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Exporting to Chile

Legal requirements

/Carey

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This publication summarises the laws and regulations applying to products imported into Chile, including customs requirements and procedures, import duties, intellectual property, consumer protection and immigration.

There are many opportunities for New Zealand exporters in Chile. In recent years, key exports include dairy products, machinery and equipment for the agribusiness sector (livestock and horticulture), but the opportunities are much broader. Chile has sophisticated grocery retailers, and is seeing strong growth in e-commerce.

Chile is one of only two Latin American countries that are a member of the Organisation for Economic Cooperation and Development (*OECD*). Along with New Zealand, it is also a member of the Transpacific Strategic Economic Partnership (*P4*) and the Comprehensive and Progressive Agreement for the Transpacific Partnership (*CPTPP*), although Chile has yet to formally ratify the CPTPP.

Overview

- Chile is party to 26 trade agreements with 64 countries (including with New Zealand, China, the US, EU, Japan and the Mercosur).
- As a general rule, there are no restrictions on imports. But some products are specifically prohibited (e.g. most used vehicles, used tyres and toxic industrial waste) and others are subject to special requirements or authorisation (e.g. foodstuffs for human consumption, pharmaceutical products for human use, hazardous substances, among others).
- Importers are not required to register or hold special licences, except in specific cases (e.g. importers of goods containing substances considered as ozone depleting).
- There are no regional differences, except for imports to duty free zones (zonas francas), which are subject to special regulations.



General procedures for importing

Imports are primarily regulated by Decree with Force of Law No. 30, issued by the Ministry of Finance (*Customs Ordinance*), and the Compendium of Customs Regulations issued by the Chilean customs authority (*Servicio Nacional de Aduanas or SNA*).

The importer of record (*i.e.* the consignee) must have a Chilean Tax-ID number, whether an individual or a legal entity, and must declare the goods on arrival by filing a customs entry form (*Declaración de Ingreso – DIN*) at the SNA's office in the applicable customs zone (*zona primaria*).

Physical filing is also required for cargo manifest, invoice, packing list, certificate of origin (if applicable) and certificate of insurance, among other documents.

As part of Chile's COVID-19 response, the SNA is currently allowing some documentation to be filed electronically, including bill of lading exchanges and corrections, and is granting power of attorney to the respective customs agent by e-mail.

Previously these also had to be physically filed, and may be again if that is the SNA's decision post-COVID.

Where the importation has been fully processed before the goods are unloaded, they may be immediately removed from the customs zone. Where this is not the case, they will be stored in customs warehouses for a maximum of 90 days until they are cleared for import.

Special requirements

The importation of certain goods (*e.g.* foodstuffs for human consumption, pharmaceutical products for human use, hazardous substances, among others) requires additional regulatory approval from specific agencies. These include the Agricultural and Livestock Service (*Servicio Agrícola y Ganadero*) and the Institute of Public Health (*Instituto de Salud Pública*), among others.

In addition to the DIN and other relevant customs documents, goods must be accompanied by a Customs Destination Certificate (*Certificado de Destinación Aduanera*) from the relevant agency. Following clearance from the SNA, the goods must remain in warehouses authorized by SNA until authorization is received from the other relevant regulatory authority.

Import duties and fees

As a general rule, goods imported into Chile are subject to a 6% customs tariff which is calculated based on the imported goods' CIF (Cost, Insurance and Freight) value and a 19% Value Added Tax (*VAT*). The VAT taxable amount includes the imported goods' CIF value plus the applicable customs tariff of 6%.

Under the P4 Agreement, goods from New Zealand receive preferential duty free entry (having to pay only the 19% VAT charge), so long as they meet the applicable rules of origin.

Some goods are subject to special additional taxes (*e.g.* mineral water, artificial beverages and syrups are all subject to an additional 10% tax). The taxable base in these cases is the sum of the relevant product's CIF value and the applicable customs tariff.

Valuation of goods for customs purposes must be carried out in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (*GATT 1994*). This generally relies on the goods' "transaction value", being the amount set forth in the relevant invoice. The SNA is authorize to challenge invoice amounts where it has reasonable grounds to do so, in which case a new value will be determined pursuant to GATT 1994.



Penalties

Customs regulations in Chile provide for two types of breaches:

Administrative offences

Administrative offences relate to misstatements and procedural errors in the filing of documents with the SNA. These are sanctioned with fines that may be calculated as a percentage of the customs value of the relevant goods, or as a fixed amount to a cap of 20 *Unidades Tributarias Mensuales* (approximately USD 1,400) as applicable.

Criminal offences

The Customs Ordinance regulates the customs crimes of contraband and customs fraud.

- Contraband covers goods the import or export of which is prohibited by Chilean law.
- Customs fraud covers failing to pay the correct customs duties and taxes or deliberately filing false statements with the SNA related to the characteristics and/or price of the goods.

Penalties include fines of up to five times the value of the goods, confiscation of the goods and/or imprisonment from 61 days to three years.

Protecting your intellectual property rights

Chile is a member of several international treaties on intellectual property, including the Berne Convention, the Patent Cooperation Treaty (*TPC*), the Trademark Law Treaty (*TLT*), and the WTO's TRIPS Agreement. Chile also participates in the World Intellectual Property Organization (*WIPO*) and the Organisation for Economic Co-operation and Development (*OECD*).

The main authorities concerning intellectual property in Chile are:

- the National Institute of Industrial Property for industrial property rights such as trademarks and patents (www.inapi.cl)
- the Chilean Intellectual Property Department of the Ministry of Cultures, Arts and Heritage for copyrights (www.propiedadintelectual.gob.cl), and
- NIC Chile, the entity in charge of the .CL Domain Name Registry (www.nic.cl)

Consumer protection and fair trading

The key piece of legislation is the Consumer Protection Act (*CPA*), which governs the relationship between suppliers and consumers.

The CPA gives consumers several rights, including:

- the free election of goods and services,
- the right to receive truthful and timely information related to the offered goods and services, their price, contract conditions and other relevant characteristics,
- the right to not be the subject of arbitrary discrimination by suppliers of goods and services,
- the right to safe use of goods and services,
- the protection of health and environment, and
- the right to be indemnified for all damages, material and non-material, and for pain and suffering.

These rights may not be waived in advance by consumers or suppliers.

Responsibility for administering the CPA sits with the National Consumer Service – SERNAC. It exercises its authority through educational programmes, studies, investigations, and dispute mediation. It also actively promotes and protects consumer rights by filing class actions where a large number of consumers is affected.

SERNAC cannot, however, impose fines directly. This power is confined to the courts.

Resolving disputes in Chile

Chile has an independent judicial system based on continental law with a hierarchical court structure, running from *Juzgados de Letras*, Courts of Appeal and the Supreme Court. Private arbitration is also available.



Visiting Chile

New Zealand citizens may enter Chile for up to 90 days under a tourist category with a valid passport. This is renewable for an additional 90-day period. Under this status, foreigners may carry out limited business activities such as attending meetings, closing deals, attending seminars and signing contracts.

To carry out paid work in Chile, foreign citizens need a work permit or visa.

- For periods of 6 months or less, a Special Work Permit for Tourists is recommended.
- This is granted for a maximum of 30 days renewable until the Tourist Card expires (for 90 days).
- For periods exceeding six months, a Temporary Residence Visa or a Work Contract Visa is recommended.
 - A *Temporary Residence Visa* has a maximum duration of one year and is renewable for a second year, after which the foreigner must request Permanent Residence in Chile.
 - A *Work Contract Visa* authorises a foreigner to work for a specific employer and has a maximum duration of two years which is renewable indefinitely for the same period. Alternatively, the foreigner may request Permanent Residence.

Applications for the Special Work Payment are to the Immigration Department of the Ministry of the Interior and will generally take two to five working days.

Applications for the Temporary Residence Visa and Work Contract Visa are either to the Immigration Department or from offshore through the relevant Chilean Consulate. Processing times are five to six months through the Immigration Department and three weeks to three months through a Consulate, depending on the Consulate.



Where to get further information

Visas

- If the visa is to be requested in Chile, please visit: www.extranjeria.gob.cl/
- If the visa is to be requested before the Chilean Consulate in New Zealand, please visit: chile.gob.cl/wellington/

General – in Chile

New Zealand Embassy

Offices located in Isidora Goyenechea 3000, floor 12, borough of Las Condes, city of Santiago, Chile, Santiago. For further information, please visit www.mfat.govt.nz/en/countries-and-regions/latin-america/chile/new-zealand-embassy or contact the embassy to the telephone number +56 2 261 63000 or embajada@nzembassy.cl.

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New Zealand Trade & Enterprise (NZTE)

NZTE has an office in Santiago and helps support New Zealand exporters by sharing key local market insights, and connecting them with the right people. See: www.nzte.govt.nz/page/latin-america-market-information

Other/Legal

Carey & Cía. Ltda. – Customs and international trade advisory services provided by partner Matías Vergara and associate Francisco León. For further information, please send an email to mvergara@carey.cl and/or fleon@carey.cl.

General – in New Zealand

Embassy of Chile: Level 4, Pencarrow House, 1 Willeston Street Wellington 6011, phone: (64-4) 471 6270

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Every effort has been made to ensure accuracy in this publication. However, the items are necessarily generalised and readers are urged to seek specific advice on particular matters and not rely solely on this text.

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