

EL MINISTRO DE RELACIONES EXTERIORES DE CHILE

Santiago,

The Honorable Susan C. Schwab
United States Trade Representative
Washington, DC

Dear Ambassador Schwab:

I have the honor to acknowledge receipt of your letter of December 8, 2008, which reads as follows:

“I have the honor to confirm the following understanding reached between the Government of the United States of America and the Government of the Republic of Chile to modify Section G of Annex 9.1 of the Free Trade Agreement between our two Governments signed at Miami, Florida on June 6, 2003 (hereinafter “the Agreement”). The modifications, which are set forth below, are made in accordance with Article 24.2 of the Agreement, pursuant to agreements reached at the fourth meeting of the Free Trade Commission of the Agreement on November 29 and 30, 2007.

The following text shall replace current Section G:

Section G – Threshold Adjustment Formulas

1. The thresholds in Sections A through C shall be adjusted at two-year intervals with each adjustment taking effect on January 1. In calculating the value of a contract for the purpose of ascertaining whether the procurement is covered by this Chapter, an entity shall include the maximum total estimated value of the procurement over its entire duration, taking into account all options, premiums, fees, commissions, interest and other revenue streams or other forms of remuneration provided for in such contracts.
2. With regard to the thresholds for goods and services in Section A and for goods and services for List A entities in Section C, the United States shall calculate the U.S. dollar value for each threshold in accordance with the following:

EL MINISTRO DE RELACIONES EXTERIORES DE CHILE

- (a) the U.S. inflation rate shall be measured by the Producer Price Index for Finished Goods published by the U.S. Bureau of Labor Statistics, using the two-year time that ends on October 31 in the year prior to the adjustment taking effect, and using the following formula:

$$T_0 \times (1 + i) = T_1$$

T_0 = threshold value at base period

i = accumulated U.S. inflation rate for the i^{th} two year-period

T_1 = new threshold value.

- (b) the first adjustment for inflation, to take effect on January 1, 2004, shall be calculated using the period from November 1, 2001 through October 31, 2003; and
- (c) all subsequent adjustments shall be calculated using two-year periods, each period beginning November 1, and shall take effect on January 1 of the year immediately following the end of the two-year period.

3. The thresholds for goods and services in Section B, for goods and services for List B entities in Section C, and for construction services in Sections A through C are conversions into U.S. dollars of the thresholds listed in the U.S. Appendix 1 to the WTO Agreement on Government Procurement, which are set out in Special Drawing Rights (SDRs) and listed below. The United States shall calculate adjustments of these thresholds, based on an average of the daily conversion rates of the U.S. dollar in terms of SDRs published by the IMF in its monthly "International Financial Statistics," for the two-year period preceding October 1 or November 1 of the year before the adjusted thresholds are to take effect:

- (a) 5 million SDRs for construction services;
- (b) 355,000 SDRs for goods and services for Section B entities; and
- (c) 400,000 SDRs for goods and services for List B entities in Section C.

EL MINISTRO DE RELACIONES EXTERIORES DE CHILE

4. The United States shall notify Chile of the adjusted threshold values no later than November 16 of the year before the adjustment takes effect.

5. If a major change in a national currency vis-a-vis the SDR during a year were to create a significant problem with regard to the application of the Chapter, the Parties shall consult as to whether an interim adjustment is appropriate.

6. Chile shall convert the U.S. dollar value of the adjusted thresholds into the Chilean Peso based on the official conversion rate of the Central Bank of Chile (*Banco Central de Chile*), using the average of the daily values of the Chilean Peso in terms of the U.S. dollar as published in Chile's *Diario Oficial (Dólar Observado)*, over the two-year period ending September 30 in the year prior to the adjustments taking effect, and rounded to the nearest thousand Chilean Pesos.

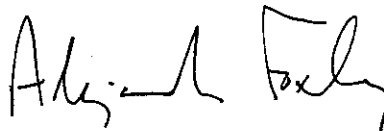
7. Chile shall notify the United States of the value in its currency of the newly calculated thresholds no later than one month before the thresholds take effect.

Note: The amendment to Section G is intended to clarify the description of the formula for threshold adjustments under the Agreement and is not intended to affect the calculation of threshold adjustments.

I have further the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our respective governments to amend the Agreement, to enter into force on February 1, 2009."

I have further the honor to confirm that the understanding referred to in your letter is shared by my Government and that your letter and this letter in reply constitute an agreement between our respective governments to amend the Agreement, to enter into force on February 1, 2009.

Sincerely,



Alejandro Foxley

DEC 08 2008

The Honorable Alejandro Foxley
Minister of Foreign Affairs
Santiago

Dear Minister Foxley:

I have the honor to confirm the following understanding reached between the Government of the United States of America and the Government of the Republic of Chile to modify Section G of Annex 9.1 of the Free Trade Agreement between our two Governments signed at Miami, Florida on June 6, 2003 (hereinafter "the Agreement"). The modifications, which are set forth below, are made in accordance with Article 24.2 of the Agreement, pursuant to agreements reached at the fourth meeting of the Free Trade Commission of the Agreement on November 29 and 30, 2007.

The following text shall replace current Section G:

Section G – Threshold Adjustment Formulas

1. The thresholds in Sections A through C shall be adjusted at two-year intervals with each adjustment taking effect on January 1. In calculating the value of a contract for the purpose of ascertaining whether the procurement is covered by this Chapter, an entity shall include the maximum total estimated value of the procurement over its entire duration, taking into account all options, premiums, fees, commissions, interest and other revenue streams or other forms of remuneration provided for in such contracts.

2. With regard to the thresholds for goods and services in Section A and for goods and services for List A entities in Section C, the United States shall calculate the U.S. dollar value for each threshold in accordance with the following:

- (a) the U.S. inflation rate shall be measured by the Producer Price Index for Finished Goods published by the U.S. Bureau of Labor Statistics, using the two-year time that ends on October 31 in the year prior to the adjustment taking effect, and using the following formula:

$$T_0 \times (1 + i) = T_1$$

T_0 = threshold value at base period

i = accumulated U.S. inflation rate for the i^{th} two year-period

T_1 = new threshold value.

- (b) the first adjustment for inflation, to take effect on January 1, 2004, shall be calculated using the period from November 1, 2001 through October 31, 2003; and

- (c) all subsequent adjustments shall be calculated using two-year periods, each period beginning November 1, and shall take effect on January 1 of the year immediately following the end of the two-year period.

3. The thresholds for goods and services in Section B, for goods and services for List B entities in Section C, and for construction services in Sections A through C are conversions into U.S. dollars of the thresholds listed in the U.S. Appendix 1 to the WTO Agreement on Government Procurement, which are set out in Special Drawing Rights (SDRs) and listed below. The United States shall calculate adjustments of these thresholds, based on an average of the daily conversion rates of the U.S. dollar in terms of SDRs published by the IMF in its monthly "International Financial Statistics," for the two-year period preceding October 1 or November 1 of the year before the adjusted thresholds are to take effect:

- (a) 5 million SDRs for construction services;
- (b) 355,000 SDRs for goods and services for Section B entities; and
- (c) 400,000 SDRs for goods and services for List B entities in Section C.

4. The United States shall notify Chile of the adjusted threshold values no later than November 16 of the year before the adjustment takes effect.

5. If a major change in a national currency vis-a-vis the SDR during a year were to create a significant problem with regard to the application of the Chapter, the Parties shall consult as to whether an interim adjustment is appropriate.

6. Chile shall convert the U.S. dollar value of the adjusted thresholds into the Chilean Peso based on the official conversion rate of the Central Bank of Chile (*Banco Central de Chile*), using the average of the daily values of the Chilean Peso in terms of the U.S. dollar as published in Chile's *Diario Oficial (Dólar Observado)*, over the two-year period ending September 30 in the year prior to the adjustments taking effect, and rounded to the nearest thousand Chilean Pesos.

7. Chile shall notify the United States of the value in its currency of the newly calculated thresholds no later than one month before the thresholds take effect.

Note: The amendment to Section G is intended to clarify the description of the formula for threshold adjustments under the Agreement and is not intended to affect the calculation of threshold adjustments.

The Honorable Alejandro Foxley
Page 3

I have further the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our respective governments to amend the Agreement, to enter into force on February 1, 2009.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan C. Schwab". The signature is fluid and cursive, with the first name "Susan" being the most prominent part.

Susan C. Schwab