

GOVERNMENTS,
NON-STATE ACTORS AND
TRADE POLICY-MAKING

Negotiating Preferentially or Multilaterally

Co-edited by
ANN CAPLING AND PATRICK LOW

Stewart
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Chile

SEBASTIÁN HERREROS¹

This chapter reviews the participation of non-state actors (NSAs) in trade policy and negotiations in Chile over the last two decades, following democratic restoration in 1990. The analysis focuses on three main types of NSAs: business associations; labour organizations; and civil society organizations (CSOs). Most information has been gathered through structured interviews with NSA representatives and current and former government officials (see the list in the Annex below). The existing literature has been used as a secondary source.

The chapter is structured as follows: section 1 presents an overview of Chilean trade policy since the 1930s and a description of the country's trade patterns; section 2 describes Chile's main actors in trade policy; section 3 contains an analysis of NSA participation in a number of specific trade negotiations; and section 4 presents the study's main findings and conclusions.

The main findings that emerge from the chapter are the following. First, the intensive process of trade negotiations which started in 1990 has been dominated from the outset by the executive branch of government. Second, the business sector is by far the most influential constituency among NSAs. Third, NSA participation in trade debates (with the exception of the business sector) has been rather sporadic, and decreased significantly after major negotiations with the United States and the European Union were completed in 2003. Fourth, the relatively strong support for 'free trade' that exists within business and political elites as well as among the Chilean population at large means that those NSAs critical of trade negotiations have played a mostly marginal role.

Concerning forum choice, no clear conceptual preference between the multilateral and the preferential level is discernible among Chilean NSAs. However, in practice they have privileged preferential negotiations

¹ International Trade and Integration Division, United Nations Economic Commission for Latin America and the Caribbean (ECLAC). The views expressed here are exclusively those of the author and do not reflect necessarily those of ECLAC.

to pursue their goals, as they perceive that Chile has a greater leverage to influence their agenda, timing and outcome than is the case at the WTO.

1 Background and context

1.1 *Evolution of Chile's trade policy since the 1930s*²

From the 1930s until the mid-1970s, Chile's development strategy was based on industrialization by import substitution. Chile's embrace of import substitution was the result of the dramatic impact that the Great Depression had on its economy,³ and of the scarcity of imported goods caused by the Second World War. During this period, Chile promoted industrialization through the use of exchange controls, multiple exchange rates, high import tariffs, export taxes, import licences, import quotas and prohibitions, credit rationing and different types of subsidies. The distortions in Chile's trade regime became especially pronounced under President Salvador Allende's left-wing administration (1970–3).

Throughout this period, import substitution delivered modest growth: GDP grew at an average of 3.8% a year between 1940 and 1970 (Meller 1996). This period was also characterized by high inflation, chronic fiscal deficits, frequent balance of payments crises and an overgrown public sector. While the share of manufacturing in GDP climbed from 13% in 1925 to about 25% in 1970, large segments of Chilean industry were internationally uncompetitive.

Following the coup of September 1973, the military junta headed by General Augusto Pinochet led the country into a radical process of deregulation and privatization. Its blueprint was provided by the 'Chicago Boys', a group of Chilean economists most of whom had pursued graduate studies at the University of Chicago. Trade liberalization was an essential component of the new strategy. By the time the first trade reform was completed in 1979, Chile had a uniform 10% tariff for all imports (except automobiles), a level that was at the time unusually low among economies at a similar development stage. There were no quantitative restrictions, no prohibitions, no anti-dumping or countervailing duties and no export subsidies. Essentially all selectivity was removed from trade policy. In 1976 Chile withdrew from the Andean Pact,⁴ both due to discrepancies

² This section draws on Herreros (2009).

³ Compared with its average for the 1927–9 period, in 1932 Chile's per capita GDP had fallen by 42% (Meller 1996).

⁴ The Andean Pact (now Andean Community) is an integration scheme created in 1969. Its other members in 1976 were Peru, Bolivia, Colombia, Ecuador and Venezuela.

with that bloc's restrictive treatment of foreign investment and to Chile's unwillingness to maintain the high protection levels demanded by the bloc's common external tariff.

Chile bound its entire tariff schedule during the GATT's Tokyo Round of 1973–9, the first GATT member to do so. All tariffs were bound at a flat 35%. The Chilean example of a ceiling binding for the whole tariff universe would be followed by a number of developing countries, especially in Latin America, during the Uruguay Round.

Following the outbreak of the debt crisis in 1982, there was a partial reversal of previous trade reforms. Tariffs were raised to 20% in March 1983 and to 35% in September 1984. Temporary tariff surcharges were authorized in 1982 for sectors in particular difficulty (mostly industrial ones), and a mechanism to compensate for external price instability – the price band system – was introduced in 1984 for wheat, sugar and vegetable oil. However, the flat tariff policy remained in place (with the exception of the price band system), and there was no recourse to quantitative restrictions.

Once the external disequilibrium was reduced, a second trade reform was launched. Tariffs were reduced from 35% to 20% in 1985 and then to 15% in 1988. This second reform was accompanied by a strong economic recovery and an export boom, helped by a favourable real exchange rate, the use of several export-promotion mechanisms and a high price for copper, which was then – and continues to be – Chile's main export product.

Since 1990 Chile has been governed by a centre-left coalition, the Concertación, which has won four consecutive presidential elections. Trade policy under the Concertación has followed a 'multi-track' or 'lateral' approach (Sáez and Valdés 1999). Unilateral opening has continued,⁵ while the country has been an active player at the multilateral level, both during the Uruguay Round and in the current Doha Round. Most notably, preferential trade agreements (PTAs) have become a prominent feature of Chile's trade policy.

Chile's 'lateral' strategy is based on the concept of 'open regionalism', made popular in the 1990s by the United Nations Economic Commission for Latin America and the Caribbean (ECLAC),⁶ and the Asia Pacific Economic Cooperation forum (APEC). According to Chilean authorities, open regionalism 'seeks to ensure that no trade agreement limits the freedom [of Chile] to negotiate further agreements or creates more obstacles vis-à-vis other trading partners' (WTO 1997).

⁵ The general MFN import tariff was reduced from 15% to 11% in 1991, and to the current 6% between 1999 and 2003.

⁶ See ECLAC (1994).

Chile's move into PTAs is a response to several factors. First, democratic restoration made it an eligible partner for many countries once again. Second, its open trade regime meant that additional efficiency gains from further unilateral opening would be relatively small (and that PTAs should not create significant trade diversion). Third, the authorities' interest in increasing the value-added of Chilean exports required improved access to foreign markets, which could not be achieved via unilateral opening. Fourth, the emergence of regionalism as a key feature of the world economy since the late 1980s provided a defensive rationale for a small country like Chile to either join or negotiate PTAs with the main blocs. The substantial geographical diversification of Chilean exports made this argument especially compelling. An additional argument was uncertainty about the outcome of the Uruguay Round and subsequently some disappointment about the Round's results in areas of interest to Chile, such as agricultural market access.

Chile has followed a gradualist approach to PTAs. It started in the early 1990s negotiating 'economic complementation' agreements (ECAs) with other Latin American countries, which covered only trade in goods. From the mid-1990s, it began negotiating more comprehensive trade agreements with its major partners outside Latin America. Today, Chile has twenty PTAs with fifty-eight countries in force (see Table 2.7).⁷ The majority of them cover trade in goods and services, investment, intellectual property, public procurement and other trade-related areas. Some of them also cover labour and environment, either directly or through side cooperation agreements.⁸

Chile's achievements in terms of PTAs have been made possible by its decision not to become a full member of either of South America's two main integration schemes: the Andean Community – successor of the Andean Pact – and the Common Market of the South (MERCOSUR).⁹ Joining either group would have meant surrendering Chile's autonomy in trade and other economic policies, including trade negotiations.¹⁰ Instead, Chile obtained 'associated member' status in both groups.

⁷ In July 2009 an FTA was signed with Turkey. At the time of writing, there are PTA negotiations underway with Malaysia and Vietnam.

⁸ For greater clarity, henceforward all these agreements will be referred to as PTAs, except where distinguishing between the different categories is relevant.

⁹ Created in 1991, its full members are Argentina, Brazil, Paraguay and Uruguay. Venezuela is negotiating its accession.

¹⁰ The argument can be summed up as 'the advantage of being single (and small)'. Chile is an economy small enough not to threaten the viability of any productive sectors in its

Chile's bound tariff since the end of the Uruguay Round is a flat 25%, with a handful of exceptions in agriculture.¹¹ Its applied most favoured nation (MFN) tariff has been a flat 6% since 2003, with roughly the same exceptions as for the bound rate. Taking into account PTAs, its average applied tariff was 1.1% in August 2009, according to a study by the Santiago Chamber of Commerce.¹² Trade remedies are seldom used. Chile is considered to have generally very open regimes concerning foreign investment, services and government procurement.

Chile's approach to trade negotiations is informed by its open trade and investment regimes. First, it follows a general policy of no product exclusions in its PTAs. Sensitivities are dealt with through longer tariff phase-out periods, and the only exclusions respond to reciprocity considerations. Second, Chile maintains the policy that its PTAs must have the widest coverage possible, including trade in services, investment, government procurement and other 'second generation' areas. Accordingly, it has been upgrading its 'first generation' ECAs within Latin America, usually by replacing them with free trade agreements (FTAs).

Chile applies its 'wide coverage' policy towards PTAs with some pragmatism, and has been willing to accommodate the negotiating positions of some partners, especially if they represent attractive markets. For example, in the agreement with India each country grants tariff preferences (not elimination) to a list of products of interest to the other country. Similarly, the PTA with China originally covered trade in goods only, since at the time China was not prepared to negotiate other areas.¹³

1.2 Chile's trade patterns

Chile's total merchandise trade reached a record US\$126,547 million in 2008, with exports of US\$69,821 million and imports of US\$56,726 million. Copper alone accounted for 52% of total exports. Other main export products – all of them with individual shares below 3% – correspond also to mining (molybdenum, gold), forestry (wood pulp, sawn coniferous

PTA partners. This is not the case with MERCOSUR, for example, which contains agricultural powerhouses such as Brazil and Argentina.

¹¹ Wheat, wheat flour, edible vegetable oils and dairy (bound at 31.5%) and sugar (bound at 98%).

¹² The study (in Spanish) is available at: www.ccs.cl/html/informe_Economico_files/11%20Arancel%2003-11-09.doc.

¹³ Subsequently, the agreement was expanded to include trade in services, and negotiations on investment are currently underway.

Table 2.1 *Chile's main export and import products, 2008*

	No.	Product	Amount exported/ imported (US\$ million)	Share of total (%)
Exports	1	Refined copper: cathodes and sections of cathodes	20,243	29.0
	2	Copper ores and concentrates	13,005	18.6
	3	Unrefined copper; copper anodes for electrolytic refining	2,477	3.5
	4	Molybdenum ores and concentrates (roasted)	2,027	2.9
	5	Fuels and other merchandise for ships, aircraft and other vehicles engaged in international transport	1,329	1.9
	6	Chemical wood pulp (coniferous)	1,249	1.8
	7	Chemical wood pulp (eucalyptus)	1,208	1.7
	8	Services considered exports	881	1.3
	9	Ferromolybdenum	839	1.2
	10	Gold in other unwrought forms	732	1.0
		<i>Total 10 top export products</i>	43,990	63.0
Imports		<i>Rest</i>	25,831	37.0
		Total exports	69,821	100.0
	1	Petroleum oils and oils obtained from bituminous minerals (crude)	7,175	12.6
	2	Distilled fuel oils (gas oil, diesel oil)	5,092	9.0
	3	Motor cars and vehicles for transporting persons	1,542	
	4	Molybdenum ores and concentrates (other than roasted)	845	1.5
	5	Telephone sets	743	1.3
	6	Bituminous coal	625	1.1
	7	Propane (liquefied)	486	0.9
	8	Motor vehicles for the transport of goods	469	0.8
	9	Natural gas	452	0.8
	10	Sulphuric acid	447	0.8
		<i>Total 10 top import products</i>	17,876	31.5
		<i>Rest</i>	38,850	68.5
		Total imports	56,726	100.0

Source: General Directorate for International Economic Relations, Ministry of Foreign Affairs.

Table 2.2 *Composition of Chile's trade by main partners, 2008*

Partner	Exports		Imports	
	Amount (US\$ million)	Share of total (%)	Amount (US\$ million)	Share of total (%)
NAFTA	11,794	16.9	13,697	24.2
<i>United States</i>	8,131	11.6	10,982	19.4
Latin America	10,674	15.3	16,887	29.8
<i>MERCOSUR</i>	6,747	9.7	11,089	19.5
European Union (27)	17,235	24.7	7,204	12.7
Asia (4) ^a	22,816	32.7	13,097	23.1
<i>China</i>	9,873	14.1	6,800	12.0
Main four partner regions	62,519	89.6	50,885	89.7
Rest	7,302	10.4	5,841	10.3
Total	69,821	100.0	56,726	100.0

^a China, Japan, Korea and India.

wood), the chemical sector (methanol) and agriculture and agro-industry (salmon, wine, grapes). Chile's main import items correspond to petroleum and related products such as gasoline, gas oil and diesel oil, followed by vehicles, molybdenum, telephone sets and natural gas (see Table 2.1).

In 2008, 90% of Chilean exports were sent to countries with which Chile had PTAs in force. These countries also accounted for 90% of Chilean imports in the same year. Chile's trade is geographically well diversified. Asia has emerged in recent years as its main export region, and in 2008 China became its top individual export destination. Latin America is Chile's main supplier of imports (especially of energy products), although in 2008 the United States was the top individual origin of Chilean imports (see Table 2.2).

2 Main actors in Chilean trade policy

2.1 State actors

2.1.1 The executive branch

Chile has a strongly presidential political regime. According to the country's constitution, the conducting of foreign policy (including trade

negotiations) is a special prerogative of the president.¹⁴ Consequently, its approach to trade negotiations is led by the executive branch of government.

Since its creation in 1979, responsibility for conducting trade negotiations has been entrusted by law to the General Directorate for International Economic Relations (DIRECON), a specialized agency within the Ministry of Foreign Affairs. DIRECON oversees the whole range of trade negotiations in which Chile participates, at the bilateral, sub-regional and multilateral levels. It also coordinates the implementation of trade agreements. This role has consolidated over time: in the early 1990s, overall responsibility for trade negotiations was in practice less clearly defined, with the ministries of Economy and Finance competing to some extent with DIRECON for the leading role (Silva 2000; Jara 2001; Porras 2003).

The formal institutional setting for inter-agency coordination dates from 1995, when the Inter Ministerial Committee on International Economic Negotiations (IMCIEN) and the Committee of Negotiators were created. The role of the IMCIEN is to advise the president on international economic negotiations. It is composed of the Minister of Foreign Affairs, who chairs it, and the ministers of Finance, Economy and the Secretary General of the Presidency, plus other ministers depending on the issues to be discussed. The Committee of Negotiators prepares the agenda for the meetings of the IMCIEN, including proposals for action. It is chaired by the director general of DIRECON and includes representatives of the ministries of Finance, Economy, Agriculture, the Secretariat General of the Presidency and the Secretariat General of Government.

The IMCIEN met extensively over the 2000–3 period, while Chile was simultaneously negotiating PTAs with the United States and the European Union. Thereafter the frequency of its meetings decreased, the last one being held in 2006. According to several interviewees, those two large negotiations essentially ‘set the terms’ for further negotiation processes. Therefore, no further ministerial-level meetings have been considered necessary.

Today, formal inter-agency coordination rests with the technical-level Committee of Negotiators, which meets two or three times a year. In practice, however, inter-agency coordination takes place on a daily basis. As the negotiations agenda has become ever wider and more complex,

¹⁴ The constitution currently in force dates from 1980, in the middle of the military rule period (during the whole duration of which Congress was suspended). It therefore reflects a strong presidential bias, which persists despite several amendments.

DIRECON constantly coordinates with a wide range of ministries and agencies. The interaction with the Ministry of Finance is particularly important. Finance leads negotiations on financial services, has a prominent role in those about other services, investment and government procurement, and otherwise has a general overview role.¹⁵

Other ministries involved in trade negotiations are those of Economy, Agriculture, Labour, Education, Transport and Telecommunications and Health, as well as the Central Bank, the Foreign Investment Committee and a large number of specialized agencies. These include the National Customs Service, the Internal Revenue Service, and agencies overseeing sanitary and phytosanitary regulations, intellectual property, government procurement, immigration and the regulation of several services sectors.

Reflecting the emergence of intellectual property in the trade agenda since the Uruguay Round, an Inter Ministerial Committee on Intellectual Property was established in 2005. Its goals are to coordinate the implementation of commitments adopted in trade negotiations and in international bodies such as WIPO and WHO, and to establish national positions in those forums. It is composed of the ministries of Agriculture, Culture, Economy, Education, Health and Foreign Affairs (through DIRECON, which serves as secretariat).

2.1.2 The legislative branch

Congress plays a relatively passive role in trade negotiations. It does not participate in either the selection of negotiating partners or the definition of negotiating mandates. As defined in the constitution, the main role of Congress in trade policy is to either approve or reject those international treaties (including trade agreements) already signed. It is not entitled to amend them.

Nonetheless, Congress has gradually assumed a more prominent role in trade policy in general, and in trade negotiations in particular, due to their increased public visibility. For example, during the first half of the 1990s, the PTAs negotiated with countries such as Mexico, Colombia, Ecuador and Venezuela were not sent to Congress for ratification, and instead were put into force by Executive Decree. This practice was based on the notion that those PTAs were implementing agreements of the Treaty of Montevideo of 1980, which established the Latin American Integration

¹⁵ By law, the appointment of the director general of DIRECON must be explicitly approved by the ministers of Foreign Affairs and Finance.

Association (ALADI).¹⁶ This changed with the PTA between Chile and MERCOSUR, signed in 1996. Although this agreement enjoyed the support of a majority of the business sector, it faced the active opposition of the import-competing segment of Chilean agriculture and their allies in Congress. In this context, the executive decided to submit the agreement for parliamentary ratification, a practice which has been followed with all subsequent trade agreements.

2.1.3 Channels for participation of non-state actors

Participation by NSAs in trade negotiations is a relatively new phenomenon in Chile. During the period of military rule, civil society involvement in the formulation of public policies in general was almost non-existent, apart from well-connected business interests. Moreover, during that period Chile did not participate much in trade negotiations (other than in the GATT and some minor ones within the framework of ALADI). It was, therefore, only after 1990 that this issue became relevant, coinciding with the first PTA negotiations. Non-state actor involvement was essentially confined to business associations for most of that decade. Other actors, such as the labour movement, academic institutions and CSOs, showed little interest in and knowledge of trade negotiations. It is only since the late 1990s that some of these actors became more actively involved in negotiation processes.

The evolution of channels for NSA participation in trade negotiations reflects the trend described above. During the first half of the 1990s consultations were mostly informal, given the limited range of interested actors. The first attempt to create a formal structure came in 1995 with the creation of the Committee for the Participation of the Private Sector (CPPS). This body, which ceased meeting in 2000, had the role of informing the private sector about developments in trade negotiations, getting its feedback and transmitting it to the IMCIEN.

The CPPS was composed, on the government side, by the Minister of Economy, who chaired it, plus the ministers of Foreign Affairs, Finance and Agriculture, the Secretary General of the Presidency, and the director general of DIRECON. On the private side, it was composed of two representatives of the Confederation of Production and Commerce (CPC, the main umbrella organization for the business sector), two of the Workers'

¹⁶ The Treaty of Montevideo allows two or more ALADI members to negotiate 'Economic Complementation' Agreements among themselves. It was thus considered that, since the Treaty of Montevideo was already in force in Chile, the subsequent ECAs did not need parliamentary ratification.

Unitary Central (CUT, the main umbrella organization for organized labour), plus three individuals with experience in international economic negotiations, appointed by the president. Other individuals could be invited to participate depending on the agenda.

Because of its composition, the CPPS provided opportunities for expressing views only to the highest level entities representing organized business and labour. Besides, it usually met no more than twice a year, so it was therefore of limited value as a forum for NSA participation in trade negotiations. But this was a reflection of the incipient state of NSA involvement in trade at the time.

The situation evolved in a more participatory direction in the second half of the 1990s as a result of the negotiations with MERCOSUR and Canada. The importance of the agreement with MERCOSUR in fostering parliamentary involvement in trade has been already mentioned. The PTA with Canada was Chile's first with a developed country, and marked a watershed in several respects. On the one hand, it involved negotiations on areas that were at the time essentially new for Chile, such as services and investment. On the other hand, it involved the negotiation of cooperation agreements on labour and environment.¹⁷ For Chilean negotiators, the negotiation and implementation of commitments in all these areas meant having to expand the scope of internal consultations beyond traditional stakeholders in the business sector. It also set in motion a learning process for Chilean NSAs, such as environmental CSOs and labour unions, which until then were not familiar with the world of trade negotiations.

Non-state actor participation in trade negotiations peaked in the first half of the current decade, when Chile was simultaneously negotiating PTAs with the United States and the European Union, as well as participating in the Free Trade Area of the Americas (FTAA) negotiations. A number of channels were consequently opened for negotiators to interact with organized civil society (see section 3, below).

The issue of mechanisms to engage NSAs in trade policy and negotiations cannot be looked at in isolation from the broader trends in civil society participation in public policies. This is a fairly recent development in Chile: the first explicit instructions to open channels for public participation in the formulation and implementation of public policies came only in 2000 through a decree issued by then President Ricardo Lagos.

¹⁷ This PTA was seen by both Canada and Chile as an interim agreement towards eventual Chilean membership of NAFTA (which ultimately did not materialize).

New directives on citizens' participation in public administration were subsequently issued by President Michelle Bachelet in August 2008. They required all state agencies, as of 1 April 2009, to: (1) establish a mechanism for public participation in the development of public policies within the competencies of each agency; (2) provide a yearly public report on their overall (including budgetary) performance; (3) establish consultative civil society councils; and (4) make available to the public, in a timely, complete and widely accessible fashion, relevant information on their policies, plans, programmes, actions and budget.

In parallel with the above changes, Law 20,285 on transparency of the public function and access to information on the state's administration entered into force on 20 April 2009. It requires the vast majority of state agencies to make publicly available through their websites a wide range of information, including their applicable laws, budget, personnel, internal organization, procurement practices, etc.

The presidential directives and the new transparency law should have profound implications for relations between Chile's state institutions and the public. This process is unfolding at the time of writing, as both the directives and the law have been in force for only six months. Therefore, it is still too early to predict how the new requirements will affect NSA participation in trade policy. However, it seems clear that the overall trend is towards greater transparency and accountability, which should facilitate NSA involvement.

2.2 *Non-state actors*

In Chile, the most relevant types of NSAs in trade negotiations are: (a) business associations; (b) labour organizations; (c) CSOs; and (d) professional associations. NSAs are also organized in broader coalitions encompassing entities belonging to two or more of these categories. Other categories, such as think tanks or academic institutions, participate sporadically in trade discussions. There is little NSA participation in trade policy discussions outside the context of trade negotiations, with the exception of directly interested business actors. Table 2.3 briefly describes the NSAs involved in trade policy-making.

2.2.1 *The business sector*

The business sector is by far the most active and influential NSA in Chile's trade policy and negotiations. Its main umbrella organization is the CPC, which groups six associations representing mining, commerce, services

and tourism, industry, agriculture, the building sector and the banking and financial services sector. Both the CPC itself and two of its member associations have been traditionally very active in trade negotiations. These are the Federation of Chilean Industry (Sociedad de Fomento Fabril, SOFOFA) and the National Agriculture Society (Sociedad Nacional de Agricultura, SNA).

Below the CPC's main six associations, there are other, smaller ones which represent specific export interests. This is the case with the Manufactures' Exporters Association (Asociación de Exportadores de Manufacturas, ASEXMA), which groups small- to medium-sized industrial exporters, and the Association of Exporters (Asociación de Exportadores, ASOEX), which represents the exporters of fruits and vegetables.

As the trade policy agenda has enlarged, so has the range of consulted business interests. For example, the Services Exporters' Committee (later renamed Services Exporters' Coalition) was created in 1996 following the launch of PTA negotiations with Canada. Unlike the organizations mentioned above, the Coalition is an informal platform, grouping over forty entities spanning a wide range of sectors (banking, transport, pensions, audiovisual, health insurance, etc.) and professional associations (lawyers, engineers, journalists, medical doctors, dentists, etc.). Its secretariat functions are performed by the Santiago Chamber of Commerce.

As Chile started negotiating intellectual property issues in its PTAs with the United States and the European Union, other organizations have become involved in trade negotiations. This is the case with the Industrial Property Association of Chile (Asociación Chilena de la Propiedad Industrial, ACHIPI), the Chilean Copyright Society (Sociedad Chilena del Derecho de Autor, SCD) and the Industrial Association of Pharmaceutical Laboratories (Asociación Industrial de Laboratorios Farmacéuticos, ASILFA), among others.

2.2.2 *Labour organizations*

The government's main counterpart in this area is the country's biggest labour coalition, the CUT, founded in September 1988 (see Table 2.3).¹⁸ There was little participation by the labour union movement in Chile's trade negotiations for most of the 1990s. This was caused by a combination of factors, including more pressing domestic priorities within a movement that was just being reconstructed, the relatively low public visibility of Chile's first trade negotiations and the lack of technical expertise

¹⁸ The CUT is the successor organization of the Central Única de Trabajadores, created in 1953 and outlawed by the military in 1973.

Table 2.3 *Some NSAs involved in trade policy-making in Chile since 1990*

Name	Policy interest (trade-related)	Constituencies served	Source of funding	Local affiliates	International affiliates	Negotiations active in
Business sector						
ASEXMA	Representing associates' interests before authorities and negotiators	Associated companies (exporters of manufactures and services)	Membership fees	Associated companies	None	All PTAs since 1990
Services Exporters' Coalition	Representing associates' interests before authorities and negotiators	Associated business organizations and professional associations	Santiago Chamber of Commerce	Associated members	Part of the Global Services Network (GSN)	All PTAs since the FTA with Canada, plus Doha Round at the WTO
SOFOFA	Representing associates' interests before authorities and negotiators	Associated business organizations (mostly industrial) ¹⁹	Membership fees	Associated business organizations		All PTAs since 1990

Civil Society Organizations (CSOs)						
Oxfam International	Promotion of fair trade through changes in trade rules in the WTO and PTAs			Had a national office in Chile until early 2009	Oxfam International network	PTAs with USA, EU, FTAA
OCEANA	Support the adoption of new WTO rules to combat subsidies that promote over- fishing			Has its headquarters for South America in Chile	OCEANA international network	Fisheries subsidies' negotiations at the WTO
Chilean Alliance for Fair and Responsible Trade	To foster civil society's participation in (and surveillance of) trade negotiations, and to promote an integration agenda based on fair trade and on the strict respect of economic, social and cultural rights	See 'Local affiliates'		<ul style="list-style-type: none">• Institute of Political Ecology• Consumers International (Chile)• International Gender and Trade Network• Human Rights' Continental Platform (Chilean Chapter)• Etc.	Alianza Social Continental (Hemispheric Social Alliance)	PTAs with USA, EU, FTAA

Table 2.3 (cont.)

Name	Policy interest (trade-related)	Constituencies served	Source of funding	Local affiliates	International affiliates	Negotiations active in
Labour organizations						
CUT	Promote the respect of workers' rights in trade agreements	Its 670,000 members (see 'Local affiliates')	Membership fees	28 confederations, 64 federations, 20 associations and 132 labour unions	Member of the International Trade Union Confederation (ITUC)	PTAs with USA, EU
Other						
Chilean Coalition for Cultural Diversity	Representing associates' interests before authorities and negotiators	See 'Local affiliates'	N/A	<ul style="list-style-type: none"> • Audiovisual Platform • Association of independent publishers • Actors' union (SIDARTE) • Music workers' union 	Member of the International Federation of Coalitions for Cultural Diversity (IFCCD)	PTAs with USA, EU, FTAA

Source: Author's interviews with representatives of the different NSAs during 2009. N/A: Not available.

¹⁹ Includes agro-industry organizations.

on trade within the labour movement. For example, the CUT was not actively involved in the negotiation of the Chile-Canada Agreement on Labour Cooperation (CCALC) that entered into force in 1997. The situation changed only during the Chile-US PTA negotiations (see section 3). However, after their completion the labour movement has largely retreated back into its domestic agenda.

2.2.3 Civil society organizations

CSOs were largely absent from trade negotiations during most of the 1990s, for similar reasons to those of labour organizations. The situation started to change gradually in the second half of the 1990s, with CSO participation reaching its peak between 2000 and 2003. Since then, and again similar to the labour movement, they have mostly turned their attention to domestic concerns.

The launch of the FTAA project at the first Summit of the Americas in December 1994 catalysed the involvement of CSOs in trade debates in Chile. In 1998 the first Summit of the Peoples of America (Cumbre de los Pueblos de América) took place in Santiago de Chile, in parallel with the second Summit of the Americas. The former was organized by the Hemispheric Social Alliance (Alianza Social Continental), a CSO network created in 1997 to confront the FTAA project and which groups CSOs from the whole American continent.

In 1999 the Chilean Alliance for Fair and Responsible Trade (Alianza Chilena por un Comercio Justo y Responsable, ACJR) was created. During its brief existence,²⁰ it was Chile's most influential CSO network active in trade debates, becoming the Chilean Chapter of the Hemispheric Social Alliance. It was very active in the first years of the FTAA process, as well as during the negotiations of the Chile-US PTA, adopting a critical view of both (see section 3).

Environmental CSOs have generally not been very active in trade discussions, partly due to lack of technical knowledge. However, on discrete occasions they have resorted to mechanisms created by trade agreements to pursue their goals. For example, the Chile-Canada Agreement on Environmental Cooperation (CCAEC) established a process by which individuals and CSOs can claim that either country is failing to effectively enforce one or more of its environmental laws. This mechanism has been used by several Chilean CSOs to denounce alleged violations by the Chilean government. The CCAEC also created mechanisms for

²⁰ It ceased to exist in 2006 due to funding problems.

civil society to participate in the implementation of the agreement, for example, by suggesting areas of cooperation. These channels have been used by CSOs and other actors such as academic institutions.

As to the local branches of 'multinational' CSOs, the most active ones have been Oxfam (during the PTA negotiations with the United States and the European Union and those within the FTAA) and, to a lesser extent, OCEANA (concerning the negotiations on fisheries subsidies which are part of the Doha Round at the WTO). Their respective positions are elaborated in section 3.

2.2.4 Professional organizations

The emergence of professional organizations as relevant actors in trade negotiations is closely related to the incorporation of services to the negotiating agenda. A large number of them are actually members of the Services Exporters' Coalition.

An interesting case is that of the cultural industries. In 2001 the Audiovisual Platform, created in 1997 and which groups several entities active in that sector, joined forces with the association of independent publishers, the actors' union and the music workers' union to form the Chilean Coalition for Cultural Diversity (CCCD). The Coalition actively lobbied for the complete exclusion of cultural industries from the Chile-US PTA, as had been the case in the Chile-Canada PTA (due to Canadian sensitivities). According to Bruno Bettati, then secretary general of the Audiovisual Platform, the Coalition did not fit into any of the typical NSA categories as it encompassed elements of both a business association and a CSO. Therefore, Chilean negotiators initially had some difficulty in deciding how to interact with it.²¹

During the Chile-US PTA negotiations and afterwards, the CCCD worked actively with similar movements from other countries, such as Canada's Coalition for Cultural Diversity. The First International Meeting of Professional Associations from the Cultural Milieu took place in Montreal in September 2001, with the attendance of representatives from twelve countries (among them Chile). The meeting's Final Declaration called on governments to refrain from undertaking any commitments on cultural industries or policies, be it in bilateral, regional or multilateral negotiations.²²

²¹ Eventually the Coalition's representatives participated in the same 'adjacent rooms' as business organizations (see section 3).

²² For the full text, see www.cdc-ccd.org/main_pages_En/Publications_En/Declaration_1stmeeting_montreal_En.pdf.

Table 2.4 *State actors, main reason to engage with NSAs in trade policy-making*

Main reason for engaging NSAs	Number of responses	Share of total (%)
Satisfying public policy (including statutory) requirements	3	60
Promoting transparency	1	20
Seeking technical advice and commercial intelligence	0	0
Gauging potential views in relation to potential points of opposition to negotiating positions	0	0
Creating coalitions to support negotiating positions and outcomes	1	20
Other	0	0
Total	5	100

Source: Questionnaires administered to current and former government officials.

After the PTA negotiations with the United States were concluded, the CCCD continued working with groups from other countries that lobbied against the inclusion of cultural industries in trade agreements. They campaigned for the negotiation within the framework of UNESCO of what would become the Convention on the Protection and Promotion of the Diversity of Cultural Expressions. In their view, this convention, which entered into force in March 2007, was a necessary counterweight to the purely commercial approach to cultural activities inherent to trade negotiations (including in the WTO).

2.3 Findings about the interaction between state and non-state actors

Tables 2.4, 2.5 and 2.6 summarize the answers provided by representatives of both state and non-state actors to questionnaires administered

Table 2.5 NSAs' preferred way of influencing trade negotiations

Preferred way of influencing negotiations	Number of responses	Share of total (%)
Participating in meetings or committees organized by government	3	37.5
Self-initiated interaction with government or other lobbying activity	3	37.5
Publishing or broadcasting material	0	0
Conducting public campaigns	2	25.0
Other	0	0
Total	8	100.0

Source: Questionnaires administered to NSA representatives.

Table 2.6 NSAs' preferred target to influence trade negotiations

Preferred target	Number of responses	Share of total (%)
Ministers and vice ministers	2	22.2
Government officials	6	66.7
Legislators	0	0.0
Public opinion	1	11.1
Other	0	0
Total	9	100.0

Source: Questionnaires administered to NSA representatives.

in the course of this research project. It should be noted that the majority of the replies by both groups, while in principle not specific to any particular negotiation, relate mostly to Chile's PTA negotiations with the United States and the European Union, and to a lesser degree to those of

the FTAA and the Doha Round. The main findings stemming from them are presented below.²³

Government officials' main reason to engage NSAs has been to satisfy public policy requirements, and, to a lesser extent, to promote transparency and create support coalitions (see Table 2.4). Interviewed officials agreed that seeking technical advice and commercial intelligence was not a relevant motivation to engage NSAs, including business interests, as negotiators usually handled better information than the business sector and were familiar with the latter's demands from previous negotiations.

Non-state actors prefer direct interaction with government as a means of influencing negotiations. This is the case with all business NSAs, as well as with the labour movement and local CSOs. Participation in government organized meetings and self-initiated interaction were mentioned by the same number of respondents as their preferred option (see Table 2.5). Unsurprisingly, the option of conducting public campaigns as the main vehicle for influencing negotiations was mentioned only by the local representatives of Oxfam and OCEANA, two 'multinational' CSOs that operate to a large extent on the basis of global public campaigns.

Two-thirds of NSA representatives interviewed for this research considered government officials (more specifically, negotiators from DIRECON) as their main target in trying to influence negotiations (see Table 2.6). As several interviewees mentioned, this reflects the fact that both the technical expertise and the decision-making power are heavily concentrated in DIRECON. Ministers and vice-ministers come a distant second place, as they do not often get involved in the handling of negotiations (with the already noted exception of the PTAs with the European Union and the United States). Legislators were not mentioned at all, in recognition of the relatively passive role of Congress in trade negotiations.

3 Non-state actors and Chile's PTAs

Chile's current network of PTAs is shown in Table 2.7. Out of these twenty agreements, the analysis in this chapter focuses on the following:

- The Chile–Mexico PTA of 1991 (replaced in 1999 by the one currently in force) was Chile's first free trade negotiation ever, and its first major bilateral trade negotiation since recovering democracy. It was therefore conducted in an environment of no previous experience in such negotiations.

²³ These findings should be treated with some caution, due to the small sample of persons interviewed.

Table 2.7 *Chile's network of PTAs, September 2009*

Country/group	Type of agreement ^a	Signing date	Entry into force
(1) Latin America			
Bolivia	ECA/PSA ^b	6 April 1993	7 July 1993
Central America ^c	FTA	18 October 1999	14 February 2002
Cuba	PSA	21 August 1998	28 August 2008
Colombia	FTA	27 November 2006	8 May 2009
Ecuador	ECA	20 December 1994	1 January 1995
MERCOSUR	ECA	25 June 1996	1 October 1996
Panama	FTA	27 June 1996	7 March 2008
Peru	FTA	22 August 2006	1 March 2009
Venezuela	ECA	2 April 1993	1 July 1993
(2) North America			
Canada	FTA	5 December 1996	5 July 1997
Mexico	FTA	17 April 1998	1 August 1999
United States	FTA	6 June 2003	1 January 2004
(3) Europe			
EFTA ^d	FTA	26 June 2003	1 December 2004
European Union	AA	18 November 2002	1 February 2003
(4) Asia Pacific			
Australia	FTA	30 July 2008	6 March 2009
China	FTA	18 November 2005	1 October 2006
India	PSA	8 March 2006	17 August 2007
Japan	FTA	27 March 2007	3 September 2007
Korea	FTA	15 February 2003	1 April 2004
P4 ^e	AA	18 July 2005	8 November 2006

^a Source: General Directorate for International Economic Relations, Ministry of Foreign Affairs.

^b ECA: Economic Complementation Agreement; FTA: Free Trade Agreement; AA: Association Agreement (including an FTA); PSA: Partial Scope Agreement.

^c Comprises Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua.

^d Comprises Iceland, Lichtenstein, Norway and Switzerland.

^e Comprises Brunei Darussalam, New Zealand and Singapore (plus Chile).

- The Chile–MERCOSUR PTA, as previously noted, was Chile's first PTA to meet significant opposition from segments of both the private sector and Congress.
- The Chile–Canada PTA had a much wider coverage than Chile's previous agreements, forcing Chilean negotiators to expand the scope of NSA consultations.
- The Chile–US and Chile–EU PTAs represent the high mark in civil society participation in Chile's trade negotiations.
- The Chile–China PTA involved negotiating the complete liberalization of trade in goods with a country that has come to be seen as the world's industrial powerhouse and whose exporting potential is a source of concern in countries across the world.
- The now defunct FTAA negotiations (1998–2005) and the ongoing Doha Round negotiations have also been selected for analysis. This allows comparison between the dynamics of NSA participation in bilateral, plurilateral and multilateral negotiations.

This list also provides a representative cross-section of the trade agreements and negotiations Chile has entered into since 1990. It includes: agreements with other developing countries (Mexico, MERCOSUR and China), as well as with developed countries (Canada, the United States and the European Union); bilateral agreements as well as plurilateral and multilateral negotiations; agreements with fellow Latin American countries, as well as with countries in North America, Europe and Asia; 'first generation' agreements (ECAs) and 'second generation' ones (FTAs and an Association Agreement). Moreover, the list includes agreements and negotiations spanning the whole period since 1990, which allows the tracking of changes in civil society participation over time.

3.1 State–non-state actor interactions in trade negotiations

3.1.1 Chile–Mexico PTA

This negotiation is a typical example of Chile's first generation of PTAs. Participation by NSAs was confined to the business sector, and more specifically, to associations representing firms engaged in trade in goods. They were mainly consulted about their defensive and offensive interests (for the purposes of drafting tariff offers and requests, respectively), and their preferences on rules of origin (especially in the industrial sector).

3.1.2 Chile–MERCOSUR PTA

As was the case in Chile's previous PTAs, participation by NSAs was limited to those associations representing firms engaged in trade in goods. However, unlike previous negotiations, Chilean negotiators had considerable difficulty reconciling the conflicting interests of associations interested in expanding export opportunities and those concerned about import competition. This was especially clear in the agricultural sector, where export-oriented interests in wine, fruits and vegetables and agro-industry clashed with those of 'traditional', import-competing farming in sugar beet, wheat, vegetable oils and dairy. The politically well-connected sectors opposing liberalization in sensitive crops mobilized rural communities and Congress members from the affected constituencies to oppose the agreement (and afterwards to demand compensation for it). This episode sparked parliamentary interest in trade negotiations, which peaked at the time of those with the United States and the European Union.

3.1.3 Chile–Canada PTA

The expanded scope of these negotiations vis-à-vis those of all previous PTAs posed technical challenges to Chilean negotiators. For example, their only experience of negotiating services (the Uruguay Round) was of limited value, as the negotiating model was very different from the 'NAFTA type' proposed by Canada. Moreover, during the Uruguay Round Chile assumed very limited commitments on services, in contrast to the substantially wider coverage that was expected in the negotiations with Canada. Similarly, Chilean firms and associations engaged in the provision of services were not organized as exporters. This changed with the creation of the Services Exporters' Committee. The PTA negotiations thus set in motion a process of constant interaction and mutual learning for both negotiators and services firms which continues to the present today.

While CSOs and labour organizations did not participate in the negotiations of the side agreements on labour and environmental cooperation, these agreements opened the way for them to participate in their implementation. In general, the negotiations with Canada first exposed Chilean negotiators to that country's culture of civil society participation in trade and other public policies (Rojas and Pey 2002).

3.1.4 Chile–US PTA

The negotiations towards a PTA with the United States represented the highest point in the process of increasing NSA participation started in the late 1990s. There was unprecedented interest among a great diversity

of CSOs to express their views on the negotiations. This responded to a number of factors. First, the sheer size of the US economy, much larger than any of the economies with which Chile had hitherto negotiated trade agreements. Second, the aggressive stance taken by the United States – or was perceived to take – on highly sensitive topics such as pharmaceutical patents, investment and some services. Third, the negotiations took place during an extremely turbulent period in international relations, spanning the 11 September 2001 terrorist attacks, the US operations against the Taliban in Afghanistan and the run up to the US invasion of Iraq. Accordingly, some groups in Chile were worried that through the PTA Chile could be 'turning its back' to Latin America and associating itself with what they perceived as an aggressive and unilateralist US approach in foreign policy.²⁴

Chilean negotiators were acutely aware of the high economic and political stakes involved in the negotiations and of the need to publicly legitimize them. Several channels were therefore established to receive inputs from NSAs:

- At the launch of negotiations, an open invitation for submissions from all interested parties was extended through announcements in newspapers nationwide.
- An advisory council was created, composed, *inter alia*, of former ambassadors to the United States, businessmen, members of Congress, other politicians and academics.
- During the whole period of negotiations, there were direct consultations with the business sector and with labour organizations. They included the participation of representatives from both business associations and the CUT in several negotiating rounds. To that effect, three 'adjacent rooms' ('cuartos de al lado') were set up: one for associations representing large businesses; one for those representing small- and medium-sized enterprises; and one for labour representatives. This mechanism allowed Chilean negotiators to report to and receive feedback from those actors during the rounds.
- Specific consultations were also held with CSOs to explain the contents of the negotiations and to collect their views. These consultations took

²⁴ As it turned out, Chile declined to support the draft resolution presented in February 2003 by the United States, the United Kingdom and Spain to the UN Security Council and which would have amounted to the latter's approval of the Iraq invasion. This decision was made in spite of implied warnings that the US Congress might react by not approving the implementing legislation for the Chile–US PTA. At the time the negotiations had concluded, but the agreement was only signed in June 2003.

place mostly in the early part of the negotiations and were not as systematic as those with the business and labour organizations.

- Also during the negotiations several information seminars and presentations were jointly organized with all the above groups.

For its part, and in order to interact more effectively with Chilean negotiators, the CPC set up 'mirror working groups' replicating each of the negotiating groups. This illustrates the unprecedented level of interest generated by these negotiations within Chile's business sector.

The CUT had an ambivalent attitude towards the PTA. Publicly it adopted a critical stance towards it, which was motivated at least as much by political considerations as by substantive concerns. Chile's Communist Party, which has historically been strongly anti-American, at that time exercised (and continues to exercise) great influence within the CUT. Therefore, the CUT leadership was not prepared to speak up in favour of the PTA for fear of being accused of 'selling out to the United States'.

While publicly adopting a critical stance towards the PTA, the CUT presented concrete demands to Chilean negotiators as to the content of the agreement. Specifically, it demanded and obtained the inclusion in its text (not in a side agreement as was the case with the Chile-Canada PTA) of provisions ensuring the enforcement of each party's own labour legislation and of the fundamental workers' rights established by the ILO. This position was even articulated through a public joint declaration with the AFL-CIO from the United States in August 2002.²⁵ Moreover, CUT representatives participated in several negotiating rounds, and its leadership did not lobby against passage of the PTA in Congress. Summing up, their opposition was more formal than real. This point was made by at least two interviewees directly involved in the talks.

As for the CCCD, it argued that opening up Chile's cultural industries to competition from their world-dominant US competitors could threaten the former's viability. However, wholesale exclusion of cultural industries from the PTA was unacceptable to the United States. Eventually, Chilean negotiators secured a reservation in this sector allowing Chile the right to accord differential treatment to countries under existing or future bilateral or multilateral agreements, such as audiovisual cooperation agreements, as well as to subsidize its cultural industries. Although this achievement was at the time recognized by the CCCD, it fell short of its demands for a complete carve-out of the cultural sector.

²⁵ For the text (in Spanish) see www.union-network.org/uniflashes.nsf/0/16ee1b423da38a28c1256c210058521d?OpenDocument.

Both Oxfam and the ACJR were critical of the agreement on several counts.²⁶ On investment, they criticized its investor-state dispute settlement mechanism (modelled after NAFTA), arguing that it put at risk the ability of the host state to regulate in the public interest. They also expressed apprehensions about the potentially negative impact of Chilean commitments in education and health on the universal provision of those basic services. On intellectual property, they opposed US demands for protection of pharmaceutical patents beyond that granted by the WTO's TRIPs Agreement, on the ground that it put at risk the Chilean population's access to generic medicaments. Both Oxfam and the ACJR criticized the labour chapter, claiming that it did not sufficiently protect workers' rights. The ACJR also disapproved the PTA's provisions (or lack thereof) on issues such as gender, the environment and public procurement.

3.1.5 FTAA negotiations

These negotiations aroused considerable interest among Chilean NSAs, particularly the ACJR. This interest responded to the very ambitious nature of the FTAA project, in terms of the agreement's potential scope and geographical coverage, and to anxieties about its potential to become an instrument for the promotion of US economic and political hegemony in the region. NSA participation was encouraged by the invitation made by participating governments to civil society to express its views on the FTAA process and to submit contributions.

The overall approach of local CSOs to the FTAA was largely informed by their critical view of globalization. As was the case in the Chile-US PTA negotiations, they opposed the US stance on services, investment and intellectual property. They were also critical of the US refusal to discuss agricultural subsidies in the FTAA context. The most decisive part of the FTAA negotiations took place within the difficult political context that followed the 9/11 attacks, further strengthening the opposition by local CSOs.

The negotiations soon ran into difficulties, mainly due to disagreements between the United States and Brazil on the negotiating agenda. Progress slowed down and the negotiations were eventually suspended in February 2004. Despite some efforts to break the deadlock, the process is now considered over. As negotiations languished, NSA interest and participation diminished.

²⁶ Oxfam has articulated similar concerns about the other PTAs and PTA negotiations between the United States and the European Union, on one side, and Latin American countries, on the other.

3.1.6 Chile–EU PTA

All interviewees who were involved in these negotiations agreed that they were much less controversial than those with the United States. This was due to several factors. First, the European Union's generally gentler negotiating style (even if its substantive demands were sometimes not very different from those of the United States, for example, on issues such as intellectual property).²⁷ Second, its more comprehensive approach to negotiations; Chile and the European Union negotiated an Association Agreement, spanning not just trade but also cooperation and the establishment of a political dialogue mechanism. Third, the European Union's larger 'goodwill capital' and its more favourable perception among Chilean members of parliament, political parties in government, CSOs, labour movement and society at large. This was reinforced by the absence of the difficult geopolitical context that surrounded the negotiations with the United States. Several interviewees made the point that CSOs and the labour movement were never openly critical of the negotiations with the European Union, in spite of their similar content to those with the United States. This underscores the importance of the political factor in the latter.

3.1.7 Doha Round

Almost all interviewees concurred in stating that the Doha Round negotiations, while important, seem very remote and complex, making them difficult to follow. Moreover, they agreed that the Round has a clear credibility problem after many years of seemingly intractable problems. Interviewees were also mostly of the view that a small country like Chile, despite its good reputation in the area of international trade, has very little leverage with which to influence the outcome of the Round. Besides, multilateral negotiations are seen as removed from the concerns of Chilean public opinion.

All interviewees from the business sector pointed out that Chile has – unilaterally and through PTAs – both opened up its economy and obtained improved access to foreign markets beyond any likely outcome in Doha. In their view, this has had the effect of discouraging stronger involvement in the Round by the business sector. This assessment was shared by representatives of both goods and services interests. As a result of all the above factors, as well as of resource constraints (especially among non-business

²⁷ One important substantive difference was that, unlike the United States, the European Union asked for the exclusion of the audiovisual sector from the agreement. However, the European Union was not prepared to exclude the other cultural industries.

organizations), NSAs in Chile have not attached a high priority to the Round to date.

The one exception to the above assessment is OCEANA, whose main goal is the conservation of the world's oceans and whose headquarters for Latin America are in Santiago. OCEANA has gained recognition in trade policy circles because of its 'Cut the Bait' campaign, aimed at banning subsidies that promote over-fishing in the context of the Doha Round's negotiations on rules. When interviewed, its vice president for South America indicated that there was an almost complete correspondence of views between OCEANA's goals for these negotiations and those of the Chilean government.²⁸

3.1.8 Chile–China PTA

Contrary to what might be expected, these negotiations proved to be largely uncontroversial. Despite the anxiety that China's huge export potential tends to provoke across both developed and developing countries alike, the negotiations did not face strong opposition, either from import-competing interests or from CSOs. On the contrary, they were strongly supported by those segments of the private sector that saw the enormous potential of the Chinese market for Chilean exports. The PTA was also approved unanimously by Congress.

Probably a large part of the explanation as to why this PTA faced so little opposition from the private sector is that by the start of negotiations in 2004 Chile was already a very open economy, whose low MFN tariff did not impede the access of Chinese imports. Moreover, Chile has a small industrial sector and therefore there was little prospect of direct competition with Chinese manufactures. Summing up, the benefits to be reaped in terms of increased access to the Chinese market were perceived to outweigh any potential costs.

4 State–non-state actor interactions and forum choice

Less than twenty years old, civil society participation in trade negotiations is a relatively new phenomenon in Chile. Thus, there is not a large body of experience on the basis of which to identify trends. However, some findings emerge from the interviews conducted for this project, as well as from a review of the existing literature and from this author's experience

²⁸ Chile, along with Australia, Ecuador, Iceland, New Zealand, Peru, the Philippines and the United States is a member of the 'Friends of Fish' alliance, whose goal is to eliminate, or at least reduce substantially, those subsidies that promote over-fishing.

of thirteen years as a trade official in DIRECON. They are summed up below.

First, for several reasons it is necessary to distinguish between business actors and other types of NSAs. The interaction between negotiators and the business sector started earlier and has been much more systematic than with any other NSAs. Today the business sector remains engaged in trade negotiations long after other groups shifted their attention elsewhere. This is only logical: business associations have a direct commercial stake in negotiations, whereas other groups (even trade unions) do not see the interests they represent as so directly affected by them.

Differences between business interests and other NSAs also relate to their capacity to interact with government. Business associations, especially the larger ones such as CPC and SOFOFA, have the financial resources, technical expertise and internal organization required to deal with complex trade negotiations. This stands in sharp contrast to the limited financial and technical capabilities of local CSOs and labour organizations.²⁹

The interviews also revealed that business associations have a very positive assessment of their interaction with negotiators, whereas other NSAs have a more mixed evaluation. This reflects the fact that negotiators have been more able to deliver on business demands (almost always revolving around market access issues) than on those from CSOs or labour groups. The latter often involve issues which either are not in the agenda of negotiations (for example, gender issues, or very specific environmental demands), or are unacceptable to the counterpart (such as the rejection of investor-state dispute settlement and TRIPs-plus protection of pharmaceutical patents during the Chile-US PTA negotiations). Put differently, business demands (which are based on commercial interest) tend to be more amenable to negotiated solutions than demands from other NSAs (which are often based on principles).

Within the business sector, goods exporters have a more positive assessment of their experience in trade negotiations than do services exporters. This has to do with the fact that barriers to trade in goods are relatively easier to identify and negotiate away than those affecting trade in services, which tend to be more opaque.

A second finding is that the participation of non-business NSAs in debates concerning trade negotiations has not proceeded in a linear

²⁹ By contrast, one interviewee made the point that Brazilian labour organizations even develop formal positions on issues within the Doha Round, thanks to their vastly superior resources.

fashion. It was very limited during the first half of the 1990s, increased gradually during the second half of that decade, peaked in the 2000–3 period and has receded substantially since 2004. As the negotiations with the main players have been completed, the attention of many NSAs has shifted towards domestic, non-trade related issues. For example, environmentalist CSOs have turned their attention to issues such as deforestation, sustainability problems in the salmon industry and the environmental risks of dam construction projects in southern Chile.

The low intensity of NSA participation in trade debates in Chile, compared with other countries in this study, is arguably explained in large part by the fact that the main economic and social costs of trade liberalization were incurred during the military rule period. By the time the country regained democracy, the open economy model had already been showing positive results for half a decade, both in terms of growth and employment. While the majority of the business sector had come to support 'free trade' by the end of the 1980s, the open economy model became quickly legitimized among the Chilean population at large during the first years of democracy.

A third finding is that the labour movement enjoys better access to government in trade debates than is the case with most CSOs. This responds to several factors. First, the CUT formally represents a much larger constituency, made up of workers who have (at least in principle) a direct stake in trade negotiations. Second, its capacity to mobilize its base is vastly superior to that of any CSO. Third, it has been a member in its own right, along with business organizations, of all tripartite dialogue schemes since being set up in 1990. Finally, there is an historical connection between the political parties within the Concertación and the CUT which dates back to the opposition movement to the military regime in the 1980s. Although today the CUT is often critical of government decisions, several CUT leaders are members of the different political parties that form the Concertación.

A fourth finding, and one of the most robust in this study, is the remoteness of the Doha Round from the everyday agenda of Chilean NSAs. This is the case across the business sector as well as for labour organizations and CSOs, with the already noted exception of OCEANA. This situation partly responds to factors inherent to Chile, such as its limited capacity to influence outcomes due to its small size, and the perception that the country's network of PTAs makes it less dependent on the outcome of Doha. However, it is undeniable that another part of the explanation lies with the WTO itself, as the continued setbacks in the Doha Round have

reduced its credibility as a negotiating forum. Moreover, negotiations in Geneva (as well as the everyday business of the WTO) are often perceived as arcane and difficult to follow.

The role of WTO rules in providing a more stable trading environment and containing protectionist pressures did not emerge in the interviews. This important aspect of the WTO should perhaps be stressed more, as it appears that in the case of Chile these rules are somewhat taken for granted even by business interests which directly benefit from them.

Fifth, on forum selection, it emerged from the interviews that Chilean NSAs do not perceive multilateral and preferential negotiations as mutually exclusive. Neither did they express a clear conceptual preference for one or the other. Their approach to this issue is a pragmatic one, reflecting the fact that a small country like Chile has very little influence on the timing and agenda of multilateral negotiations, so these are essentially assumed as exogenous. Consequently, bilateral negotiations appear in practice as the preferred forum, because they can produce concrete results within a shorter timeframe.

Sixth, although NSA participation in trade negotiations has receded in the last five years, state institutions (including those dealing with trade policy) are heading towards greater openness and accountability to the public. This move should encourage civil society's involvement in future debates on trade. This is desirable, given the ever-expanding agenda of trade negotiations, which now has direct implications on a wide range of public policies. But while open channels are a necessary condition for informed NSA participation, they are not sufficient by themselves. Overcoming the severe limitations that non-business NSAs face in Chile in terms of resources and technical expertise on trade will be as important.

Finally, beyond the issue of their financial and technical limitations, some non-business NSAs should re-examine their general attitude towards trade. In many cases, that attitude reflects an ideological rejection of concepts such as 'neoliberalism' and 'globalization', as well as a 'presumption of unfairness' about trade negotiations.³⁰ While during negotiations non-business NSAs have expressed a number of valid concerns on issues such as intellectual property and investment, their demands have often been unrealistic, thereby hurting their credibility and ultimately

³⁰ To be sure, asymmetries of power do influence the outcome of trade negotiations, especially those between developing and developed countries. However, assuming that only because of this fact developing countries should refrain from entering those negotiations is questionable.

their relevance. More importantly, the evidence suggests that they have failed to connect with the concerns of the wider population. The relatively strong support for 'free trade' that exists among the Chilean population means that opposition to trade agreements on principle grounds has so far been (and is likely to remain) a minority cause.

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ANNEX

List of interviewees

- Hugo Baierlein, Head of the Foreign Trade Department, Federation of Chilean Industry (SOFOFA) (www.sofofa.cl).
- Bruno Bettati, President, Association of Film and Television Producers (APCT). Former Secretary General (March 2001–March 2003), Audiovisual Platform (www.plataforma-audiovisual.blogspot.com).

- Alicia Frohmann, Director, Export Promotion Directorate (ProChile), Ministry of Foreign Affairs. Head of the North America and FTAA Department, General Directorate for International Economic Relations, Ministry of Foreign Affairs (1999–2003).³¹
- Pablo Lazo, adviser on labour issues, General Directorate for International Economic Relations, Ministry of Foreign Affairs (www.direcon.cl).
- Cecilia Millán, regional programme manager, Economic Justice, Latin America and the Caribbean Oxfam International. Formerly country director, Chile Office, Oxfam International.
- Alex Muñoz, Vice President, Office for South America, OCEANA (www.oceana.org/americas-del-sur/quienes-somos/oficina-oceana-chile).
- Coral Pey, former Executive Secretary (1999–2006), Chilean Alliance for Fair and Responsible Trade.
- Joaquín Piña, Executive Secretary, Services Exporters' Coalition (www.chilexportaservicios.cl).
- Osvaldo Rosales, Director, International Trade and Integration Division, United Nations Economic Commission for Latin America and the Caribbean.
- General Director for International Economic Relations at the Ministry of Foreign Affairs (2000–4). Chief negotiator of Chile's free trade agreements with the United States, the European Union, EFTA and Korea.
- Edda Rossi, Head, Trade and Sustainable Development Department, General Directorate for International Economic Relations, Ministry of Foreign Affairs (www.direcon.cl).
- Paulina Vásquez, Vice Manager for International Affairs, Association of Manufacturers' Exporters ASEXMA (www.asexma.cl).
- Valentín Vega, President, Confederation of Graphic Workers of Chile (CONAGRA) (www.conagra.cl). Counsellor, Unitary Workers' Central Union (Central Unitaria de Trabajadores) (www.cutchile.cl).

³¹ Among her responsibilities was liaising with civil society groups during the Chile–US and FTAA negotiations.

Colombia

HERNANDO J. GÓMEZ¹ AND JAVIER GAMBOA

It is usual for both governments and organizations from the private and civil society sector of developing countries to dedicate more time and resources to bilateral and regional negotiations than to multilateral negotiations. In principle, this contradicts the classic theory of trade in which the greatest welfare gains are to be found in the multilateral field and in which preferential trade agreements (PTAs) can lead to trade diversion and welfare losses.

In popular defence of PTAs, it is pointed out that multilateral negotiations are slow, uncertain and, given the veto power of members of the WTO, it is very difficult to obtain the required consensus, in contrast to bilateral negotiations where there is greater control of the negotiating agenda, process and timeframe. Hence, developing countries confront situations typical of the 'prisoners' dilemma' when they decide to carry out bilateral or regional negotiations and simultaneously carry on with multilateral negotiations.

In this chapter, based largely on interviews with government officials, business association managers and civil society organizations (CSOs), the intention is to interrogate this hypothesis. Furthermore, the attitudes and strategies of different types of non-state actors (NSAs) are scrutinized in relation to the question of forum choice – preferential or multilateral – in order to determine whether there are underlying explanations that could explain their preferences; for instance, in relation to their particular interests or to their winning or losing position in specific negotiations.

Section 1 provides an overview of the evolution of Colombia's trade policy, its composition of trade and trade partners. Section 2 provides an overview and analysis of the principal state and non-state actors involved

¹ Mr Gómez is president of the Colombian Private Council on Competitiveness and former chief negotiator of the FTA with the United States. Mr Gamboa is Executive Vice President of the Colombian Private Council on Competitiveness and was the head negotiator on intellectual property rights in the FTA negotiations with the United States.