

September 30, 2010

China-Chile FTA on Service Trade Has Entered into Force

The Supplementary Agreement on Service Trade to the Free Trade Agreement between China and Chile (the "Supplementary Agreement") entered into force on August 1, 2010.

China and Chile signed the Supplementary Agreement on April 13, 2008, as a supplement to the Free Trade Agreement signed by the two nations that entered into force in October 2006. Pursuant to its Article 21, the Supplementary Agreement was to enter into force 60 days after the date on which the parties exchange written notification that the necessary domestic legal procedures have been completed.

The Supplementary Agreement encompasses a series of obligations and list of commitments seeking to secure the free flow of services between the two nations. The Supplementary Agreement covers, as to China, sectors and subsectors such as computer, management consulting, real estate, mining, environment and sports, and as to Chile, sectors and subsectors such as legal, architecture, engineering, computer, R&D, real estate, advertisement, management consulting, mining, manufacturing, leasing, distribution, education, environment, tourism and sports.

The Supplementary Agreement does not apply to financial services, government procurement, subsidies or grants provided by a nation party (including government-supported loans, guarantees and insurance), national maritime cabotage or air services, including domestic and international air transportation services, whether scheduled or nonscheduled, and related services in support of air services, other than specialty air services, aircraft repair and maintenance services during which an aircraft is withdrawn from service, the selling and marketing of air transport services, computer reservation system (CRS) services, airport operations services and ground handling services. In addition, the Supplementary Agreement does not apply to services supplied in the exercise of governmental authority.

Pursuant to the Supplementary Agreement, when dealing with a covered sector each nation party, generally, must accord to services and service suppliers of the other nation, in respect of all measures affecting the supply of services, treatment no less favorable than it accords to its own like services and suppliers. With respect to market access, the

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Supplementary Agreement forbids certain actions and establishes a minimum level of treatment as specified in the Schedules to the Supplementary Agreement.

For purposes of fulfillment of their respective standards or criteria for the authorization, licensing or certification of service suppliers, the Supplementary Agreement provides that each nation party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in the other nation party.

The Supplementary Agreement also establishes rules and requirements related to the temporary movement of business people between the two countries. The Supplementary Agreement expressly excludes measures regarding citizenship, nationality, permanent residency or employment on a permanent basis.

This newsletter is a general summary of the Supplementary Agreement, the specific application of which depends on the relevant facts and circumstances. The Supplementary Agreement contains many complexities, including that each nation party is not bound to the agreement in certain circumstances, which are beyond the scope of this newsletter. For additional information, please contact the listed authors.

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