

Voluntary Report – Voluntary - Public Distribution

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Report Name: Market Impacts from the EU-Chile Modernization Agreement

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Report Highlights:

Chile and the European Union (EU) are finalizing an Advanced Framework Agreement (AFA) that includes recognition of 216 EU geographical indications (GIs) and commonly used names such as feta, gruyere, kölsch, and parmesan. This is one of the first times that an EU trade agreement includes such broad protections for commonly used names. In 2022, the EU was the third top supplier of cheese to Chile, after Argentina and the United States. Post anticipates market impacts once the AFA is implemented: importers will have fewer sources of product, the Chilean dairy industry will be limited in their ability to produce and potentially export products bearing European-origin names, and consumers will see higher prices due to lower supply and reduced market diversification.

1. The EU-Chile Modernization Agreement

Background

Chile and the European Union (EU) are finalizing an Advanced Framework Agreement (AFA) that includes recognition of EU geographical indications (GIs). In addition to geographic indications clearly representative of locations, the agreement also grants protections for some non-geographic names considered to be common by the United States, Chile, and many other producers. Protections in the agreement apply to a wide variety of products, including some meats, cheese, specific fruit, and beer. Examples of commonly used names granted protection by this measure are *feta*, *fontina*, *kolsch*, *parmesan*, among others. In total there are 216 protected names.

Earlier Agreements

The EU has agreements with countries such as Canada, Japan, and Singapore that include GI protections for cheese and other products; however, the updated Chile-EU agreement contains more expansive protections for commonly used non-compound *food* names than any other agreement currently in force. For example, the European agreements with Canada, Japan, and Singapore protect the term *Parmigiano Reggiano*, but still allow the use of the common name *parmesan* within those markets. Under the updated Chile-EU framework agreement, parmesan or parmesan-style cheese from Chile, the United States, or non-European suppliers could *not* be sold using the common name *parmesan*, unless the producing or importing firm had been granted an exception. Note that the agreement includes 26 non-compound names and that restrictions on the use of names applies equally to translations and transliterations of the names, regardless of the alphabet used.

Grandfathering

The updated EU-Chile Advanced Framework Agreement allows for grandfathering to create exceptions for approved users of three specific common names: *feta*, *parmesan*, and *gruyere*. Producers, importers, and select exporters that were able to prove a recurrent presence in the Chilean market for a period of 12 months before December 9, 2022, could be added to a prior user [list](#) that will be included in the agreement¹. Listed prior users of the names *parmesan* and *gruyere* will be able to continue using the names for an undefined period. Listed prior users of the name *feta* will be able to continue using that name for six years, after which time the exception will expire. Protection for all other names will begin immediately upon implementation of the agreement.

Approval and ratification of the AFA will restrict Chilean producers and non-European exporters from marketing and selling products in Chile using protected common names. U.S. firms are strongly urged to review the list of product names in [Chapter 25 Annex III](#) of the agreement (pp 25-34) and work closely with their Chilean partners to ensure their products can continue to be marketed and sold in Chile.

Current Situation

Chile and the EU completed technical negotiations of the agreement in December 2022. Contacts report that technical teams are reviewing the text and translations, before sending it to the Chilean Congress and EU Commission for ratification. Chilean media reports that the agreement will be sent for ratification in Chile by the end of 2023. Similarly, EU sources indicate that European ratification could happen in the first months of 2024.

¹ The period of signing of importers and companies selling *parmesan* or *gruyere* cheese into the list of users with recurrent presence in the Chilean market was closed on June 19, 2023.

Since May 2018, the United States has requested that Chile provide flexibilities or safeguards in any agreement with the European Union to protect existing U.S. - Chilean bilateral trade. In May 2021, The United States proposed an exchange of letters under the U.S. - Chile 2004 free trade agreement to avoid any potential changes to U.S. access and use of common names. Discussions between the United States and Chile are ongoing.

There are examples of the United States using an exchange of letters or side letter to protect the use of common names for products in similar instances. In the specific case of the United States and Mexico, both countries agreed to a [side letter](#) to ensure that the use of common names would not be restricted in their respective markets. [Note that the side letter between the United States and Mexico does not include the protection for *parmesan* cheese, as that product name was not specifically protected in the agreement negotiated between the European Union and Mexico.]

2. The Chilean Market and Current Trade

Chilean Trade

The top export markets for all Chilean goods are China, the United States, the European Union², Japan, and South Korea (Table 1). In 2022, Chilean exports to China totaled \$38.9 billion, with 85 percent of exports to China in the mining sector. Chilean exports to the United States totaled \$14.4 billion, but with a more diversified export matrix. Chilean exports to the United States include copper, salmon, poultry, fresh fruit, wine, and forestry products. In 2022, the United States was the top non-mining export destination for Chile totaling \$9.8 billion (Figure 1).

Table 1: Top 5 Markets for Chilean Exports

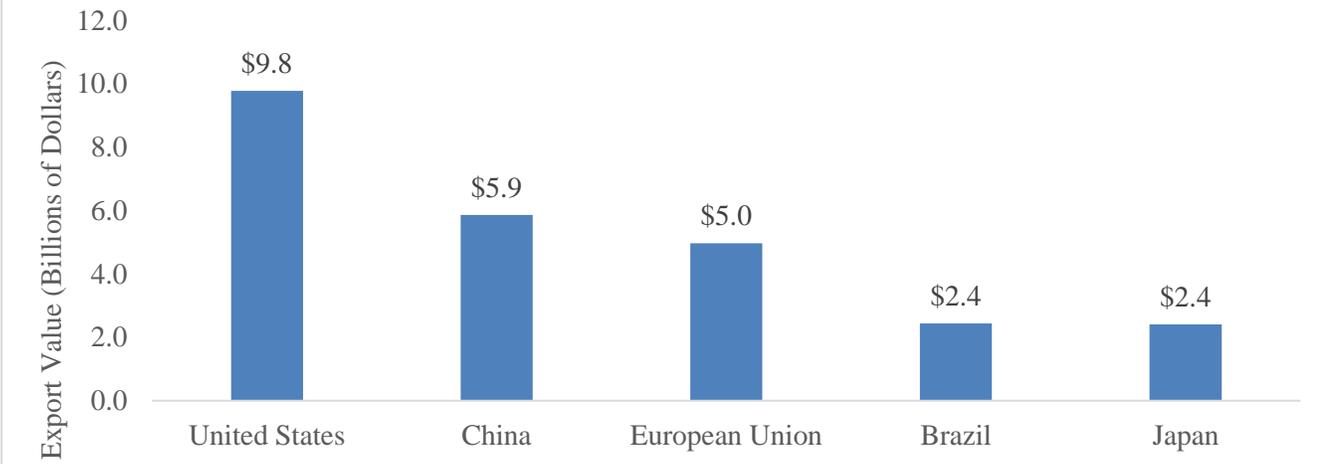
Partner Country	Rank	January - December (Value: USD)			Market Share (%)		
		2020	2021	2022	2020	2021	2022
The World		67,557,689,099	89,842,107,508	100,128,149,065	100.0	100.0	100.0
China	1	25,106,890,377	34,439,928,231	38,875,606,350	37.2	38.3	38.8
United States	2	9,299,838,434	14,684,047,291	14,366,652,355	13.8	16.3	14.4
European Union	3	6,004,615,099	7,760,711,775	8,891,328,816	8.9	8.6	8.9
Japan	4	5,891,209,116	6,932,440,567	7,680,671,529	8.7	7.7	7.7
South Korea	5	3,987,191,167	4,619,134,390	5,952,962,193	5.9	5.1	6.0

Source: Trade Data Monitor, LLC

In total bilateral trade, Chile's top trading partner globally is China with bilateral trade in goods reaching \$63.0 billion in 2022. The United States is second with total bilateral trade in goods at \$34.9 billion, followed by the European Union at \$20.2 billion. Looking at only Chilean exports of non-mining goods the rankings change, though the partners do not. In 2022, Chilean exports of non-mining goods to the United States reached \$9.8 billion, to China \$5.9 billion, and to the European Union \$5.0 billion. [Note that mining exports are intentionally excluded from Figure 1 for comparison.]

² EU data includes the following countries: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

Figure 1: Chilean Non-Mining* Export Value in 2022 (Billions of Dollars)



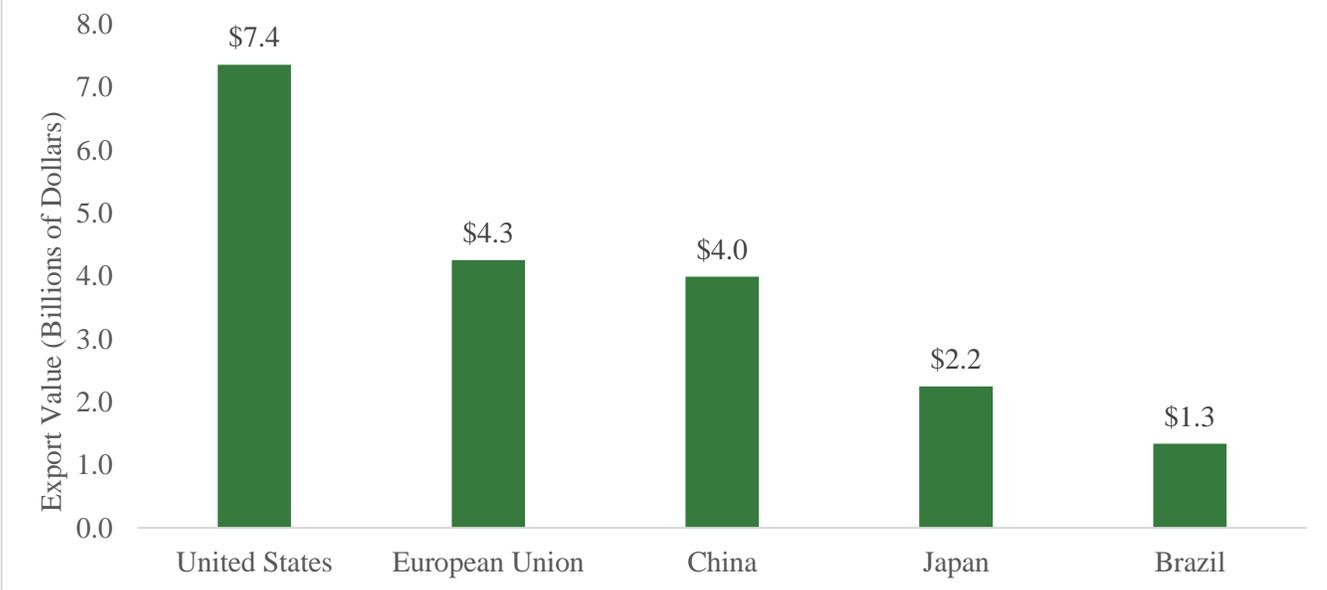
Source: Trade Data Monitor, LLC

*Note: Non-Mining exports exclude (HS codes: 26; 74; 28) Ores, Slag and Ash/Inorganic Chemicals; Organic or Inorganic Compounds of Precious Metals, of Rare-Earth Metals, of Radioactive Elements or of Isotopes/Copper and Articles thereof

Trade in Agricultural and Related Products

The United States remains by far the top market for Chilean agricultural and related products. In 2022, Chile exported \$7.4 billion in agricultural and related products to the United States, while exports to the EU were \$4.2 billion, and exports to China were \$4.0 billion (Figure 2). The United States is the third largest *supplier* of agricultural and related products to Chile after Argentina and Brazil. In 2022, U.S. food and agricultural exports to Chile reached \$1.1 billion, accounting for 10.5 percent of imports.

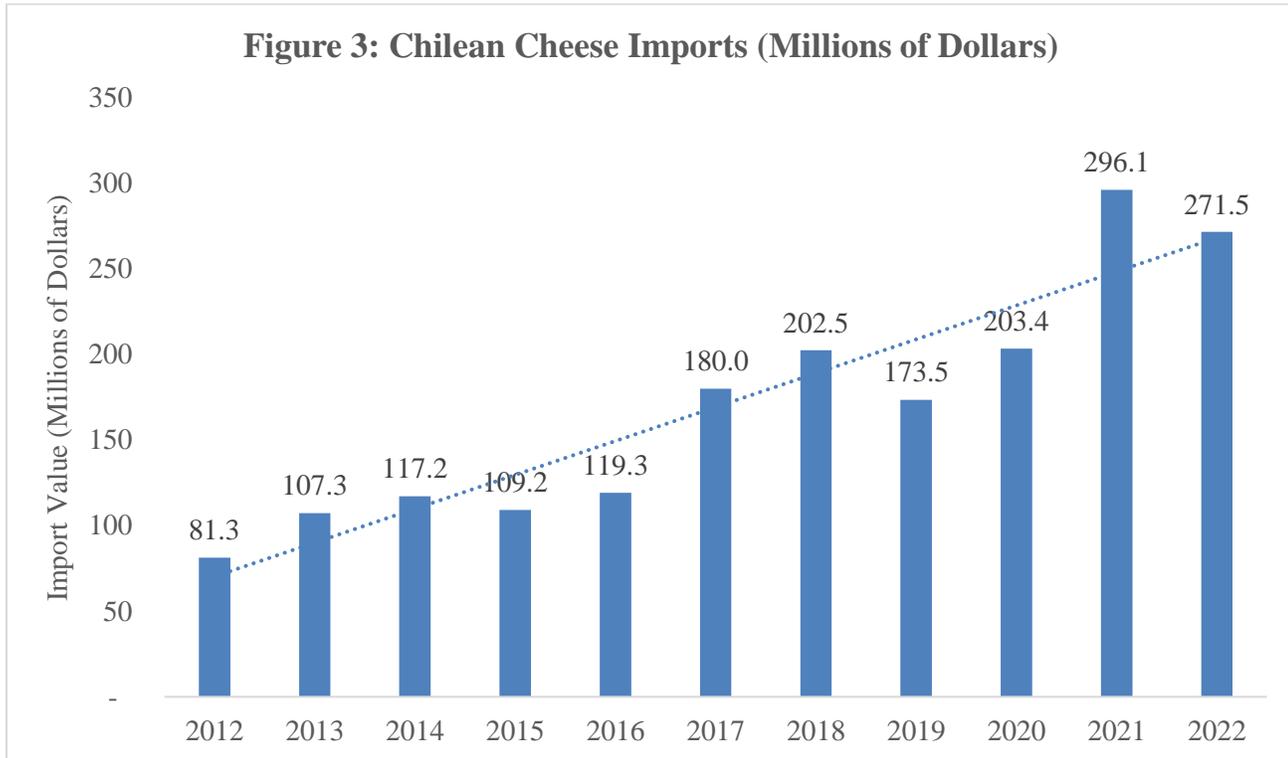
Figure 2: Chilean Exports of Agricultural and Related Products in 2022 (Billions of Dollars)



Source: Trade Data Monitor, LLC

Trade in Cheese

In recent years, Chilean imports of all types of cheese have grown, due to steadily increasing demand. Over the last decade total cheese imports expanded from \$81.3 million to \$271.5 million (Figure 3). In 2022, the United States was the second largest supplier of cheese to Chile at \$63.0 million, after Argentina at \$84.0 million. The EU was the third largest supplier of cheese to Chile, at \$56.7 million (Figure 4), followed by Mexico and New Zealand.



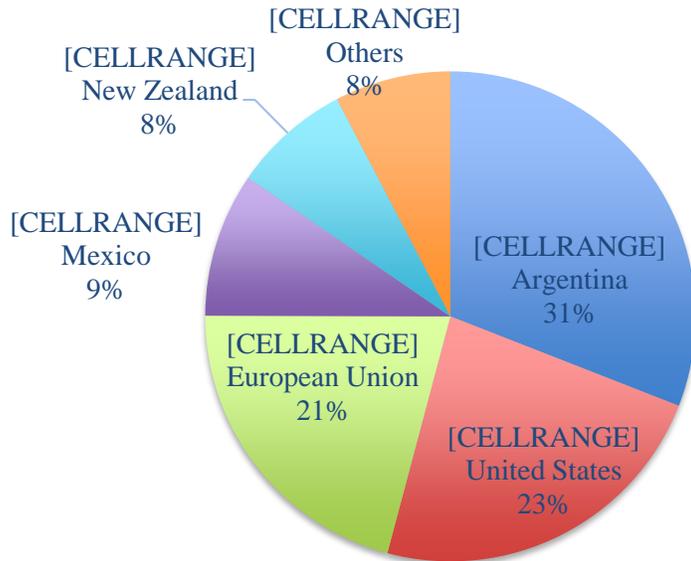
Source: Trade Data Monitor, LLC

In recent years, the United States, Argentina, and Mexico have become more competitive producers of cheese, bringing a wider variety of products and better prices to consumers globally. This increased productivity can be seen in the growing share of imports captured by New World producers in Figure 5. Conversely, the import market share of EU cheese exports to Chile is on a downward trend, from 42 percent of the market in 2017 to 21 percent of the market in 2022. This shifting of suppliers is occurring even as total cheese shipments to Chile increase with growing demand.

Identifying specific types of cheese from available trade data is not possible. Most varieties do not have unique HS codes to identify them in international trade, and those that do have HS codes are often shipped under a less specific identifier. For example, blue cheese (HS 0406.40) may also be shipped using the generic HS 0406 (Cheese and Curd) code, making it indistinguishable in the data from other styles of cheese.

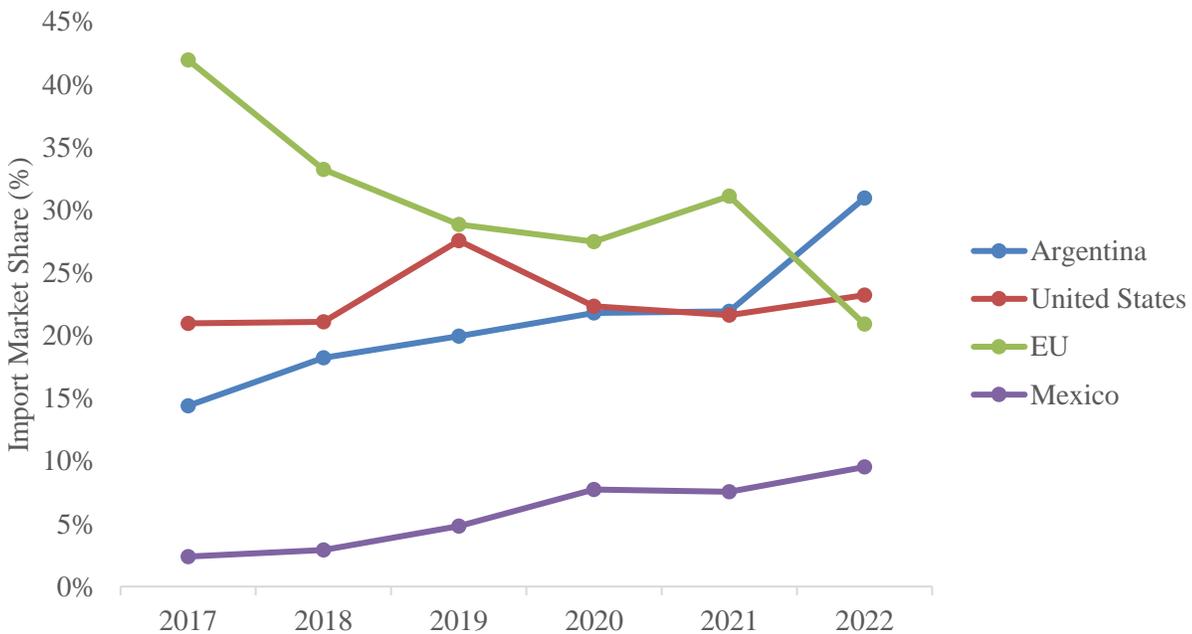
Industry contacts report that Argentina, New Zealand, Uruguay, and the United States directly export cheese bearing names for which protections are sought under the EU-Chile Advance Framework Agreement. Other suppliers, like Canada, ship similar products to third countries for transshipment to Chile. Mexico primarily ships cream cheese, marketed under U.S. brand names.

**Figure 4: Top Suppliers of Cheese (HS: 0406) to Chile in 2022
(Value)**



Source: Trade Data Monitor, LLC

Figure 5: Chilean Cheese Import Market Share by Country of Origin (USD)



Source: Trade Data Monitor, LLC

3. Post Comment: Impacts of the Advanced Framework Agreement

Overview and Grandfathering

In addition to setting a new precedent for the breadth of names given GI protections, including many commonly used names, the updated EU-Chile AFA will have impacts on the composition of products available in the Chilean market. Most protections will be enacted immediately upon ratification of the agreement; however, the impact for products with grandfathering (ie *feta*, *gruyere*, and *parmesan*) will only be felt in the medium to long-term. Notably, Chilean consumers will have less choice and higher prices for affected products, while Chilean producers and importers of these products will face constraints on how their products can be marketed or sold in country.

Grandfathering, of course, mutes the impact for a few specific products. Given that registered prior users can continue to import or produce products using protected names, those names may continue exist until the grandfathered entity is dissolved or acquired by another firm. Over time, the number of registered prior users will inevitably decrease to zero, limiting the number of eligible importers and producers. This gradual contraction will increasingly limit Chilean and foreign firms marketing products using protected names, decreasing the supply and variety of products, and putting upward pressure on prices.

The anticipated market impacts align with a March 2019 Chilean government survey on EU-style naming protections. In that survey, sixteen public respondents noted that the GI proposals in the proposed AFA text would harm their commercial interests. A summary of the public consultation results is available [online](#).

Impact on the United States

The AFA will increase the EU's competitiveness in cheese by reducing other countries' ability to compete in the Chilean market. U.S. cheese suppliers will see their ability to export cheese under commonly used names limited. Notably, other cheese suppliers, like Argentina, Mexico, and New Zealand, will also be impacted by this rule, as would any other potential non-EU suppliers to the Chilean market. New entrants to the market will be most disadvantaged as they will be either unable to access the market entirely, or they will be forced to work only with companies that are registered as prior users.

Impacts to Chilean Producers and Importers

Chilean importers and producers will be impacted in the same way as foreign firms. Producers of products without grandfathering, like *kolsch*, will immediately lose the ability to use those names. Producers of products that can be grandfathered, will not be impacted in the short-term if they are among the registered prior users. Over the medium-term, importers will have fewer sources to buy cheese, meat, and beer products. Importantly, there will be additional costs for those importers and producers that are forced to re-label product. The size of the Chilean market makes it unlikely, or generally unviable, that foreign suppliers will relabel products specifically for the Chilean market. In the medium- and long-term, Chilean dairy producers will be equally limited in their ability to produce and export products bearing protected names to global markets.

Consumer Impacts

There will be direct market impacts to consumers from this measure. Post estimates that cheese supply will be slowly reduced due to the limitations on use of protected names. This will eventually lead to a reduction in the cheese market diversification and consequently higher prices.

Attachments:

No Attachments.