will conclude bilateral agreements in order to promote and protect investment and also in order to avoid dual taxation.

¹²² US Chamber Chile, www.uschamber.com/portal/uscftc/fta/trade/factsheets/fact_fta2.htm

¹²³ AA article 21

¹²⁴ AA article 21. 1.

4.2.4 Investment: Result

The Investment cooperation has succeeded in the case that both Parties have legal frameworks that favour investment. This was also the case before the AA. Also the conclusion of bilateral agreement is going well. Denmark already had a dual taxation agreement with Chile when signing the AA. In 2002 and thereafter Spain, Poland, France, United Kingdom, Sweden and Ireland have signed dual taxation agreement with Chile. Chile is negotiating dual taxation agreements with Finland, Hungary, The Netherlands, Italy and the Czech Republic¹²⁵.

The European Investment Bank is EU's long-term lending bank, an institution owned by the EU Member States and its object is to support EU's priority objects, especially European integration and the developing of economically weak regions¹²⁶. Even though the AA states that the Parties shall promote the European Investment Bank in Chile the bank has not lend any money to Chile during the last five years, neither has it approved any loans for the time to come¹²⁷.

4.2.4.1 European investment in Chile

According to the Foreign Investment Committee of Chile almost \$ 3 billion in Foreign Direct Investment (FDI) was authorized for Chile from the world in 2007¹²⁸ and almost 1.4 billion were materialized. Of the 3 billions \$ 556 millions, 18,5 %, came from EU Member States and for the \$ 1.4 billion \$ 265 millions, 18,9%, came from EU Member States. The main investments were done in basic services, telecommunication and mining¹²⁹. Canada alone authorized twice as much during the same time¹³⁰. Between 1974 and 2007, however, Spain alone has authorized the same amount as Canada, \$ 17 billions, and has materialized more than \$ 3 billion more than Canada. US authorized almost as much as EU during 2007, \$ 550 millions of which \$266 million had been materialised at the end of the year. Between 1974-2007 US have authorized over \$ 30 billions for Chile but only \$16 billions have been materialized. EU Member States authorized just a little less than \$ 26 billions during 1974-2007, almost 21 millions were materialized. Difference at US that have only materialised some more than 50 % of its authorized FDI the Investment from the EU states have been materialized to 80 % leaving EU being the individual biggest Investor. The Chinese investments in Chile during the same time are negligible¹³¹. Between 1974 and 2007 41% of Chile's FDI came from EU Member States¹³². The investment from Europe was really high between 1996 and 2002, around 2 billions a year. In 1999 the European investment in Chile was almost \$ 6 billions, 65 % of all total investment in Chile. After the coming into force of the AA in 2003 the investment dropped, in 2003 the FDI coming from EU Member States was only \$ 508 millions. In 2004 the investment was not only back to the old level but, except for 1999, outraged them as \$ 3.9 billions was invested in this year¹³³. After 2004 the European

¹²⁵ www.direcon.cl/index.php?accion=otros_acuerdos_aedt1

¹²⁶ Wikipedia; European Investment Bank

¹²⁷ European Investment Bank, www.eib.org

¹²⁸ The figures for 2008 was yet not published while writing this

¹²⁹ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 12

¹³⁰ Foreign Investment Committee Chile, *Authorized and Materialized FDI by Country of Origin*, www.cinver.cl

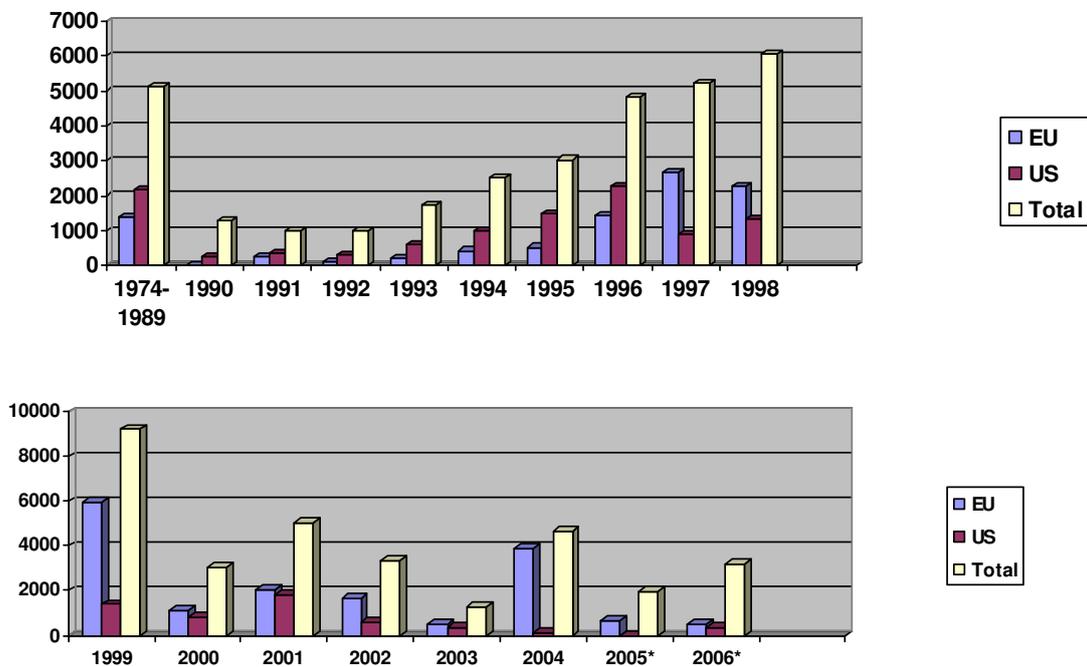
¹³¹ Foreign Investment Committee Chile, *Authorized and Materialized FDI by Country of Origin*, www.cinver.cl

¹³² DIRECON, *Informe Comercio Exterior de Chile 4o Trimestre 2007*, www.direcon.cl

¹³³ DIRECON, *Evaluación de las relaciones económicas y de cooperación entre Chile y EU*, p. 36

investment in Chile has been more modest, in 2005 \$ 682 millions were invested and in 2006 \$520 millions were invested. This means that the European investment in Chile during 2005 was 34 % of the total investment while it was only 16 % of the total investment 2006. Since 1996 the European investment in Chile has be larger than the US investment. The big European investment in Chile between 1996 and 1999 is partly due to Spanish Intel building microchip testing factory outside of San Juan in 1997. There have been complains over that Chile have a Chile has not enjoyed the promised productivity and knowledge spillovers¹³⁴. Between 1999 and 2002 European investment in Chile was mainly been done in electricity, gas and water and financial services. 2003 most investment have been done in the areas mining and quarry (20.7 %), securities (18.9 %) and electricity, gas and water (15.2%). 2004 2005 most European investment was done in food and beverage (26.5%), financial services (16.7%) and securities (15.2%). In 2006 European most investment was, once again, done in mining and quarry (38.4%), new for this year was transport and storage where 26 % of all European investment was done. US investments in Chile has been done in the same sectors as European investments¹³⁵.

Foreign Direct Investment in Chile 1974-2006



Source: DIRECON Evolución de las relaciones económicas y de cooperación entre Chile y los países de la Union Europea, p. 37

¹³⁴ Carnegie Endowment for International peace, www.carnegieendowment.org

¹³⁵ DIRECON, *Relaciones económicas entre Chile y EE.UU.*, p. 25

FDI Investment in Chile 1974-2006 in million US dollars

Year	EU	US	Total	EU FDI in % of total FDI
1974-1989	1 389	2192	5111	27,2
1990	319	270	1280	24,9
1991	268	350	982	27,3
1992	116	300	993	11,7
1993	199	606	1739	11,4
1994	432	996	2522	17,1
1995	532	1498	3031	17,5
1996	1449	2279	4838	30
1997	2649	887	5225	50,7
1998	2271	1337	6039	37,6
1999	5960	1389	9226	64,6
2000	1097	788	3039	36,1
2001	2039	1808	5020	40,6
2002	1646	551	3381	48,6
2003	508	373	1286	39,5
2004	3903	123	4636	84,2
2005	682	0	1984	34,3
2006	520	337	3185	16,3
Total	25980	16084	63517	40,9

Source: DIRECON, *Evolución de las relaciones económicas y de cooperación entre Chile y los países de la Unión Europea* p. 37

4.2.4.2 Chilean investment in Europe

Between 1990 and 2007 Chilean companies invested \$ 601 million in Europe. The total Chilean investment in the whole world was \$ 39 200 million during the same time¹³⁶. Of the total Chilean FDI \$ 3 598 millions or, 7.9 % went to US leaving US as the fifth biggest receiver of Chilean FDI¹³⁷. The main part of the Chilean investment in Europe was done in Spain, between 1990 and 2007 over 72% of all Chilean FDI for Europe went to Spain, 1% went to Sweden. The Chilean investment in Europe has mainly been done in financial services (55 %), services (27%) and manufacturing (18%)¹³⁸ while the Chilean investment in US was done in services (84%) industry (12%) and mining (4%). Chilean investment in US was mainly done in states with a high Latin population as Florida, California and in New York¹³⁹.

¹³⁶ DIRECON, *Evaluación de las relaciones económicas y de cooperación entre Chile y EU*, p. 37

¹³⁷ DIRECON, *Relaciones económicas entre Chile y EE.UU*, p. 26

¹³⁸ DIRECON, *Evaluación de las relaciones económicas y de cooperación entre Chile y EU*, p. 38

There has also been investment in mining and computing but this statistic was not yet finished while writing this.

¹³⁹ DIRECON, *Relaciones económicas entre Chile y EE.UU*, p. 26

4.3 Standards

Using European and/or international standards is an official purpose of the AA¹⁴⁰, it is also of a lot of importance to EU as shown on the

4.3.1 Standards: Mission

A tendency that has been noticed by the European Commission is that the Chilean standardisation processes only incorporate solely a reference to the US standards, especially when no agreed international standards exist. EU will focus on increased cooperation in this area and pay political attention to the promotion of international standards or, if such standards do not exist, to double recognition of both US and EU standards¹⁴¹. Article 18 of the AA deals with Cooperation on standards, technical regulations and conformity assessment procedure. The first paragraph of the article states that Cooperation in these fields is a key object in order to avoid and reduce barriers to trade and to ensure the satisfactory functioning of trade liberalisation. Paragraph 2 of the same article states that Cooperation between the Parties will seek to promote efforts in compatibility of technical regulations of international and *European* standards.

As for many of the categories the “export” of European standards has multiple purposes. One purpose is the “image” one as will be discussed later one. Another purpose is the economic purpose, different standards is an obstacle to trade; if Chile choose US standards it will be more difficult for European companies to export there product to Chile. The choice of standard will not have so much influence on the Chilean export as the industrial products exported to Europe is negligible.

4.3.2 Standards: Legal obligations

Even though International and European standards shall be promoted according to article 18 of the AA, the AA does not state that the Parties shall implement international standards. There is, however, not need for doing that as both Parties have signed and ratified the TBT Agreement. Article 86 of the AA stress the importance of the TBT agreement and the Parties confirm their rights and obligations under that agreement and they also confirm their commitment to its comprehensive implementation. According to article 86 all activities concerning standards shall be “conducted with a view to enhancing and reinforcing the implementation” of the rights and obligations of the TBT agreement¹⁴².

4.3.3 Standard: Methods and costs

As mentioned above the Agreement stresses the importance of the TBT agreement. The EC also strives in many ways to get Chile to use international standards or even more European Standards. When it comes to the standard of Digital TV the promotion of the European standards is so apparent that it comes close to bribes; on the meetings of the Association Committees the European delegations thoroughly calls the attention to the importance to EC

¹⁴⁰ AA article 83-88

¹⁴¹ European Commission, Country Strategy Paper 2007-2013, p. 35

¹⁴² AA article 86

of Chile implementing European standards on Digital TV and how much that would favour the bilateral relation between the Parties¹⁴³.

4.3.4 Standards: Result

The choice of digital TV has for a long time been an important issue for both EU and US as well as for the Chilean consumers. After seven years of not deciding what standard to use, the Chilean government had promised to decide about the Digital TV standard in December 2007. In December 2007 the decision was postponed, until March 2008. In late October 2008 the Chilean Government submitted a bill to the Congress detailing the legal framework for Digital TV without including anything about the standard that will be used¹⁴⁴. Chilean TV channels have already done the preparations to launch digital TV and are only waiting for the Government's decision. According to a director in a Chilean TV Channel the European system, that is cheaper, is not compatible with a lot of Chilean equipment, which the US system is. "Our market operates as a natural extension of the North American one¹⁴⁵" he says. This is just what the European Union is trying to avoid.

It might be that the Chilean Government has made a little too much promises or at least indications concerning the choice of Digital TV. The EU might not be the only trading party expecting Chile to go for their standard as a "thank you" for the FTA and all goods purchased. Or maybe the US system really fits the market better but Chile feels the need to maintain the good relation with Europe. And at the same time keep the door open for the new, expansive Asian market. In the long run such a politic will be untenable, not only in the international trade but also in the domestic market. Both the big Chilean broadcasting companies and the Chilean TV viewers are waiting for digital TV.

¹⁴³ EU-Chile Association Committee 5th meeting, *Joint Press Release*, article 12
Council of the European Union, Third Chile-EU Troika Summit, article 11

¹⁴⁴ Wikipedia: "Digital television in Chile"

¹⁴⁵ El Mercurio, Raúl Peña (Chilean newspaper)

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4.4 Conclusions concerning Trade and trade related issues

One question that could be asked is if the trade should not have decreased without the AA. Modern trade theories find that when one country has a lot of FTA it becomes more important for third countries to also conclude FTA with that country. If it does not do so the trade in that those countries will decrease¹⁴⁶.

My opinion is that the Trade-part in the Agreement and the increase in trade were not the main purposes for the EC while negotiating the AA. Thinking of that the customs were already very low before the Agreement the EC did probably not expect big increases in trade in goods.

The Agreement shall rather be seen as an exchange. Chile was given a closer connection to the important EU market and a "label of trust". EU, on the other hand, got the "friendship" of Chile; larger political influence, the TRIPS + that it wanted possibility of Investment etc. This does not mean that trade and trade related issues are not important.

The increase in **Trade** is really great when looking to the value. This is however, only because of the increase in export from Chile to EU. The import from Chile to from EU has decreased and the trade between the Parties is a typical North-South trade. Trade has not, however, increased if instead seen as part of total trade which might mean that EU is losing, or will lose, importance in Chile

If one of the purpose of the AA, from EU's point of view, was to increase the trade in general and not only the export from EU to Chile, this particular purpose has not been fulfilled. Chile's import has more than doubled between 2003 and 2007. In 2003 the import was less than \$15 000 millions and 2007 the import were over \$ 30 000 millions. The import from EU during this time increased less than the average increase, of the total increase of over \$ 15000 million less than \$ 3 000 million was increase in import from EU. In the sector concerning aid below the aid to Chile and Latin American countries will be compared to the Marshall help. The Marshall help was giving by the US in order to increase the US market. The EC should not do the mistake of not seeing Chile as a potential export market. In good times the developing countries may not be of great importance to the EU but today when every sold vehicle counts a better export to developing countries could have made a difference.

Even though the EU import today is a smaller part of Chile's total export the increase in import from Chile has been very good. The EC is still unthreatened as Chile's main export party and of the increase in Chile's export between 2003 and 2007 the export to EC has increased the most in value. However, the Chinese import from Chile is increasing incredibly fast and it shall be kept in mind that the population of China is more than twice as large as the population of EC and the potential for China as a potential receiver of goods from Chile therefore is much higher.

¹⁴⁶ Starck, *Klassiska och nya handelsteorier- med focus på EU:s handelsavtal samt nav och eker systemet*, p. 12

When it comes to **Investment** the AA has not fulfilled its purposes. Except for 2004 the European Investments in Chile has been lower after the AA came into force than they were before 2003. The Chilean investment in EU since 1990 is a very small percentage (1,5 %) of all Chilean investment and the investment in US during the same time was almost six times as high.

In the area of **standards** there is still worked required. However, the AA gives EU a base to stand on and creates a forum for negotiating standards. As the importance of TBT is stressed in the AA EU can point to the AA instead of the TBT agreement if having any complains concerning standards.

European companies, above all Spanish ones, are investing in Chile in a large extent and have done for many years. Even though US has authorized more investment for Chile than EU members have the European investment have been materialized to a greater extent and EU has been the single largest investor in Chile even if this was not the case during 2007. The EU investment in Chile has not increased because of the AA. To the contrary, it seems to have decrease since the AA came into force.

5 Purpose 2: Association¹⁴⁷

There is of course a purpose for the Agreement not just being a Free Trade Agreement but an Association Agreement. As been said above this Agreement had been said to be a fourth generation + agreement including several areas. However, in what ways are the Parties supposed to associate? How is this done and what have the outcome been?

The AA is concluded “considering the traditional links between the Parties and with particular reference to: [...] the importance of strengthening the regular political dialogue on bilateral and international issues of mutual interest, as already established in the Joint Declaration.”

Further the preamble of the AA stress “the importance that the Parties attach to co-ordinating their positions and undertaking joint initiatives in the appropriate international fora”. In does not take so much reading between the line to see the wish for Chile to cheer for Europe and vote as the EC votes. The first three paragraphs of this chapter can be considered part of “joint initiatives in the international fora” or just World politic. The last part I have just called “Change of image”.

5.1 WTO¹⁴⁸

The importance attached by the Parties to the rules contained in the Agreement establishing the WTO is part of the preamble of the AA but being unanimous in the WTO question is not an official purpose of the AA even though it talks about the importance that the Parties co-ordinate their positions and undertaking joint initiatives in the appropriate international fora. The EC has, however, expressed their wish for accordance in the WTO issue on several occasions and it is safe to say that for the EU the question of WTO is an important purpose of the AA.

The latest round in WTO, the Doha Developing round, has been going on since November 2001. Contrary to how it was before the Uruguay Round, Europe and US today have the same ambitions and goals regarding the WTO negotiations. Today the line instead is drawn between developed countries (mainly Europe, US, Japan, Canada and Australia) and developing countries. The developing countries is of the opinion that they have already done to large undertakings and concessions and that is now up to the developed countries, mainly EU and US, to do their part. The agriculture subventions in Europe and US has been very criticised by the developing countries that finds that the subvention is an important obstacle to trade.

¹⁴⁷ AA article 2

¹⁴⁸ Not explicitly stated in the AA but e.g. preamble of the AA

5.1.1 WTO: Mission

The option of the EU is that EU has done what it can in order to re-launch the WTO negotiations and that it now needs help in order to continue, because of this EU is hoping for the help from Chile in order to reach this goal¹⁴⁹. In a speech in Santiago de Chile 2006, the EU commissioner Peter Mandelson said that the EU could not do all the work alone and that he was hoping for Chilean help.

EU needs a partner that has access to the negotiations between the developing countries and can represent the European opinion among the developing countries. Although Chile is not longer a developing country according to the OECD list of developing countries it is still a member to several groups of developing countries, such as G20, Cairnes group and the OSLO group/new G6¹⁵⁰.

As Chile is associated member to MERCOSUR it is among MERCOSUR when the organisation acts with one voice in WTO. As Brazil is the main player of MERCOSUR the opinion of MERCOSUR is also the opinion of Brazil. Brazil also happens to be one of the main players, or the main player of G-90 which forms a group of the countries most opposite to the opinion of Europe in the WTO negotiations.

5.1.2 WTO: Legal Obligations

WTO is not mentioned in the Association Agreement except for e.g. while stating that trade shall be in accordance with the rules of WTO and therefore there are no legal obligations concerning WTO. The closest the Agreement comes to cooperation in the WTO-question is the preamble mentioning “the importance that the Parties attach to co-ordinating their positions and undertaking joint initiatives in the appropriate international fora”.

5.1.3 WTO: Methods and Cost

By getting the Chileans to associate to EU and by persuading them that thinks that are good for EU is also good for Chile, EU is hoping to get Chile to think, and vote, in accordance with the opinion of EU. The associating process is carried out using investment, trade, speeches and aid. EC is also carefully letting Chile know that this is the price they have to pay, e.g. by mention investment and WTO in the same breath, as at the First Association Council meeting where the Parties as item 7 “agree to work together for a successful fifth Ministerial Conference in Cancun” and in item 8 discuss the co-operation between the Parties, e.g. aid, for 2003-2006¹⁵¹.

¹⁴⁹ Mandelson P, *Chile and the EU, together in international trade*, p.4

¹⁵⁰ together with Indonesia, Canada, Kenya, Norway and New Zealand.

Lundquist M. Handelspolitik Chile maj 2007; p. 1

¹⁵¹ EU-Chile Association Council, first meeting

5.1.4 WTO: Result

The difference between the opinions of the developed countries and the developing countries concerning just about all mayor topics concerned seem to wide to overcome There are 200 countries in the world and 153 members of WTO¹⁵². A small country like Chile can not make a big difference among so many countries. However, affecting the countries in the Group of 20 can lead to new possibilities in the WTO negotiations. .

The 20 of July 2008 Chile and the Group of 20 as well as the Cairns group, were Chile also belong, decide to vote in favour for the continuation of the negotiations in the Doha round concerning agriculture¹⁵³. It's a step in the right direction for EU.

¹⁵² www.wto.org

¹⁵³ DIRECON, *Informe Comercio Exterior de Chile 4o Trimestre 2007*, www.direcon.cl

5.2 MERCOSUR¹⁵⁴

The deepened integration between Chile and Mercosur is an official purpose of the AA. A purpose that is not official but probably more important to EU is the effect that the AA might have on the willingness of Mercosur to conclude an AA with EC.

5.2.1 MERCOSUR: Mission

Chile is only a small part of South America and neither US nor EU would probably be so interested in Chile if it had not been for its close connection with Mercosur and the fact that signing a FTA agreement means showing the rest of South America its genuine interest in the region. As the US Chamber in Chile argued for a FTA with Chile; “Chile has an outstanding track record of accomplishment that makes it an ideal trading partner. Failure to engage such a deserving nation would not just mean lost opportunities for our economy -- it would send a terrible message to the rest of the Americas and the world. That's Why the Congress Must Approve the U.S.-Chile Free Trade Agreement A.S.A.P.” And “the rest of Americas” does mean Mercosur in general and Brazil in particular. Brazil has 160 million inhabitants and a GNP of 480 000 millions. Brazil shared the place as a temporary member of The UN Security Council with Chile 2003-2004. Brazil also has a big influence in the WTO as being the a member of G4 and also member of Cairns group, FIPs, the “New Quad”, G20 and G-90. The G4 Group (Brazil, Japan, Germany and India) is demanding a permanent place in the UN Security Council.

Chile is an associated member to Mercosur since 1996 and as being such Chile was offered an Association Agreement with EC in 2000 along with Mercosur. The primary goal of the EU was to conclude agreements with Chile and Mercosur at the same time but as the negotiations with Mercosur turned out to be a lot more difficult than expected the Association Agreement with Chile was concluded¹⁵⁵. As being an associate member to Mercosur and having agreements with EC (and US) Chile has the possibility to influence Mercosur in this matter and promote the European Union as a trusty and important trading party. And Europe is, as well as US, still interested in an agreement with the Mercosur countries, in particular with Brazil. No wonder that EU express its interest or the regional integration of Chile and Mercosur as is trying to strengthen the regional integration between Mercosur and Chile¹⁵⁶.

Mercosur: Legal obligations

Thinking of the absent of legal obligations in the AA it is a little surprisingly that the agreement does hold a legal obligation concerning the regional cooperation and regional integration between the Parties and Mercosur. Article 49 states that “ Both Parties *should* use all existing cooperation instruments to promote activities aimed at developing an active and reciprocal cooperation between the Parties and the Mercado Común del Sur (Mercosur) as a whole. The use of *should* in this context without adding anything about best effort or like, must be seen as at least an almost obligations. Priority shall be given to operations aimed at;

¹⁵⁴ AA article 49

¹⁵⁵ Dykmann, Perception and politics, *The foreign relations of the European Union with Latin America*, p. 51

¹⁵⁶ *EU-Chile trade relations in a globalised world*, p. 3

promoting trade and investment, developing regional cooperation on the environment, develop communications infrastructure and develop cooperation on fisheries matters.

5.2.2 Mercosur: Methods and Costs

EU is trying to bring Mercosur and Chile closer to each other in different ways. The EU opinion is that a closer Mercosur market should benefit the possibility of EC of signing an Association Agreement with Mercosur. The LAC Summits (Latin America and Caribbean) that have been carried have paid great attentions to the integrations of the South Cone.

If getting Chile to promote EC is the purpose there are no short cuts. Only by being a good and fair trading party and by helping Chile with cooperation and aid EC can earn a reputation that will spread to the rest of South America. This does not mean that there is no need trying, by EU giving a lot of aid, investment and cooperation to Chile, the Mercosur countries will see that an AA with EC would be favourable for them too. An increased trade with Chile will spread the message that an AA with EC is profitable.

5.2.3 MERCOSUR: Result

European Union is still negotiating with Mercosur for an Association Agreement. The Foreign Ministers of MERCOSUR Countries met with a European Commissioner in December 2007. The parties expressed their strong political will to re-launch the negotiations for an association agreement. US are also interested in free trade with MERCOSUR but the member countries are very critical to the North American Agriculture subventions. The opposition against a Free Trade Agreement with the European Union for the same reason is not so strong which can be surprising as the Union also have a big Agriculture support¹⁵⁷.

The reasons that there still is no agreement between MERCOSUR and EU can hardly be blamed on Chile. As Venezuela joined MERCOSUR it seems that the organisation has become less about trade and more about (left) politic. E.g. MERCOSUR in 2006 signed an agreement that permits Cuba to buy 2 700 products from the MERCOSUR countries to a lower price in order to mitigate the effect of the US blockade on Cuba¹⁵⁸. Today EU is aiming more directly at Brazil. In May 2007 EU recommended to launch a strategic partnership to further deepen its ties with Brazil and a first EU-Brazil Summit was held in Lisbon in July 2007¹⁵⁹. Even though it doesn't seem likely that the EU will conclude an Association Agreement with Mercosur in a near future it is more likely that EU will do it than that US will do it.

¹⁵⁷ Latinamerikagruppen, <http://ubv.se/kunskapsrummet/523/mercosur>

5.3 Change of Image

Changing the Chilean image of Europe is not an official purpose but I would go so far as to say that this is the main purpose of the AA. This part is the fundamental part of association and EU's primary weapon in the battle against US.

The European Union is not satisfied with the dominating position that the United States has in Latin America. Therefore EC aims at tying Chile and the rest of the region tighter to Europe. It is not a secret that the EU is trying to decrease this advantage of US in Latin America. When the FTA between US and Chile was signed less than half a year after the AA came into force the Swedish Embassy in Chile proclaimed that it was obvious that there were a risk the American advantage in Chile should increase even more because of the FTA. The Embassy also stated that even though the then President Ricardo Lagos often was appointing Europe as a model for the future there was no doubt that Chile was aiming at the US¹⁶⁰. 170.

5.3.1 Change of Image: Mission

Changing the image of Europe in Chile is both a goal and a mean. EU cares about what the world thinks about it and it will not let US be the only super power of the world. But at the same time that EU wants a good reputation the good reputation is also a requirement for getting the Chilean friendship. Obtaining the friendship of Chile is a work that has to be done both with carrots and stick. Because it doesn't matter how much Chile likes EU if it does not fear it in some way too. This is very much a race with the United States. It is not enough for EU that Chile, and the rest of Latin America, likes Europe, Chile must like Europe more than it likes the United States. Further, EU would like for the Chileans to become more European and less American (in the meaning US influenced). Therefore changing the image of Europe is closely connected to the Aid-section and the value export that is being done in the name of helping Chile.

5.3.2 Change of Image: Legal Obligations

There are of course no legal obligations concerning this purpose. Nothing in the agreement force Chilean citizens to watch French films, drink Italian espresso or shop at the German food supplier Jumbo. When it comes to cooperation there is, however, article 40 of the AA with the name Exchange of Information and cultural cooperation. Paragraph 1 of the article states says that "In view of the Parties very close cultural ties, cooperation in this sphere, including information and media contacts, *should* be enhanced". Further paragraph 3 states that "Special attention *must be paid* to promoting joint activities in various fields, including the press, cinema and television, and to encouraging youth exchange schemes¹⁶¹."

¹⁶⁰ Rhodin, *Frihandelsavtalet Chile-USA undertecknat*, p. 5

¹⁶¹ AA article 40

5.3.3 Change of Image: Methods and cost

One way to change the image of EU is European investment in Chile. Investment does of course have many purposes and mostly economical once. However, Investment can also serve as a way to change the image of Europe because with more European companies in Chile the European influence in the region will increase. More European companies will also help changing the pictures that Latin Americans have of Europe, or the picture that European think that Latin Americans have of Europe.

Traditionally the Spanish Investment has had the greatest influence on the Chilean market. E.g. the largest phone company, Telefonica, is Spanish and Zara-stores can be found in every mall. But now also other European companies can be found in Chile, Scania is very big in Chile as well as Ericsson. One of the biggest supermarket chains is German Jumbo. Opening at early hour and selling almost everything you can think of from Europe gives Jumbo the possibility to sell not only goods but also the "European way of life". Having access to European goods can make the Chilean people adopt European tradition and sharing traditions e.g. celebrating Christmas or Easter just as in Europe can have the result that Chilean people feels that they are closer connected to Europe than to US.

Standards are also one thing with multiple purposes. The main purpose of Standards is, as well, economical reasons; if the Chilean standards are not in line with European industry products the possibility that the Chilean business will import them is decreasing. But by promoting European standards EU also is saying that it should not be obvious that the way things are made in US is the right way to do it. The standards can be said to have a symbolic value, by using European standard for e.g. industry the message is that European standard should be the standard, in way of life and thinking just as well as in the digital TV.

Although a change of Image can not be forced an increase in the media contacted as stated in article 40 of the AA will give EU a great possibility to promote itself as they want to both as a region and when it comes to world politic. By supporting Chilean press the EU can reach out with a EU friendly message to the Chilean public and showing European movies and entertainment in Chile will can also make the Chileans feel closer connected to Europe.

Aid and cooperation will be dealt with in a particular chapter but those are, of course, a big part in changing the image of Europe. This will also be discussed further in the chapter about Aid.

5.3.4 Change of Image: Result

How do you measure what a country thinks about another country? Where they prefer to go on vacations? Where they send their children to University?

A large study about the perception of Europe and US carried through in the whole World shows that all countries (except for Turkey) in the world is pro-Europe *and* pro-USA or negative to both of the super powers¹⁶². A study done by World Public Opinion (WPO) shows that 66 % of the Chileans finds that the European Union has a positive influence on the country¹⁶³. In 2007 only 32 % of the Chileans found that the US Influence in Chile was mainly positive and 51 % finds that the US influence was mainly negative. In 2006 it was 46 % that found US influence to be negative and 38 % found the influence to be mainly positive¹⁶⁴. While 58 % of the Chileans have a positive view of US movies, music and TV and 67 % have a positive view of US science and tech only 24 % finds it good that US ideas and customs are spreading in Chile¹⁶⁵. In this case China is a harder competition to EU than the US is, 62 % of the Chilean think that the Chinese influence in Chile is positive and only 14 % finds the Chinese influence to be negative.

European standards have been mentioned under trade but the choice of standards that Chile make also has other purposes. One purpose is the prestige or image.. By Chile deciding for US or European standards is a marking that Chile sees itself closely connected to that area and it can be an indication of political belonging. Because of this it can be seen as a sign of the time that Chile now is looking for the possibility to use the Japanese standards for Digital TV instead of European or American standard¹⁶⁶.

Other positive changes that have been done during the last years and that make Chile more similar to EU; AUGE, the new health system is more like the European state financial health care system than the US system. The old system was very resembling to the US system with health care insurance. This change is done in accordance with article 44, Social Cooperation, of the AA that says that one of the areas that the Parties will give priority to in this area is the developing of an efficient and equitable health system, based on solidarity principles¹⁶⁷. The voting system in Chile is also changing. The old system was like in US, in order to vote the citizens had to register. The new system will be like in EU, all citizens over 18 will have the possibility to vote if they want to. The new system shall have been in force for the elections that were carried out just the other day but so far the new system is not in force. Many young Chileans is not listed to vote and do not want to register because of the obligation to vote that this implies. It is believed that more Chilean citizens should vote with the voluntary system¹⁶⁸. From everybody criticising concerning its Intellectual Property rights Chile is today a member of WIPO, World Intellectual Property Organisation.

¹⁶² Noya J, Europe's image, p. 2 and 3

¹⁶³ WPO, *World Public see European Union as a "Positive Influence*, www.worldpublicopinion.org

¹⁶⁴ PIPA, Global Views of the US Latin America Background

¹⁶⁵ WPO, *Latin American Public are Sceptical about US- But not about Democracy*, www.worldpublicopinion.org

¹⁶⁶ Swedish Trade Council, Landrapport Chile 2007, www.swedishtrade.se/landrapporter/?objectID=7680

¹⁶⁷ AA article 44. 4. (e)

¹⁶⁸ Interview with Patricio Cabello 2008-10-25

Chile was, to US big disappointment, against the Iraq war. In 2003, shortly after signing the AA with Europe, Chile, as a temporary member of the UN Security Council, decided not to support the US line concerning the Iraq war in the Security Council. The US was not late to show its disappointment. US had been negotiating FTAs with Chile and Singapore at the same time but when Chile decided not to support the US line concerning the Iraq war, US signed the FTA with Singapore on May 6th 2003 while the FTA with Chile was not signed until the June 6th. The Singapore FTA was also signed by President George W Bush in the White House while the FTA with Chile was signed in Miami by an US trade representative¹⁶⁹.

Chilean troupes participate in ALTHEA which is EU's peacekeeping mission in Bosnia-Herzegovina. This can be seen as a success for the Association Agreement, a proof that the Agreement has led to association between the Parties. The European Commission was not led to point out that this shows that the AA is not only about trade but also about association and that Chile and EU have become closer¹⁷⁰.

To EU this is of great importance in the field of World politic and "winning" over the US; not only does Chile give its support to EU and the European Worlds politic but it also decide to support the EU mission by sending soldiers.

¹⁶⁹ Rodin, *Frihandelsavtalet Chile-USA undertecknat*, p. 2

¹⁷⁰ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 11

5.4 Conclusions concerning Association

In my opinion Association is the most important purpose of the EC. Has the Agreement got the Parties to associate?

For the **Change of Image** it looks good. According to the surveys that had been done Europe is more popular than US in Chile. The Association Agreement might have brought Chile closer to Europe. It is positive for EU that Chilean soldiers participate in the peacekeeping mission in Bosnia-Herzegovina. In gaining Chile from the US it is also positive that Chile voted against the Iraq war as being "on the same side" probably makes the citizens feeling closer to each other. I think that EU should consider the possibility that Chile might become more enthusiastic about its new "playmate" and the possibilities that APEC and the Pacific Ocean Area can provide than about EU.

For **World Politic** it is still too early to say about the most issues. An association agreement between EU and Mercosur does not seem to be any closer today than it was when the AA was signed. EU and Chile hold the same position when it comes to WTO so in this case the AA has fulfilled its purpose. The next question is if this is enough.

In general can be said that it is still too early to say what effects the AA will have on the association. The battle is yet not won and EU will have to keep up the work, e.g. show that it is being serious about the political dialogues and cooperation.

6 Purpose 3: Aid ¹⁷¹

Aid or Cooperation is an official main purpose of the AA. Although the word cooperation is used as the AA is concluded between two equal parties it is mainly economical or technical aid from EU to Chile that is being aimed at. The underlying purpose of EU can be discussed. Is helping Chile really a purpose of Chile? Even if it is a purpose, why is that so? Why is improving the conditions in Chile a goal of EU? Does EU want the Chilean to have better life or is rather a way to maintain Chile's population quiet and providing Europe with raw material? Helping Chileans to a better life in Chile can be a mean to keeping immigrants away from Europe.

Another question that can be asked is whether aid is a goal itself or just a mean. Aid can be a way of winning friendship; I scratch your back and you scratch mine. It can be part of the work carried out by EU in order to get Chile to vote in accordance with the needs of EU, as discussed under the Association-section. Also, just as the Marshall help in the 50s was a way for US to increase its market, the aid to Chile today can be seen as a way to enlarging the EU market. Aid can also be a way to increasing the import as well as a way to facilities for investment. Investment and trade, in their turn, can be a way of winning friendship. By helping Chile with cooperation and focused aid and not with just funds EU has the perfect opportunity to “export European values”, to “help the Chileans become more European”. The truth is that all acts have several purposes and helping the Chilean people doesn't have to be only a goal or a mean, it certainly can be both of it.

6.1 Democracy and Human rights

6.1.1 Democracy and Human rights: Mission

Democracy and Human rights is a typical area that can be seen as both a mean and a goal. As I see it, it is a typical “value export” with EU thinking that European way of life is the only right way of living. At the same time it is probably the most unselfish part of the agreements. My opinion is that Europeans strongly and purely believe in democracy and human rights and want as many people as possible to enjoy it. However, it can not be denied that a peaceful and stable country or region is also better for business, both because it will increase trade and because doing business with a non democratic country or a country that does not respect the human right sends the wrong signals to the world and may give EU a bad reputation..

¹⁷¹ E.g. AA article 22(f), article 23.1.

6.1.2 Democracy and Human rights: Legal obligations

The AA is concluded “considering the traditional links between the Parties and with particular reference to:

- their full commitment to the respect for democratic principles and fundamental human rights as set out in the Universal Declaration of Human Rights;
- their attachment to the principles of the rule of law and of good governance”

Article 1 of the AA is a mutual declaration by the Parties about respect for the democratic values and human rights;

“Respect for democratic principles and fundamental human rights as laid down in the Universal Declaration of Human Rights and for the principle of the rule of law underpins the internal and international policies of the Parties and constitutes an essential element of this Agreement. The promotion of sustainable economic and social development and the equitable distribution of the benefits of the Association are guiding principles for the implementation of this Agreement. The Parties reaffirm their attachment to the principle of good governance”¹⁷².

The EC always want reference to the Human Rights and Democracy in all their agreements. It is probably also important for EU as well as for Chile with a declaration of Human rights and Democracy considering the Chilean passed as being a dictatorship.

Article 200 of the AA gives the Parties a right to immediately take appropriate measures in accordance with international law in case of violation by the other Party of Article 1 paragraph 1. A reason for not including any further legal obligations concerning implementation in national law might be that both Parties have signed and ratified the UN declaration of Human Rights, the UN declaration of Children’s Rights and the UN declaration of Women’s Rights¹⁷³. The constitution of Chile is also democratic and with respect for human rights. The Chilean constitution states in its first article that “Persons¹⁷⁴ are born free and equal in dignity and rights and article 5 says that the State of Chile shall respect and promote all rights given by the Constitution and any International conventions ratified by Chile¹⁷⁵.

¹⁷² AA Principles

¹⁷³ United Nations, www.un.org

¹⁷⁴ Men were changed to Persons in 1999

¹⁷⁵ Constitución article 1 and 4

6.1.3 Democracy and Human rights: Methods and costs

The human rights are an important part of the agreement and the agreement holds many writing concerning these values. Although democracy and human rights are important purposes for the agreement and a requirement for its establishment it is not a focal sector for the EU. The reason for this is probably that this is not a big issue in Chile that has been a democratic and stable country since 1990. It seems that it is enough with the wording of the agreement and that the Chilean Government will do the work that has to be done in this area. Article 41 of the AA states that cooperation concerning Public administration shall aim at the modernisation and decentralisation of public administrations. It shall also encompass overall organisational efficiency¹⁷⁶. The article also states that cooperation may include both technical assistance to Chilean policy-making and executive bodies¹⁷⁷ and support for civil society and grass-roots initiatives¹⁷⁸. The issues arising in Chile lately concerning human rights is the treatment of the Indigenous population. According to the Country Strategy paper for Chile 2007-2013 the concerns of the indigenous population shall be a cross-cutting issue to all measures of the EU Strategy for Chile¹⁷⁹.

¹⁷⁶ AA article 41. 1.

¹⁷⁷ AA article 41. 2. (a)

¹⁷⁸ AA article 41. 2. (h)

¹⁷⁹ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 8

6.1.4 Democracy and Human rights: Result

The AA process is a success as it holds a long provision of the respect for human rights.

In 2004 the Chilean army official recognised the violations of the human rights committed by the army during the Chilean military regime. A report concerning the human rights violation was also published shortly after that¹⁸⁰. The recognition and dissociation from the violation of human rights are big steps for the continuation of a democratic society.

A democratic reform process is going on in Chile with the aim to achieve a more effective and transparent public administration using new information and communication technologies¹⁸¹. In some aspects this has come very far, all information is accessible through the Internet, the Chilean government has very good websites as “Trámite fácil” where all consumer information can be found, all laws are accessible through the home page of the Chilean Congress Library and all public purchase is being published in a web site (www.chilecompra.cl) which is more than can be said about EC.

In other aspects, I know from experience that the Chilean administrative system is very old fashioned and inefficient, almost all errands have to be done in the city halls (Registro Civil) in person and queuing for hours may be required for some errands. The country is still much centralised and some errands can only be done in the capital. Hospital bonus is complicated and all though Chile, according to Transparency International, is the least corrupted country in South America a lot of errands is, according to Chilean citizens, done by “a little help from my friends” or by using the name of other persons with better Health Insurance. Another problem is that the Chilean population does not always catch up with the modernisation of the State. Even though Chile is a country with very good access to Internet, I know that many persons do not know how to use computers and even less Internet.

Although Human Rights in general are being respected and the country is seen as non-corrupted there is a Minority issue. The incidence of poverty, extreme poverty and illiterate is much higher among the Indigenous population than among the rest of the population¹⁸². There have been complains and demonstrations by the Chilean Mapuche Indians for, among other things, right to land and for the need of the Chilean government to ratify the Convention (No.169) concerning Indigenous and Tribal Peoples in Independent Countries of ILO concerning The UN rapporteur for human rights has also recommended Chile to ratify the convention¹⁸³. The Chilean President Michelle Bachelet had announced her intentions to ratify the Convention with some amendments which were appreciated neither by the Indigenous population nor by ILO¹⁸⁴. The 15 of September 2007 the Convention were finally ratified without any amendments¹⁸⁵. Earlier during 2007 a Mapuche Indian was shot by the police in Chile which caused a lot of internal alarm as well as demonstrations. Mapuche leaders in prison have also been hunger-striking for their rights. On the other hand the indigenous population receives special benefits as free University studies, a right that are used by some but the question of the access to University for poor people remains.

¹⁸⁰ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 11

¹⁸¹ European Commission, *Chile Country Strategy Paper 2007-2013* p. 17

¹⁸² European Commission, *Chile Country Strategy Paper 2007-2013* p. 16

¹⁸³ Brie A, Joint Parliament Committee, Fifthe Meeting, p. 10

¹⁸⁴The eco portal, www.ecoport.net

¹⁸⁵Gobierno de Chile, www.gobiernodechile.cl

6.2 Fight against Poverty¹⁸⁶

The fight against poverty is an official purpose of the AA and it is mentioned in both articles of the AA and in the Country Strategy Paper for Chile. It is not a purpose that EU seems to have stressed to be of great importance in any other ways.

6.2.1 Fight Poverty: Mission

The Preamble of the AA talks about the “need to promote economic and social progress for their peoples, taking into account the principle of sustainable development and environmental protection requirement”. The AA also states that “*special attention shall be paid to access to education for vulnerable social groups, such as the disabled, ethnic minorities and the extremely poor*”¹⁸⁷.

6.2.2 Fight Poverty: Legal Obligations

The issue of poverty seems to have been a sensitive area while negotiating the AA. The outcome gives the impression that the Parties have dealt with the issue having the kid gloves on. This can be seen in article 38 that states that special attention *will* be paid to access to education for vulnerable social groups, such as the disabled, ethnic minorities and the extremely .The Parties *will* significantly support, within their respective competencies, pre-schooling, basic, intermediate and higher education, vocational training and life-long learning.

Also article 44 shows that the issue is sensitive by using the term *will* instead of the more common *shall/should* as showing that this is a mutual agreement and not a legal obligation. The says that the Parties *will* give priority to measures aimed at promoting human development, the reduction of poverty and the fight against social exclusion, by generating innovative and reproducible projects involving vulnerable and marginalised social sectors. Special attention *will* be paid to low-income families and disabled persons.¹⁸⁸

According to Article 1 paragraph 2 of the Agreement “The promotion of sustainable economic and social development and the equitable distribution of the benefits of the Association [is a guiding principle] for the implementation of this Agreement”

¹⁸⁶ Preamble of the AA, AA article 41 (i) article 44 4. (a)

¹⁸⁷ AA article 38

¹⁸⁸ AA article 44 paragraph 4 (a)

6.2.3 Fight Poverty: Method and costs

Trade, aid and investment are all ways to fight poverty. By increasing the Chilean trade the government will hopefully get more money to spend on decreasing the gaps between the poorest and the richest citizens. Investment will create work opportunities in Chile and that will lead to more persons having the possibility to support them self and there families. Aid is an important part in the fight against poverty. Chile is currently managing projects costing a total of approximately € 61 million backed by EC contribution¹⁸⁹. Under 2005 Chile received € 1.5 million from the EC land de-mining budget

When it comes to cooperation, EU has expressed its willingness to share its experience with Chile. There is an ongoing policy dialogue between EC and Chile concerning employment and social policies. € 16 million has been earmarked for social cohesion. This money will primarily be spent on activities like information seminars, study visits, technical assistance and capacity building activities¹⁹⁰.

6.2.4

6.2.5 Fight Poverty: Result

Chile is a rich country with many poor people. Unequal distribution of income is still a great concern in Chile. Chile ranks 12th in the world from the bottom when it comes to equal distribution of income. The Gini index, that is an index that shows how equal or unequal the distribution of something is, of Chile is worse today than it was ten years ago¹⁹¹.

The Government of Chile under the President Bachelet has the intention to focus on four goals that is all about decreasing poverty and that are all well in line with “the European values”;

1. Creating retirement plans for Chiles needy
2. Improve the public school system
3. Simplify the tax burden for small and medium-sized enterprises
4. improve housing in poor neighbourhoods¹⁹²

Time will show if these plans will have any effect on the Chilean society.

In 2007 the biggest health reform ever was realised in Chile. The new health system, AUGE, is more like European health care with State financial health care. The old system was very much inspired by the US system with private and public health insurance. The new system provides health care for the 56 most common and costly diseases¹⁹³, among them cancer, HIV/AIDS, and many more.

¹⁸⁹ European Commission, *Chile Country Strategy Paper 2007-2013* p. 19

¹⁹⁰ European Commission, *Chile Country Strategy Paper 2007-2013* p. 27

¹⁹¹ European Commission, *Chile Country Strategy Paper 2007-2013* p. 14

¹⁹² European Commission, *Chile Country Strategy Paper 2007-2013* p. 8

¹⁹³ European Commission, *Chile Country Strategy Paper 2007-2013* p. 15

6.3 Gender¹⁹⁴

Promoting gender equality is an official purpose of the agreement both by expressly stating so and by reference to earlier LAC summits. Gender shall also be a cross cutting issue according to the Country Strategy Paper for Chile.

6.3.1 Gender: Mission

Article 45 of the AA speaks about the cooperation related to gender. It stress the importance to “ensure that gender and gender-related issues can be take into account at every level and in all areas of cooperation including macroeconomic policy, strategy and development operations; and promote the adoption of positive measures in favour of women”.

The AA also holds reference to the Copenhagen world summit of 1994 and the Rio summit of 1999. The Copenhagen summit has a long paragraph concerning girls and women’s right and the equality and equity. Among the rights, women’s rights for paid work, women’s access to healthcare and girls right of education can be mentioned. Later summits as the Madrid commitment from 2002 talks about the promoting of gender equality and “the empowerment of women as a general policy and as an effective means of combating poverty and achieving sustainable and equitable development”¹⁹⁵ and the Vienna summit from 2006 declares that the Parties “will work towards full gender equality paying special attention to the full enjoyment of all human rights by women and their further advancement [...]”¹⁹⁶

6.3.2 Gender: Legal Obligations

There are no legal obligations concerning gender in the Association Agreement. The Chilean laws already give equal rights to men and women, all women have equal opportunity to schooling and work. The Chilean women are given 12 weeks of paid maternity leave along with 6 weeks of rest before the planned birth of the baby and right to breastfeed their children on working time until the child is 2 years. Chile has signed at ratified the ILO Maternity Protection Convention from 1952¹⁹⁷.

6.3.3 Gender: Methods and Costs

According to the EC Country Strategy Paper for Chile, gender shall be a cross-cutting issue and permeate all work that is being done in the different sectors concerning cooperation and aid, e.g. areas concerning labour, education and social cohesion¹⁹⁸.

¹⁹⁴ Preamble of the AA, AA article 44 4. (b), AA article 45

¹⁹⁵ III EU-LAC Summit p. 2

¹⁹⁶ IV EU-LAC Summit p. 3

¹⁹⁷ www.dt.gob.cl

¹⁹⁸ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 30

6.3.4 Gender: Result

Some progress has been made when it comes to legal and social protection of women and there are national programmes aiming at promoting women's rights. However, a lot of work is still needed to be done in this area¹⁹⁹. The average income of women is 30% lower than the average income of men and there are more unemployed women than men although the average Chilean woman has 11.8 years of studies compared to the average man that only has 10.7 years of studies²⁰⁰. Only 38 % of the Chilean women work, a small increase from 1997 when only 34.6 % of the women worked. This number is the lowest one in the whole Latin American region, where the average of women working outside their home is about 50 %. About 20 % of the working women work part time, mainly half time, and 2 out of 3 of them would like to work full time. Women with University studies have the best working average, 7 out of 10 work. But they are at the same time the most unequally paid; a woman with a University degree in Chile only makes 66 % of the salary of a man with a University degree according to some sources and according to the UN Committee on Elimination of Discrimination against women the gap is even 50%²⁰¹. A woman without studies makes 96 % of what a man without studies does. On the other side, only 2 out of every 10 women with less than six years of schooling work outside the household²⁰².

An issue that concerns both Gender and Poverty is the occurrence of teenage pregnancy; in the poorest households the occurrence of teenage pregnancy is four times more common than in households with a higher income²⁰³ and studies show that the risk of teenage pregnancy is 14 times higher in poor neighbourhoods than in rich ones. 15% of all pregnant women in Chile are girls under 19 years and almost 3 % of all girls between 11 and 14 years in Chile give birth at this age. Of the 77 000 pregnant girls without basic schooling that live in Chile, only about 10 000 are attending school. The goal of the Chilean state is to reduce teenage pregnancy by 45 % by 2015. Measures are also being taken in order to ensure the pregnant girls' right to education²⁰⁴. The 28 of September 2007 Chile celebrated "The day of preventing adolescent pregnancy" for the first time, a big step for this Catholic country where a bishop only a few years ago wanted to prohibit condoms.

A divorce law was passed just some years ago, a thing that can benefit many Chilean women. Contrary to the strive for equality however the new law does make a difference between men and women; while a newly divorced man can re-marry the very same day, a newly divorced woman must wait for nine months or bring a doctor's certificate showing that she is not pregnant, in order to re-marry. The UN Committee on the Elimination of Discrimination against women have been criticising Chile for women de facto not having the equality that is granted to them according to the Chilean constitution²⁰⁵.

¹⁹⁹ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 9

²⁰⁰ Balance de la situación laboral de las mujeres en Chile 1997-2006, p. 5

²⁰¹ Committee on the Elimination... *Concluding comments of the Committee on the Elimination of Discrimination against Women; Chile*, p. 3

²⁰² Balance de la situación laboral de las mujeres en Chile 1997-2006, p. 2

²⁰³ Balance de la situación laboral de las mujeres en Chile 1997-2006, p. 6

²⁰⁴ Committee on the Elimination... *Concluding comments of the Committee on the Elimination of Discrimination against Women; Chile*, p. 4

²⁰⁵ Committee on the Elimination... *Concluding comments of the Committee on the Elimination of Discrimination against Women; Chile*, p. 3

Work is being done in the Government concerning the equality between men and women. The web site www.igualdad.cl is promoting the rights of women, the Government of Chile has other web sites where information concerning gender can be found in one place and many community offers schooling and activity that are mainly aimed at women. The UN Committee was positive about the election of a female president in Chile and also with Chile having 50 % women as ministers and 48.4 % of women heads of State departments and 50 % female governors²⁰⁶.

²⁰⁶ Committee on the Elimination of Discrimination..., *Concluding comments of the Committee on the Elimination of Discrimination against Women; Chile*, p. 1

6.4 Education²⁰⁷

Furthering education is an official purpose of the AA and mentioned in several articles in it e.g. article 38.

6.4.1 Education: Mission

The AA also holds reference to the Rio summit (1999) and to the Copenhagen world summit (1995) in the preamble. The parties to the Copenhagen summit commit themselves to promote and attain the goals of universal and equitable access to quality education. They also commit to emphasize lifelong learning by seeking to improve the quality of education to ensure that people of all ages are provided with useful knowledge. The Rio summit states that universal access to education shall be promoted. Later LAC Summits and Country Strategy Papers for Chile also constantly focus on education and specially higher education.

6.4.2 Education: Legal Obligations

There are no legal obligations concerning education. As well as for poverty it is article 38 that mainly concerns education. The article is about Education and training and starts out by saying that; “The Parties will significantly support, within their respective competencies, pre-schooling, basic, intermediate and higher education, vocational training and life-long learning” It goes on with saying that; “special attention shall be paid to access to education for vulnerable social groups, such as the disabled, ethnic minorities and the extremely poor” and that “Special attention shall be paid to decentralised programmes, which forge permanent links between specialised bodies of both Parties and encourage the pooling and exchange of experience and technical resources as well as the mobility of students²⁰⁸”.

6.4.3 Education: Methods and costs

Between 2002 and 2003 Chile received over € 38 million from international cooperation funding from EU Member states, focused mainly on the development of specific projects, technical assistance and scholarships. Between 2007 and 2013, more than € 8 million have been earmarked for education. The European Union has a scholarship, ALBAN, that is given to Latin American post grade students in order to come to Europe and study. In 2007, 87 Chilean studies had been given the ALBAN scholarship²⁰⁹.

In 2005 an initial policy dialogue between the European Commission and Chile took place that helped to identify Chilean needs and establish a dialogue process in order to exchange experience and information. Also for the future EU promise to share its experience and know-how in the field of education with Chile. It also offering the benefit of cooperation in relevant programmes open to cooperation among academic institutions between EU and non-EU

²⁰⁷ AA article 38

²⁰⁸ AA article 38 1. och 2.

²⁰⁹ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 19

countries. There are also possibilities for more scholarships for Chilean students and networking opportunities²¹⁰.

6.4.4 Education: Result

The European Commissions report from Chile states that there has been some improvement concerning the Chilean national school system but that it still lacks in quality and performance²¹¹. 2006 the Chilean president Bachelet announced an overall reform of the Chilean preschool system. At the same time she promised that effort would be put into improving the quality of primary and secondary education. Since then all preschool in Chile (pre-kinder for 4 years old children and kinder for 5 years old children) belonging to schools, public, subsidized or private, are free of charge and in some free lunch is being served. Preschools belonging to childcare (jardín infantil) are still subject to charges. All children still need to bring a lot of working material (books, pencils, toilet paper etc.) to preschool and school, thing that are rather costly for many families.

When it comes to Universities, the education has become more accessible to youth from lower income households thanks to scholarships and state study loans. The European Commission criticises Chile for not having enough University studies concerning new skills as technical careers and specialised areas of technology²¹². E.g. although the lack of energy is one the major issues in Chile there are almost no courses about renewable energy. The Commission also criticises the poor synergy between the universities and the private sector.

Postgraduate education in Chile is not very common; only nine out of every million inhabitant is a doctorate. The lowest number for any OECD country is 85 doctorates per million inhabitants which is the case in Greece. The highest number is being found in Finland where 284 of every million inhabitants have this education. The postgraduate teachers are also low in Chile compared to Europe. Only 7000 teachers are involved in research where the lowest numbers of Europe is 15 000 in Greece and 22 000 in Portugal²¹³.

The goal of the Copenhagen summit about lifelong learning has been fulfilled in some ways, the communities offers many courses free of charge and many times lunch and bus money is also included. There are also possibilities to study these courses with a low salary or in combination with an internship job.

²¹⁰ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 24

²¹¹ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 5

²¹² European Commission, *Chile Country Strategy Paper 2007-2013*, p. 24

²¹³ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 24

6.5 Labour

Furthering labour standards is not an official purpose of the AA but it have been focused on by the Parties.

6.5.1 Labour: Mission

Labour is not a one of the main purposes of the AA but work has been done in the area in order to lower the unemployment in Chile. Labour is mainly mentioned under title V, Social Cooperation, of the AA. The AA holds a reference to the ILO standard. This is not very common in EC agreements²¹⁴.

6.5.2 Labour: Legal Obligations

The Association does not hold any legal obligations that oblige Chile to comply with any minimum conditions or like. Instead the agreement in general terms talks about the promotion of ILO Standards. The Chilean legislation does, however, meet with ILO Standards and contains good protections for the workforce²¹⁵. E.g. the maximum hours for working is 45 hours a week with few exceptions, work is not allowed for more than six days a week and in not for more than 10 hours a day²¹⁶. Chile has also ratified a long list of convention in the labour area, among them; the Hours of Work Convention from 1919, the Right to Organise and Collective Bargaining Convention from 1949, the Freedom of Association and Protection of the Right to Organise Convention from 1948, the Employment Injury Benefits Convention from 1964, the Minimum Wage Fixing Convention from 1970, the Minimum Age Convention from 1973²¹⁷. As have been said in the chapter about Fighting Poverty there was a lot of complains from the Mapuche Indians regarding the fact that Chile had not implemented ILO convention 169²¹⁸ until recently and wished to do so with amendments²¹⁹

6.5.3 Labour: Methods and Costs

There is an ongoing dialogue on employment between the Parties since 2005. As mentioned above, increase in trade may also lead to more Chilean working opportunities.

²¹⁴ National Board of Trade, *Genus och jämställdhets aspekter I regionala och bilaterala frihandels- och associationsavtal*

²¹⁵ www.dt.gob.cl

²¹⁶ www.dt.gob.cl

²¹⁷ www.dt.gob.cl

²¹⁸ Brie A, Joint Parliament Committee, Fifth Meeting, p. 10

²¹⁹ The eco portal, www.ecoport.net

6.5.4 Labour: Result

The unemployment in Chile have fallen slightly since the coming into force of the AA, from 7.8 % in 2003 to 6 % in 2005²²⁰. The minimum wage recently increased to 146 000 Chilean pesos per month (about € 200) but about a third of the Chilean population earns less than this and about half of the workforce is excluded from the pension system. The right opposition in Chile is of the opinion that the minimum wage should be at least 250 000 Chilean pesos per month (about € 340)

A study carried through in 2005 shows that labour conditions in Chile has gone from bad to worst the last years and even more so in the sectors that have to do with export such as agriculture workers and workers in the salmon industry. Agriculture workers do not have any social security and does normal work seasons without knowing for how long time they will have to work. Workers in the salmon industry work long hours in really bad conditions. Foreign companies do not respect Chilean labour laws and many Chilean workers work long days, 14 hours a day is not unusual²²¹. Contrary to this study an evaluation done by DIRECON, the Chilean Department of Studies and Information, shows that companies working with exportation pays salaries that are 40 % higher than the average income²²².

²²⁰ UN statistics, www.un.org

²²¹ MujeresHoy, Chile: *Situación laboral de las chilenas se ha deteriorado*, www.mujereshoy.com/secciones/3092.shtml

²²² DIRECON, *Empleo y salarios en las empresas exportadoras*, p. 11

6.6 Environment²²³

Environment is an official purpose of the AA. The European Union has been criticised because its agreements do not take enough consideration to the environment.

6.6.1 Environment: Mission

Sustainable development is an overall purpose of the Agreement, the preamble of the AA states the “need to promote economic and social progress for their peoples, taking into account the principle of sustainable development and environmental protection requirement” and among the general objectives of the AA the “*promoting social development, which should go hand in hand with economic development and the protection of the environment*”²²⁴ can be found.

Article 28, about **Cooperation on the environment** states that “the aim of cooperation shall be to encourage conservation and improvement of the environment, prevention of contamination and degradation of natural resources and ecosystems, and rational use of the latter in the interests of sustainable development”

The areas that have been especially stressed in this article of the AA are;

- the relationship between poverty and the environment;
- the environmental impact of economic activities
- environmental problems and land-use management
- projects to reinforce Chile's environmental structures and policies
- exchanges of information, technology and experience in areas including environmental standards and models
- environmental education and training to involve citizens more
- technical assistance and joint regional research programmes²²⁵

6.6.2 Environment: Legal Obligations

As already said, European Union has been criticised because its agreements do not take enough consideration to the environment. Although the AA mentions environment and sustainable development in various places there are still no legal obligations concerning environment.

As a good example can be mention the Free Trade Agreement between Chile and Japan that explicitly states that the Parties can not use a “race to the bottom”- procedure concerning environment in order to attract investment.

²²³ AA article 28

²²⁴ AA article 16

²²⁵ AA article 28

6.6.3 Environment: Methods and Costs

According to the Country Strategy Paper for Chile environment shall be a cross-cutting issue that shall permeate the work and cooperation²²⁶.

The EC is promoting implementation of important environmental agreements like the UN Convention on Climate Change. This is done by assisting Chile's mitigation and adaptation efforts, combating the loss of biodiversity and tackling deforestation²²⁷. Studies in environmental-related fields will be encouraged²²⁸.

The bilateral cooperation agreement of € 50 million signed between Chile and Germany, Chile's most important bilateral donor, in 2005 was mainly focused on environmental protection and energy²²⁹.

6.6.4 Environment: Result

Environmental protection has been influenced by concerns over human health and international trade. Important challenges remain such as; maintaining progress on environmental management, integrating environmental concerns in sectoral policies, improving environmental management instruments and strengthening relevant institutions²³⁰.

One of Chile's main problems is still garbage and energy. The mountain of garbage is growing in Chile. Chile's capital Santiago is covered by smog and some days in the winter the schools have to close as it is not recommended for the children to go outside with such high levels of contaminations.

The carbon dioxide emission in Chile has increased since the agreement came into force. The emission was less in 2002 than 2000 but increased slightly in 2003 although the value from 2000 was still not passed. In 2004, however, the emission increased from 57 million metric tons of carbon dioxide to 62 million metric tons.

There have been improvements too. Chile has strengthened its environmental institutions and has intensified its environmental actions concerning air, water, waste and biodiversity. Some successful reforms have been carried out, e.g. in water service²³¹.

6.7

6.8 Conclusions concerning aid

Some improvements have been done in all sectors but the change goes very slow. There have also been unacceptable impairments since the AA came into force.

²²⁶ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 30

²²⁷ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 35

²²⁸ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 30

²²⁹ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 20

²³⁰ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 17

²³¹ European Commission, *Chile Country Strategy Paper 2007-2013*, p. 46

For **Democracy and Human rights** goes that a democratic reform process is going on in Chile with the aim to achieve a more effective and transparent public administration using new information and communication technologies. Still, there is a problem that not all of the citizens have the economical possibility or the knowledge require to take part of this “new society”.

When it comes to the **Fight against poverty** the most important work that has to be done is fairer distribution, so far nothing has happened but instead the gaps have become even bigger than before. However, it is worth mentioning that the Government has good goals and if these can be fulfilled a lot has been achieved. It is important that EC remembers them of those goals so they do not stay as just a pretty plan. The health care reform, AUGE, can also come to mean a lot for the poorest ones.

Concerning **Gender** some progress has been made when it comes to legal and social protection of women and there exist national programmes for this sake. However, a lot of work is still needed to be done in this area. It is positive that it seems like the Catholic Church is loosing some power and the need of contraceptives is being recognised. Since a few years back Chile now have a divorcement law and one could only wish that the question about abortion will soon be discussed. The Government is aware of the situation of women and work is being done. A new generation of girls is growing up becoming doctors, economists, and lawyers. But the girls from the poorest households still become pregnant very young and drop out of school. Regarding Gender fairer distribution is also one of the most important questions on Chile's agenda.

In the field of **Education** some improvements have been done but there is still a lot of work done. Also concerning education fairer distribution is one of the most important areas. Today many public schools are of poor standards and children from poorer household does not have the same possibility to go on to higher studies. It is very positive that all preschools are now free of charge but there is still work that has to be done concerning education. Hopefully the cooperation and contribution from EU will lead to new University educations and more postgraduate students.

For **Labour** the situation could have been better. The question about unemployment is not such a big issue as the low salaries. The minimum wage is still way to low and many people does not even gain the minimum. There is a big informal sector, maids etc, that does not have any social security at all, e.g. less than 40% of lower-incomst women workers have an employment contract²³². It is alarming that there has also been report about foreign companies that does not respect the Chilean Labour laws and that the working conditions has become worse for many workers during the last years. The labour laws are not as bad as the conformity to the laws. The question is what EU can do in order to change this situation. Maybe the ongoing political dialogue between EC and Chile concerning employment can have some positive influence.

²³² Committee on the Elimination..., *Concluding comments of the Committee on the Elimination of Discrimination against Women; Chile* p. 3

Finally, **Environment** is still a big problem although there has been some improvement. There is a lot to do in the area of Environment and cooperation between the Parties can have a big influence in this area. The Chilean Government is aware of the problem and feels the pressure from EU to do something about. There are plans concerning water and energy e.g. the bilateral cooperation with Germany.

The AA is very weak in the field of environment, having some legal obligation in the AA could have been a good way to improve the Chilean investment in the field.

If exporting European values of equality and good working condition as a way of helping the Chilean people really was a goal of the AA, the AA has not fulfilled its purpose so far. Yes, Chile is doing great but the poor is still poor or even poorer and instead of improving the situation for the workers foreign companies is offering worse conditions for them and the people working in sectors associated with export has the worst conditions.

But there are gleams of hope too. There have been improvements and the possibilities that these improvements will last and increase. The Association Agreement and the cooperation between EC and Chile have had both positive and negative impact of the people of Chile. We can only hope that the positive influence will increase and that there will be no lasting negative influence.

7 Final statements

7.1 Work carried out by the Institutional Framework

The Association Council has until today met at three occasions, in Santiago 2003, in Luxembourg 2005 and in Brussels 2007. The Association Committee has met on six occasions so far, last time in December 2008.

Chilean representatives have been expressing that the political level among the EU representatives is lower and that while political dialogue for Chile is about consensus it is for EU rather about the exchange of information²³³.

The institutional framework of the Agreement states that it is the role of the Joint Consultative Committee to promote dialogue and cooperation between the organisations of civil society in Europe and Chile²³⁴. Although it is up to the Joint Consultative Committee to decide when to meet this has been the most active committee, both in occasions of meeting and ambitions. In 2005 various members of the Committee had received complaints from civil society organisations concerning the Celco cellulose factory in Valdivia in north Chile. The complaints were about the waste from the factory damaging the flora and fauna in the area and also poisoning the drinking water of Valdivia.. EU had earlier raised concern concerning weak environmental laws in Chile, arguing that this would give Chilean export an advantage. Because of the complaints a delegation from the Joint Parliamentary Committee went to Valdivia to hear the complaints and to meet with representatives from Codelco²³⁵. Codelco presented the delegation with their plans concerning minimising the environmental impact on the environment²³⁶. Without knowing what the result the meeting had it is positive that the AA gives the possibility to civil society to announce problem directly to representatives of the European Parliament and that civil society is being listened to. Having the AA in the back, Chile and Chilean companies fear, and hopefully respect, the opinion of the Europe so much that the affected company not only make a plan concerning environment but also shows in to EC representatives.

²³³ Dykmann, Perceptions and Politics, *The foreign relations of the European Union with Latin America*, p. 52

²³⁴ AA article 10

²³⁵ Brie A, Joint Parliamentary Committee, Fifth Meeting, p. 9

²³⁶ Southern affairs 5th of October 2005

7.2 Negative side effects for Chile

I wanted to write about free trade as I believed that trade was something good and that free trade would be a blessing to all. Writing this work I came to realise that one of the problem with free trade is that it is free. Liberalists always have believed that trade and the free market sooner or later will give prosperity to all. It seems that in the case of FTAs between developed countries and developing countries it is rather later than sooner. We do not see the strong labour organisation movement in Chile today that we did in Sweden and that led to the distribution of the wealth in Sweden. At least until today the Association Agreement between the European Community and the Republic of Chile has not brought the Chilean people richness and glory.

As was mentioned in the beginning of this work, the Free Trade Agreements have had negative side effects in Chile. These negative effects can not be blamed on the AA alone but I found it important to stress them. Although the thesis is focused on the purpose of the EU, I feel that an agreement can not be evaluated without including or at least pay attention to eventually negative effects of it. As was said in the introduction Chile has free trade agreements with many countries so the negative influence mentioned below can not be blamed solely on the AA but on free trade in general.

A very clear article in the AA is article 23 about Transportation that explicitly states that "Cooperation will focus on restructuring and modernising Chile's transport system, improving the movement of passengers and goods and providing better access to urban, air, maritime, rail and road transport [...]"²³⁷ This sounds really great. It turned out to be great too but not for Chile but for Volvo that got a massive order for buses in order to change all buses in the 6 million city Santiago. In total 4 600 new busses will be operating in Santiago, so far Volvo has only delivered 1779 busses²³⁸. The new transportation system of Santiago, TranSantiago, has left the city being a chaos. Transport in the city now takes twice as long time and due to the undelivered buses all hours seems to be rush hours²³⁹. Now there are discussions about returning to the system as it was before in some ways²⁴⁰. It was a good affair for Volvo though²⁴¹.

The free trade agreements have resulted in less tax income to the state, a loss that has been covered with increasing the taxes for the citizens even though the government has been trying to say that the increase is to cover the health reformation²⁴².

Exportation is really profitable for the Chilean farmers and the demand for Chilean fruit and vegetable is high. This has led to increased food prices in Chile something that affects the poorest part of the population the most. Civil society participation is a good thing but it does not really help my illiterate maid Maria that does not know what a free trade agreement is²⁴³.

²³⁷ AA article 23

²³⁸ Volvo www.volvo.com, Wikipedia; "TranSantiago"

²³⁹ Wikipedia; "TranSantiago"

²⁴⁰ Interview with Patricio Cabello 2009-01-07

²⁴¹ Except from 620 buses from Borås, the busses were bought from Volvo's Brazilian fabric and does therefore not show in the trade statistic (Volvo)

²⁴² Rodin, *Frihandelsvtalet Chile-USA undertecknat*, p. 3

²⁴³ Interview with María Gonzales, Viña del Mar, Chile 2007-10-14

As have been mentioned earlier in the thesis;

Increased export has had a positive impact on the unemployment but some studies indicate that the labour conditions in the export sections are worse than before. The distribution of income in Chile is worse than ever.

The smog has always been a problem for the Chilean capital Santiago that is surrounded by the Andes. With the increased trade and production the pollution is today worse than ever in spite of Environment being one of the most stressed purposes of both the AA and EC's country strategy paper.

Yes, Chile is doing great but the poor is still poor or even poorer and instead of improving the situation for the workers foreign companies is offering worse conditions for them and the people working in sectors associated with export has the worst conditions. Chile is not a poor developing country, it is a middle income country with bad distribution of income. The challenge for Chile and for EU is to help Chile help it self. Chile does not need economical so much as know-hows and investments in the field of energy and recycling. It would be for the benefit of both Chile and EU if the AA and the cooperation that it provides could help South America as the Marshall help helped Europe after the WW2 and therefore create a bigger market both for export and import.

Even though there have been negative impacts there have been improvements too. There are possibilities that these improvements will last and increase. The Association Agreement and the cooperation between EC and Chile have had both positive and negative impact of the people of Chile. We can only hope that the positive influence will increase and that there will be no lasting negative influence.

7.3 Conclusions

The Association Agreement between the European Commission and its Member States and Chile is ambitious and extensive, above all when it comes to liberalisation of trade. However, it is not very innovative and the lack of legal obligations and the extensive use of expressions like “best effort” and “wherever possible” makes it rather toothless in more social areas as environment and labour. The AA could have been more legalistic, imposing the standards that the WTO does not do e.g. forbidding child labour, demanding environmental protection or equal pay for men and women. Above all I would have liked to see both more legal obligations and Cooperation promises concerning the environment. It is important that EC encourage all steps that are taking in order to improve the protection of the environment or decrease the negative impact on it. The EC should also make cooperation in this area and sharing its environmental friendly technology especially as EU is alone, thinking about US and its refusal to sign the Kyoto protocol and “the American way of living”. That could also be an argument for Europe in the “association race”. Contrary to poverty and gender that one can claim is a problem only for the country affected contaminations travels and the environment affects us all.

In the area of trade EU has been giving good conditions and copper, fruits and wine can be imported as the same time as EU can protect its domestic market regarding other products. The trade between Chile and EC is the trade that has increased the most measuring the increase in value and EU is still Chile most important trading party. The import to Chile from Europe has decreased and even if Chile is a small trading party for Europe it is important to increase the export as well as the import. In the trade sector the United States is not a competition and for now EU is winning this race. EU should keep an eye on the rear-view mirror, depending on the economical development in China it is probable that China soon will be a more important trading party for Chile than EC is. Once again, trade was probably not the most important purpose for EC to conclude the AA but it was probably necessary in order to continue having the high volumes of import from Chile in the long run.

EU's main purpose with the AA was more likely expanding Political cooperation and dialogue. Today when developing countries can't be taken as colonies it is necessary to by them with free trade agreements. As studies carried out shows it seems like EU has a very good image in Chile and is very welcome in the country. US is very close to Chile and have been influencing the culture and daily life of Chile for many, many years. This is a pattern that cannot be broken in five years. As the Swedish embassy expressed “EU must work very hard to make come truth the concrete areas of cooperation of the AA. If EU does not do so the risk is that Chile will be anchored even deeper in the orbit around the United States”²⁴⁴. This is still true.

Today Chile and EC has the same opinion about WTO and the Iraq war. They also have the same opinions about Cuba and the Guantanamo base. A big question mark if having the same opinion actually leads to anything. We still haven't seen any concrete result concerning neither Mercosur nor WTO. A fly in the ointment is Michel Bachelet, the President in Chile that walked in the head of the Latin American leaders criticizing EC immigration politic. This might be a signal indicating that Chile is not willing to go in the European leading-string.

²⁴⁴ Rodin; Frihandelavtalet Cgile-USA undertecknat, p. 5

Regarding the section about aid; once again if exporting European values of equality and good working condition as a way of helping the Chilean people really was a goal of the AA, the AA has not fulfilled its purpose so far. The gaps between poor and rich are larger today than ten years ago and the worse working conditions is found in sectors connected with exportation. The work that is being done in the Chilean cabinet for improving the situation for vulnerable groups would probably have been done any way. Hopefully the AA has sped up the process some, both by setting Chile in focus and by helping with funding for the projects. Distribution of income is maybe Chile's biggest problem and challenge today. If EU has a generally interest in helping and not just want to pile empty words into beautiful preambles a lot could be achieved e.g. by aiming for free and public education and health care. Just in the case with environment this could be a way for EU to win in the association race with US as US have problems resembling those of Chile both concerning education and health care.

There is no doubt about that concluding Free Trade Agreements is a lot more human way of getting friends and showing its power than carry trough wars. There is neither no doubt about that it is a better way to go. But is it less expensive? The AA agreement between EC and Chile had cost EU a lot in aid, cooperation and investment. Was it worth the price? In contrary to wars and races Free Trade Agreements does not give any clear answers. Who is the winner is not obvious and it can very well be different winners in different areas. And just as for wars, no one can tell how long it will be before we know the answer.

In my opinion it was right and necessary for the EC to conclude this agreement and the ambitions that EC had doing so was good and reasonable. So far, however, the agreement has not quite fulfilled its purposes. I think EC though it would be easier than it was. Maybe it didn't count on that it should be so many actors in the game and maybe it over esteemed the value of money. However, the war has just begun and the future will tell who the winner is, if any. Although the first parts of the agreement came into force in 2003, only a little bit more than three years have passed since the whole agreement came into force.

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