Council of the
European Union

Brussels, 5 July 2023
(OR. en)

11506/23
ADD 3

Interinstitutional File:
2023/0259(NLE)

POLCOM 152
SERVICES 30
FDI 18
COLAC 84

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	5 July 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 435 final - ANNEX 1 - PART 3/3
Subject:	ANNEX to the Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Interim Agreement on Trade between the European Union and the Republic of Chile

Delegations will find attached document COM(2023) 435 final - ANNEX 1 - PART 3/3.

Encl.: COM(2023) 435 final - ANNEX 1 - PART 3/3

EUROPEAN
COMMISSION

Brussels, 5.7.2023
COM(2023) 435 final

ANNEX 1 – PART 3/3

ANNEX

to the

Proposal for a Council Decision

on the conclusion, on behalf of the European Union, of the Interim Agreement on Trade between the European Union and the Republic of Chile

CHAPTER 22

STATE-OWNED ENTERPRISES, ENTERPRISES GRANTED SPECIAL RIGHTS OR PRIVILEGES AND DESIGNATED MONOPOLIES

ARTICLE 22.1

Scope

1. The Parties affirm their rights and obligations under paragraphs 1 to 3 of Article XVII of GATT 1994, the Understanding on the Interpretation of Article XVII of GATT 1994, as well as under paragraphs 1, 2 and 5 of Article VIII of GATS.

2. This Chapter applies to a state-owned enterprise, an enterprise granted special rights or privileges and a designated monopoly ("entity") engaged in commercial activities. If an entity engages in both commercial and non-commercial activities[1], only the commercial activities are covered by this Chapter.

3. This Chapter applies to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies, at all levels of government.

[1] Non-commercial activities may include carrying out a legitimate public service mandate or any activity directly related to the provision of national defence or public security.

4. This Chapter does not apply to the procurement by a Party of a good or service purchased for governmental purposes and not with a view to commercial resale or the supply of a good or service for commercial sale, whether or not that procurement is a "covered procurement" within the meaning of Article 21.2.

5. This Chapter does not apply to any service supplied in the exercise of governmental authority.

6. This Chapter does not apply to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies in cases where, in any one of the three previous consecutive fiscal years, the annual revenue derived from the commercial activities of the entity was less than 100 million Special Drawing Rights (SDRs).[1]

7. Article 22.4 does not apply to the services sectors which are outside the scope of this Agreement.

8. Article 22.4 does not apply to the extent that a state-owned enterprise, enterprise granted special rights or privileges or designated monopoly of a Party makes purchases and sales of goods or services pursuant to:

(a) any existing non-conforming measure that the Party maintains, continues, renews or amends in accordance with Articles 10.11, 11.8 or 18.10 as set out in its schedule in Annex 10-A; or

[1] During the first five years from the entry into force of this Agreement, the threshold will be of less than 200 million SDR.

(b) any non-conforming measure that the Party adopts or maintains with respect to sectors, subsectors or activities in accordance with Articles 10.11, 11.8 or 18.10 as set out in its schedule in Annex 10-B.

ARTICLE 22.2

Definitions

For the purposes of this Chapter and Annex 22:

(a) "commercial activities" means activities carried out by an enterprise the end result of which is the production of a good or supply of a service to be sold in the relevant market in quantities and at prices determined by the enterprise, which are undertaken with an orientation towards profit-making[1];

(b) "commercial considerations" means considerations of price, quality, availability, marketability, transportation and other terms and conditions of purchase or sale, or other factors that would normally be taken into account in the commercial decisions of a privately owned enterprise operating according to market economy principles in the relevant business or industry;

[1] For greater certainty, "commercial activities" excludes activities undertaken by an enterprise, which operates on a non-profit basis or which operates on cost recovery basis.

(c) "designate" means to establish or authorise a monopoly, or to expand the scope of a monopoly to cover an additional good or service;

(d) "designated monopoly" means an entity, including a group of entities or a government agency, that in a relevant market in the territory of a Party is designated as the sole supplier or purchaser of a good or service, but does not include an entity that has been granted an exclusive intellectual property right solely by reason of such grant;

(e) "enterprise granted special rights or privileges"[1] means any enterprise, public or private, that has been granted, in law or in fact, special rights or privileges, by a Party; special rights or privileges are granted by a Party when it designates or limits to two or more the number of enterprises authorised to supply a good or a service, taking into account the specific sectorial regulation under which the granting of the right or privilege has taken place, other than in line with objective, proportional and non-discriminatory criteria, thereby substantially affecting the ability of any other enterprise to supply the same good or service in the same geographical area under substantially equivalent conditions;

(f) "service supplied in the exercise of governmental authority" means a service supplied in the exercise of governmental authority as defined in subparagraph 3(b) of Article 1 of GATS, including as defined in its Annex on Financial Services if applicable; and

[1] For greater certainty, the granting of a licence to a limited number of enterprises in allocating a scarce resource in line with objective, proportional and non-discriminatory criteria is not in and of itself an exclusive or special privilege.

(g) "state-owned enterprise" means an enterprise owned or controlled by a Party[1].

ARTICLE 22.3

General provisions

Without prejudice to the rights and obligations of a Party under this Chapter, nothing in this Chapter prevents a Party from establishing or maintaining state-owned enterprises, designating or maintaining monopolies or granting enterprises special rights or privileges.

ARTICLE 22.4

Non-discriminatory treatment and commercial considerations

1. Each Party shall ensure that each of its state-owned enterprises, enterprises granted special rights or privileges and designated monopolies, when engaging in commercial activities:

(a) acts in accordance with commercial considerations in its purchase or sale of a good or service, except to fulfil any terms of its public service mandate that are not inconsistent with subparagraph (b) or (c);

[1] For the establishment of ownership or control, all relevant legal and factual elements shall be examined on a case-by-case basis.

(b) in its purchase of a good or service:

(i) accords to a good or service supplied by an enterprise of the other Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises of the Party; and

(ii) accords to a good or service supplied by an enterprise that is a covered enterprise as defined in subparagraph (d) of Article 10.2(1) in the territory of that Party treatment no less favourable than it accords to a like good or a like service supplied by enterprises in the relevant market in the territory of that Party that are investments of investors of the Party; and

(c) in its sale of a good or service:

(i) accords to an enterprise of the other Party treatment no less favourable than it accords to enterprises of the Party; and

(ii) accords to an enterprise that is a covered enterprise as defined in subparagraph (d) of Article 10.2(1) in the territory of that Party treatment no less favourable than it accords to enterprises in the relevant market in the territory of that Party that are investments of investors of the Party.

2. Paragraph 1 does not preclude state-owned enterprises, enterprises granted special rights or privileges or designated monopolies from:

(a) purchasing or supplying goods or services on different terms or conditions, including terms or conditions relating to price, provided that such different terms or conditions are undertaken in accordance with commercial considerations; or

(b) refusing to purchase or supply goods or services, provided that such refusal is undertaken in accordance with commercial considerations.

ARTICLE 22.5

Regulatory framework

1. The Parties shall make best use of international standards, as applicable, including the OECD Guidelines on Corporate Governance of State-Owned Enterprises, as appropriate.

2. Each Party shall ensure that any regulatory body or any other body exercising a regulatory function that it establishes or maintains:

(a) is independent from, and not accountable to, any of the enterprises that it regulates, in order to ensure the effectiveness of the regulatory function; and

(b) acts, in like circumstances, impartially[1] in respect of all enterprises that it regulates, including state-owned enterprises, enterprises granted special rights or privileges and designated monopolies.[2]

3. Each Party shall apply its laws and regulations to state-owned enterprises, enterprises granted special rights or privileges and designated monopolies in a consistent and non-discriminatory manner.

ARTICLE 22.6

Transparency

1. A Party ("the requesting Party") which has reason to believe that its interests under this Chapter are being adversely affected by the commercial activities of a state-owned enterprise, an enterprise granted special rights or privileges or a designated monopoly of the other Party may request that other Party ("the requested Party") to supply in writing information on the commercial activities of that entity related to the implementation of this Chapter.

---

[1] For greater certainty, the impartiality with which the regulatory body exercises its regulatory functions is to be assessed by reference to a general pattern or practice of that regulatory body.

[2] For greater certainty, for those sectors in which the Parties have agreed to specific obligations relating to the regulatory body in other Chapters of this Agreement, the relevant provisions in those other Chapters shall prevail.

2. The requesting Party shall include, in a request pursuant to paragraph 1, an explanation as to how that Party believes that the activities of the entity may be affecting the interests of that Party under this Chapter and shall specify which of the information listed in paragraph 3 it requests.

3. The requested Party shall provide the following information, as specified in accordance with paragraph 1:

(a) the ownership and the voting structures of the entity, indicating the percentage of shares that the Party, its state-owned enterprises, enterprises granted special rights or privileges or designated monopolies cumulatively own, and the percentage of voting rights that they cumulatively hold, in the entity;

(b) a description of any special shares or special voting or other rights that the Party, its state-owned enterprises, enterprises granted special rights or privileges or designated monopolies hold, if such rights are different from those attached to the general common shares of the entity;

(c) the organisational structure of the entity and the composition of its board of directors or of an equivalent body;

(d) a description of which government departments or public bodies regulate or monitor the entity; a description of the reporting requirements imposed on it by those departments or public bodies; and the rights and practices of those government or any public bodies in respect of the appointment, dismissal or remuneration of senior executives and members of its board of directors or any other equivalent management body;

(e) the annual revenue of the entity and total assets over the most recent three-year period for which information is available;

(f) any exemptions, immunities and related measures from which the entity benefits under the laws and regulations of the requested Party; and

(g) any additional information regarding the entity that is publicly available, including annual financial reports and third party audits.

4. Paragraphs 1, 2 and 3 do not require any Party to disclose confidential information the disclosure of which would be inconsistent with its laws and regulations, impede law enforcement, or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of particular enterprises.

5. If the requested information is not available to the requested Party, that Party shall provide the requesting Party with the reasons therefor, in writing.

ARTICLE 22.7

Party-specific Annex

1. Article 22.4 does not apply in respect of the non-conforming activities of state-owned enterprises or designated monopolies that a Party lists in its schedule in Annex 22 in accordance with the terms of the schedule of the Party.

2. Upon request of either Party, the Trade Council may adopt a decision to amend Annex 22 pursuant to Article 33.1(6) and shall in any event consider amendments to Annex 22 within five years of the date of entry into force of this Agreement.

CHAPTER 23

COMPETITION POLICY

ARTICLE 23.1

Principles

The Parties recognise the importance of free and undistorted competition in trade and investment. The Parties acknowledge that anti-competitive practices have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

ARTICLE 23.2

Regulatory framework

1. Each Party shall maintain or adopt competition law which applies to all sectors of the economy[1] and addresses the following practices in an effective manner:

(a) agreements between enterprises, decisions by associations of enterprises and concerted practices which have as their object or effect the prevention, restriction or distortion of competition;

(b) abuses by one or more enterprises of a dominant position; and

(c) mergers between enterprises which significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position.

2. Each Party shall ensure that all enterprises, private or public, are subject to the competition law referred to in paragraph 1.

[1] For greater certainty, competition law in the European Union apply to the agricultural sector in accordance with Regulation (EU) No1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ EU L 347, 20.12.2013, p. 671).

3. The application of the competition law of each Party should not obstruct the performance, in law or in fact, of any particular task of public interest assigned to the enterprises concerned. Exemptions from the competition law of a Party should be limited to tasks of public interest, limited to what is strictly necessary to achieve the desired public policy objective, and transparent.

ARTICLE 23.3

Implementation

1. Each Party shall maintain a functionally independent authority responsible for, and appropriately equipped with the powers and resources necessary for the full application and the effective enforcement of, the competition law referred to in Article 23.2.

2. Each Party shall apply its competition law in a transparent and non-discriminatory manner, respecting the principles of procedural fairness and right of defence of the enterprises concerned, irrespective of their nationality or ownership.

ARTICLE 23.4

Cooperation

1. The Parties acknowledge that it is in their common interest to promote cooperation on matters related to their competition policy and the enforcement thereof.

2. To facilitate cooperation, competition authorities of the Parties may exchange information, subject to the confidentiality rules provided for in their respective laws and regulations.

3. The competition authorities of the Parties shall endeavour to coordinate, to the extent possible and if appropriate, their enforcement activities in the same or related conduct or cases.

ARTICLE 23.5

Consultations

1. To foster mutual understanding between the Parties[1], or to address specific matters on the interpretation or application of this Chapter, the Parties shall, upon request of either Party, promptly enter into consultations on any matter concerning the interpretation or application of this Chapter. The Party requesting consultations shall indicate, if relevant, how the matter affects trade or investment between the Parties.

2. To facilitate the consultations referred to in paragraph 1, each Party shall endeavour to provide relevant non-confidential information to the other Party.

[1] For the European Union, the interlocutor is DG Competition of the European Commission.

ARTICLE 23.6

Non-application of dispute settlement

Chapter 31 does not apply to this Chapter.

CHAPTER 24

SUBSIDIES

ARTICLE 24.1

Principles

The Parties recognise that subsidies may be granted if they are necessary to achieve public policy objectives. The Parties acknowledge, however, that certain subsidies have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation and competition. Therefore, in principle, a Party shall not grant subsidies if they negatively affect, or are likely to negatively affect, trade or competition between the Parties.

ARTICLE 24.2

Definition and scope

1. For the purposes of this Chapter, a "subsidy" means a measure which fulfils the conditions set out in Article 1.1 of the SCM Agreement, irrespective of whether it is granted to an enterprise supplying goods or to an enterprise supplying services.[1]

2. This Chapter applies to subsidies which are specific in accordance with Article 2 of the SCM Agreement.

3. This Chapter applies to subsidies to any enterprise, including private and public enterprises.

4. Each Party shall ensure that subsidies to enterprises entrusted with the operation of services of general economic interest are subject to the rules set out in this Chapter, in so far as the application of those rules does not obstruct the performance, in law or in fact, of the particular tasks that are assigned to those enterprises. Assigned tasks shall be transparent, and any limitation to or deviation from the application of the rules set out in this Chapter shall not go beyond what is necessary to perform the assigned tasks.

[1] For greater certainty, this Article does not prejudice the outcome of future discussions in the WTO or related plurilateral fora on the definition of subsidies for services.

5. Article 24.5 does not apply to subsidies related to trade in goods covered by Annex 1 of the Agreement on Agriculture.

6. Articles 24.5 and 24.6 do not apply to the audio-visual sector.

7. Articles 24.5 and 24.6 do not apply to subsidies granted to assist indigenous people and their communities in their economic development[1]. Such subsidies shall be targeted, proportional and transparent.

8. Articles 24.5 and 24.6 do not apply to subsidies granted to remedy the damage caused by natural disasters or other exceptional occurrences.

9. Article 24.5 does not apply to subsidies that are granted on a temporary basis to respond to an economic emergency[2]. Those subsidies shall be proportional and targeted in order to remedy that emergency.

---

[1] For the purposes of this paragraph, indigenous people and their communities shall be understood as those defined in the laws of each Party. For the European Union, its laws encompass both the laws of the European Union and the laws of each of its Member States.

[2] "Economic emergency" shall be understood as an economic event that causes a serious disturbance in the economy of a Party. For the European Union, "the economy of a Party" shall be understood as the economy of the European Union or of one or more of its Member States.

10. The Trade Council may adopt a decision amending the definition of "subsidy" in paragraph 1 of this Article insofar as it relates to enterprises supplying services, with a view to incorporating the outcome of future discussions in the WTO or related plurilateral fora on that matter, pursuant to subparagraph (a) of Article 33.1(6).

ARTICLE 24.3

Relation to the WTO Agreement

This Chapter applies without prejudice to the rights and obligations of a Party under Article XV of GATS, Article XVI of GATT 1994, the SCM Agreement and the Agreement on Agriculture.

ARTICLE 24.4

Transparency

1. With respect to a subsidy granted or maintained within its territory, each Party shall make available the following information:

(a) the legal basis and purpose of the subsidy;

(b) the form of the subsidy;

(c) the amount of the subsidy or the amount budgeted for the subsidy; and

(d) if possible, the name of the recipient of the subsidy.

2. A Party shall meet the requirements set out in paragraph 1 of this Article through:

(a) notification pursuant to Article 25 of the SCM Agreement, provided that the notification contains all the information referred to in paragraph 1 of this Article and is provided at least every two years;

(b) notification pursuant to Article 18 of the Agreement on Agriculture; or

(c) publication by the Party or on its behalf on a publicly accessible website, by 31 December of the calendar year following the year in which the subsidy was granted or maintained.

ARTICLE 24.5

Consultations

1. If a Party considers that a subsidy granted by the other Party has or could have negative effects on its trade interests or on competition, that Party ("the requesting Party") may express its concern in writing to the other Party ("the responding Party") and request consultations on the matter. Such a request shall include an explanation of how the subsidy has or could have a negative effect on the trade interests of the requesting Party or on competition.

2. For the purposes of paragraph 1, the requesting Party may request from the responding Party the following information about the subsidy:

(a) the legal basis and policy objective or purpose of the subsidy;

(b) the form of the subsidy;

(c) the dates and duration of the subsidy and any other time limits attached to it;

(d) the eligibility requirements of the subsidy;

(e) the total amount or the annual amount budgeted for the subsidy;

(f) if possible, the name of the recipient of the subsidy; and

(g) any other information permitting an assessment of the negative effect of the subsidy.

3. The responding Party shall provide the information requested pursuant to paragraph 2 in writing no later than 60 days after the date of receipt of the request.

4. If the responding Party does not provide, in whole or in part, the information requested pursuant to paragraphs 2 and 3, the responding Party shall explain the reasons therefore in writing.

5. If, after having received the requested information and following the consultations, the requesting Party considers that the subsidy concerned has or may have a significant negative effect on its trade interests or competition, the responding Party shall use its best endeavours to eliminate or minimise those effects.

ARTICLE 24.6

Subsidies subject to conditions

1. When granting the following subsidies, each Party shall apply conditions as follows:

(a) in respect of subsidies whereby a government, directly or indirectly, is responsible for guaranteeing debts or liabilities of certain enterprises, that the coverage of the debts and liabilities is not unlimited with regards to the amount of those debts and liabilities or the duration of the government's responsibility is not unlimited; and

(b) in respect of subsidies to insolvent or ailing enterprises (such as loans and guarantees, cash grants, capital injections, provision of assets below market prices and tax exemptions) with a duration of more than one year, that a credible restructuring plan has been prepared which is based on realistic assumptions with a view to ensuring the return of the insolvent or ailing enterprises, within a reasonable time, to long-term viability and with the enterprise, with the exception of small and medium-sized enterprises, contributing itself to the costs of restructuring.

2. Subparagraph (b) of paragraph 1 does not apply to subsidies granted to enterprises as temporary liquidity support in the form of loan guarantees or loans limited to the amount needed merely to keep an ailing company in business for the time necessary to adopt a restructuring or liquidation plan.

3. This Article applies only to subsidies that negatively affect trade and competition of the other Party or are likely to do so.

4. This Article does not apply to subsidies:

(a) which are granted to ensure the orderly market exit of a company; or

(b) the cumulative amounts or budgets of which are less than 170 000 SDR per enterprise over a period of three consecutive years.

ARTICLE 24.7

Use of subsidies

Each Party shall ensure that enterprises use subsidies only for the explicitly defined policy objective for which those subsidies have been granted[1].

[1] For greater certainty, when a Party has set up the appropriate legislative frameworks and administrative procedures to this effect, the obligation is considered to be fulfilled.

ARTICLE 24.8

Non-application of dispute settlement

Chapter 31 does not apply to Article 24.5(5).

ARTICLE 24.9

Confidentiality

1. When exchanging information under this Chapter the Parties shall take into account the limitations imposed by their respective law concerning professional and business secrecy and shall ensure the protection of business secrets and other confidential information.

2. If a Party communicates information under this Chapter, the receiving Party shall maintain the confidentiality of that information.

CHAPTER 25

INTELLECTUAL PROPERTY

SECTION A

GENERAL PROVISIONS

ARTICLE 25.1

Objectives

1. The objectives of this Chapter are to:

(a) facilitate the production and commercialisation of innovative and creative goods and services between the Parties, contributing to a more sustainable and inclusive economy for the Parties;

(b) facilitate and govern trade between the Parties, as well as reduce distortions and impediments to such trade; and

(c) achieve an adequate and effective level of protection and enforcement of intellectual property rights.

2. The objectives set out in Article 7 of the TRIPS Agreement apply to this Chapter, *mutatis mutandis*.

ARTICLE 25.2

Scope

1. Each Party shall comply with their commitments under the international treaties in the field of intellectual property to which it is a party, including the TRIPS Agreement.

2. This Chapter shall complement and further specify the rights and obligations of each Party under the TRIPS Agreement and other international treaties in the field of intellectual property.

3. Nothing in this Chapter prevents a Party from applying provisions of its law introducing higher standards for the protection and enforcement of intellectual property rights, provided that those provisions are compatible with this Chapter. Each Party shall be free to determine the appropriate method of implementing this Chapter within its own legal system and practice.

ARTICLE 25.3

Principles

1. The principles set out in Article 8 of the TRIPS Agreement apply to this Chapter, *mutatis mutandis*.

2. Taking into consideration the underlying public policy objectives of domestic systems, the Parties recognise the need to:

(a) promote innovation and creativity; and

(b) facilitate the diffusion of information, knowledge, technology, culture and the arts;

through their respective intellectual property systems, while respecting the principles of transparency, and taking into account the interests of relevant stakeholders, including right holders, users and the general public.

ARTICLE 25.4

Definitions

For the purposes of this Chapter and Annexes 25-A, 25-B and 25-C:

(a) "Berne Convention" means the Berne Convention for the Protection of Literary and Artistic Works, done at Berne on 9 September 1886, and as amended on 28 September 1979;

(b) "intellectual property" means all categories of intellectual property rights that are covered by Sub-Sections 1 to 7 of Section B of this Chapter or Sections 1 to 7 of Part II of the TRIPS Agreement; the protection of intellectual property includes protection against unfair competition pursuant to Article 10*bis* of the Paris Convention;

(b) "Paris Convention" means the Paris Convention for the Protection of Industrial Property, of 20 March 1883, as last revised at Stockholm on 14 July 1967 and as amended on 28 September 1979;

(c) "Rome Convention" means the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, done at Rome on 26 October 1961; and

(d) "WIPO" means the World Intellectual Property Organization.

ARTICLE 25.5

National treatment

1. In respect of all categories of intellectual property rights covered by this Chapter, each Party shall accord to nationals of the other Party treatment no less favourable than it accords to its own nationals with regard to the protection[1] of intellectual property rights, subject to the exceptions already provided in, respectively, the Paris Convention, the Berne Convention, the Rome Convention or the Treaty on Intellectual Property in Respect of Integrated Circuits, done at Washington on 26 May 1989 and WIPO Performances and Phonograms Treaty ("WPPT"), done at Geneva on 20 December 1996. In respect of performers, producers of phonograms and broadcasting organisations, that obligation only applies in respect of the rights provided for under this Chapter.

[1] For the purposes of this paragraph, "protection" includes matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically addressed in this Chapter. Further, for the purposes of this paragraph, "protection" also includes measures to prevent the circumvention of effective technological measures and measures concerning rights management information.

2. A Party may avail itself of the exceptions permitted under paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, provided that such exception is:

(a) necessary to secure compliance with the laws or regulations of the Party that are not inconsistent with this Chapter; and

(b) not applied in a manner that would constitute a disguised restriction on trade.

3. Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

ARTICLE 25.6

Intellectual property and public health

1. The Parties recognise the importance of the Declaration on the TRIPS Agreement and Public Health, adopted at Doha on 14 November 2001 by the Ministerial Conference of the WTO (hereinafter referred to as the "Doha Declaration"). In interpreting and implementing the rights and obligations under this Chapter, the Parties shall ensure consistency with the Doha Declaration.

2. Each Party shall implement Article 31*bis* of the TRIPS Agreement, as well as the Annex and the Appendix to the Annex thereto, which entered into force on 23 January 2017.

ARTICLE 25.7

Exhaustion

Nothing in this Agreement prevents a Party from determining whether or under what conditions the exhaustion of intellectual property rights applies under its legal system.

SECTION B

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

COPYRIGHT AND RELATED RIGHTS

ARTICLE 25.8

International agreements

1. Each Party affirms their commitment to and shall comply with:

(a) the Berne Convention;

(b) the Rome Convention;

(c) the WIPO Copyright Treaty ("WCT"), done at Geneva on 20 December 1996;

(d) WPPT; and

(e) the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled, done in Marrakesh on 27 June 2013.

2. Each Party shall make all reasonable efforts to ratify or accede to the Beijing Treaty on Audiovisual Performances, adopted in Beijing on 24 June 2012.

ARTICLE 25.9

Authors

Each Party shall provide authors with the exclusive right to authorise or prohibit:

(a) direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their works;

(b) any form of distribution to the public by sale or otherwise of the original of their works or copies thereof;

(c) any communication to the public of their works by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them; and

(d) the commercial rental to the public of originals or copies of their computer programs or cinematographic works.

ARTICLE 25.10

Performers

Each Party shall provide performers with the exclusive right to authorise or prohibit:

(a) the fixation[1] of their performances;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their performances;

(c) the distribution to the public, by sale or otherwise, of the fixations of their performances;

[1] "Fixation" means the embodiment of sounds, or of the representations thereof, from which they can be perceived, reproduced or communicated through a device.

(d) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them; and

(e) the broadcasting by wireless means and the communication to the public of their performances, except where the performance is itself already a broadcast performance or is made from a fixation.

ARTICLE 25.11

Producers of phonograms

Each Party shall provide phonogram producers with the exclusive right to authorise or prohibit:

(a) the direct or indirect, temporary or permanent, reproduction by any means and in any form, in whole or in part, of their phonograms;

(b) the distribution to the public, by sale or other transfer of ownership, of their phonograms, including copies thereof;

(c) the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them; and

(d) the commercial rental of their phonograms to the public.

ARTICLE 25.12

Broadcasting organisations

Each Party shall provide broadcasting organisations with the exclusive right to authorise or prohibit:

(a) the fixation of their broadcasts transmitted by wireless means;

(b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their broadcasts transmitted by wireless means; and

(c) the rebroadcasting of their broadcasts by wireless means, as well as the communication to the public[1] of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

[1] For greater certainty, nothing in this paragraph prevents a Party from determining the conditions under which this right may be exercised, in accordance with Article 13(d) of the Rome Convention.

ARTICLE 25.13

Broadcasting and communication to the public
of phonograms published for commercial purposes[1]

1. Each Party shall provide a right in order to ensure that a single equitable remuneration is paid by the user to the performers and producers of phonograms, if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting or communication to the public[2].

2. Each Party shall ensure that the single equitable remuneration referred to in paragraph 1 is shared between the relevant performers and phonogram producers. Each Party may enact legislation that, in the absence of an agreement between performers and producers of phonograms, sets the terms according to which performers and producers of phonograms shall share such single equitable remuneration.

---

1 Each Party may grant more extensive rights, as regards the broadcasting and communication to the public of phonograms published for commercial purposes, to performers and producers of phonograms.

2 For the purposes of this Article, "communication to the public" does not include the making available to the public of a phonogram, by wire or wireless means, in such a way that members of the public may access the phonogram from a place and at a time individually chosen by them.

ARTICLE 25.14

Term of protection

1. The rights of an author of a work shall run for the life of the author and for not less than 70 years after the death of the author, irrespective of the date when the work is lawfully made available to the public[1].

2. In the case of a work of joint authorship, the term of protection referred to in paragraph 1 shall be calculated from the death of the last surviving author.

3. In the case of anonymous or pseudonymous works, the term of protection shall run for not less than 70 years after the work is lawfully made available to the public. However, if the pseudonym adopted by the author leaves no doubt as to the identity of the author, or if the author discloses their identity during the period referred to in the first sentence, the term of protection applicable shall be that laid down in paragraph 1.

4. The term of protection of cinematographic or audiovisual works shall expire not less than 70 years after the date of death of the last surviving author. It shall be a matter for the laws and regulations of the Parties to determine the persons that are to be considered authors of a cinematographic or audiovisual work.

[1] If a Party provides a special term of protection in cases in which a juridical person is designated as the right holder, the term of protection shall run for not less than 70 years after the work is lawfully made available to the public.

5. The rights of broadcasting organisations shall expire 50 years after the date of the first transmission of a broadcast.

6. The rights of performers shall expire not less than 50 years after the date of the fixation of the performance; however:

(a) if a fixation of the performance is lawfully published or, where provided by a Party, lawfully communicated to the public within the period of 50 years referred to in this paragraph, the term of protection shall be calculated from the date of the first such publication or, where provided by a Party, the first such communication to the public. Where a Party provides for both possibilities, the term of protection shall be calculated from whichever event occurs earlier; and

(b) if a fixation of the performance in a phonogram is lawfully published or, where provided by a Party, lawfully communicated to the public within the period of 50 years referred to in this paragraph, the term of protection shall expire not less than 70 years after the date of the first such publication or, where provided for by a Party, the first such communication to the public. Where a Party provides for both possibilities, the term of protection shall be calculated from whichever event occurs earlier.

7. The rights of producers of phonograms shall expire not less than 50 years after the fixation is made. However, if the phonogram is lawfully published or, where provided for by a Party, lawfully communicated to the public within this period, such rights shall expire not less than 70 years after the date of the first such publication or, where provided for by a Party, the first such communication to the public. The Parties may adopt or maintain effective measures to ensure that the profit generated during the 20 years of protection beyond 50 years is shared fairly between the performers and the producers of phonograms.

ARTICLE 25.15

Resale right

1. Each Party shall provide, for the benefit of the author of an original work of graphic or plastic art, a "resale right", to be defined as an inalienable right, which cannot be waived, even in advance, to receive a royalty based on the sale price obtained, for any resale of the work, subsequent to the first transfer of the work by the author[1].

2. The resale right referred to in paragraph 1 shall apply to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art.

[1] Notwithstanding this Article, for Chile the first paragraph of Article 36 of Law No. 17.366 of 28 August 1970, as amended by Law No. 21.045 of 13 October 2017 may continue to apply with respect to the calculation of royalties.

3. Each Party may provide that the resale right referred to in paragraph 1 shall not apply to acts of resale where the seller has acquired the work directly from the author less than three years before that resale and where the resale price does not exceed a certain minimum amount.

ARTICLE 25.16

Collective management of rights

1. The Parties shall promote cooperation between their respective collective management organisations for the purposes of fostering the availability of works and other protected subject matter in the territories of the Parties and the transfer of rights revenue between their respective collective management organisations for the use of such works or other protected subject matter.

2. The Parties shall promote transparency of collective management organisations, in particular regarding rights revenue they collect, deductions they apply to rights revenue they collect, the use of the rights revenue collected, the distribution policy and their repertoire.

3. Each Party shall ensure that collective management organisations established in its territory that represent another collective management organisation established in the territory of the other Party through a representation agreement, are encouraged to accurately, regularly and diligently pay amounts owed to the represented collective management organisation as well as to provide the represented collective management organisation with the information on the amount of rights revenue collected on its behalf and any deductions made to that rights revenue.

ARTICLE 25.17

Limitations and exceptions

Each Party shall provide for limitations or exceptions to the rights set out in Articles 25.9 to 25.13 only in certain special cases which do not conflict with a normal exploitation of the work or other subject matter and do not unreasonably prejudice the legitimate interests of the right holders.

ARTICLE 25.18

Protection of technological measures

1. Each Party shall provide adequate legal protection against the circumvention of any effective technological measure, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that the person is pursuing that objective.

2. Each Party shall provide adequate legal protection against the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:

(a) are promoted, advertised or marketed for the purpose of circumvention of any effective technological measures;

(b) have only a limited commercially significant purpose or use other than to circumvent any effective technological measures; or

(c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures.

3. For the purposes of this Sub-Section, "technological measure" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject matter[1], which are not authorised by the right holder of any copyright or related right as provided for by the law of a Party. Technological measures shall be deemed effective if the use of a protected work or other subject matter is controlled by the right holders through the application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject matter or a copy control mechanism, which achieves the protection objective.

4. Notwithstanding the legal protection provided for in paragraph 1 of this Article, in the absence of voluntary measures taken by the right holders, each Party may take appropriate measures, as necessary, to ensure that the adequate legal protection against the circumvention of effective technological measures provided for in accordance with this Article does not prevent beneficiaries of exceptions or limitations provided for in accordance with Article 25.17 from enjoying such exceptions or limitations.

---

[1] For greater certainty, "works or other subject matter" in this sentence does not apply to works or other subject matter for which the term of protection has expired.

ARTICLE 25.19

Obligations concerning rights management information

1. Each Party shall provide adequate legal protection against any person knowingly performing, without authority, any of the following acts, if such person knows, or has reasonable grounds to know, that by so doing that person is inducing, enabling, facilitating or concealing an infringement of any copyright or any related rights as provided for in the laws of that Party:

(a) the removal or alteration of any electronic rights-management information; and

(b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under this Sub-Section from which electronic rights-management information has been removed or altered without authority.

2. For the purposes of this Article, "rights-management information" means any information provided by right holders which identifies the work or other subject matter referred to in this Article, the author or any other right holder, or information about the terms and conditions of use of the work or other subject matter, and any numbers or codes that represent such information.

3. Paragraph 2 shall apply if any of those items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in this Article.

SUB-SECTION 2

TRADEMARKS

ARTICLE 25.20

International agreements

Each Party shall:

(a) comply with the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on 27 June 1989, as amended on 12 November 2007;

(b) comply with the Trademark Law Treaty, done at Geneva on 27 October 1994, and with the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, of 15 June 1957, as amended on 28 September 1979; and

(c) make all reasonable efforts to accede to the Singapore Treaty on the Law of Trademarks, done at Singapore on 27 March 2006.

ARTICLE 25.21

Rights conferred by a trademark

Each Party shall provide that the owner of a registered trademark has the exclusive right to prevent third parties, that do not have the owner's consent, from using in the course of trade identical or similar signs to those in respect of which the trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

ARTICLE 25.22

Registration procedure

1. Each Party shall provide for a system for the registration of trademarks in which each final negative decision taken by the relevant trademark administration, including a partial refusal of registration, shall be duly reasoned and communicated in writing to the relevant party.

2. Each Party shall provide for the possibility for third parties to oppose trademark applications or, where appropriate under its law, trademark registrations. Such opposition proceedings shall be adversarial.

3. Each Party shall provide for a publicly available electronic database of trademark applications and trademark registrations.

ARTICLE 25.23

Well-known trademarks

For the purposes of giving effect to protection of well-known trademarks, as referred to in Article 6*bis* of the Paris Convention and Article 16(2) and (3) of the TRIPS Agreement, the Parties affirm the importance of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty Fourth Series of Meetings of the Assemblies of the Member States of WIPO on 20 to 29 September 1999.

ARTICLE 25.24

Exceptions to the rights conferred by a trademark

1. Each Party:

(a) shall provide for the fair use of descriptive terms as a limited exception to the rights conferred by trademarks; and

(b) may provide for other limited exceptions.

2. Paragraph 1 shall apply provided that the exceptions take account of the legitimate interests of the owners of the trademarks and of third parties.

3. The trademark shall not entitle the proprietor to prohibit a third party from using the following, in the course of trade:

(a) their own name or address;

(b) indications concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of the service, or other characteristics of goods or services; or

(c) the trademark, where it is necessary to indicate the intended purpose of a good or service, in particular as accessories or spare parts.

4. Paragraph 2 shall apply where the use made by the third party is in accordance with honest practices in industrial or commercial matters[1].

[1] Alternatively, a Party may make such use subject to not being misleading or creating confusion among the relevant part of the public.

5. A Party may provide that the trademark shall not entitle the proprietor to prohibit a third party from using, in the course of trade, an earlier right which only applies in a particular locality, if that right is recognised by the law of that Party and within the limits of the territory in which it is recognised.

ARTICLE 25.25

Grounds for revocation

1. Each Party shall provide that a trademark shall be liable to revocation if, within a continuous period of five years, it has not been put to genuine use in the relevant territory in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use. However, a Party may provide that no person may claim that the proprietor's rights in a trademark should be revoked where, during the interval between expiry of the five-year period and filing of the application for revocation, genuine use of the trademark has started or resumed. The commencement or resumption of use within a period of three months preceding the filing of the application for revocation, which began at the earliest on expiry of the continuous period of five years of non-use, shall, however, be disregarded if preparations for the commencement or resumption occurred only after the proprietor becomes aware that the application for revocation may be filed.

2. A trademark shall also be liable to revocation if, after the date on which it was registered as a consequence of acts or inactivity of the proprietor, it has become the common name in the trade for a good or service in respect of which it is registered.[1]

ARTICLE 25.26

Bad faith applications

A trademark shall be liable to be declared invalid where the application for registration of the trademark was made in bad faith by the applicant. Each Party may also provide that such a trademark shall not be registered.

[1] A trademark may also be liable to revocation if, after the date on which it was registered in consequence of the use made of it by the proprietor of the trademark or with his consent in respect of the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

SUB-SECTION 3

DESIGNS[1]

ARTICLE 25.27

International agreements

Each Party shall make all reasonable efforts to accede to the Geneva Act to the Hague Agreement Concerning the International Registration of Industrial Designs, adopted at Geneva on 2 July 1999.

ARTICLE 25.28

Protection of registered designs[2]

1. Each Party shall provide for the protection of independently created designs that are new or original.[3] That protection shall be provided by registration and shall confer an exclusive right upon its holder in accordance with the provisions of this Article.

---

1 References in this Chapter to designs are those to registered industrial designs.

2 The Union also grants protection to the unregistered design when it meets the requirements of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ EU L 3, 5.1.2002, p.1).

3 A Party may provide in its laws that individual character of designs can also be required. The European Union considers that a design has individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public.

2. The holder of a registered design shall have the right to prevent third parties not having the holder's consent at least from making, selling, importing, exporting the product bearing and embodying the protected design or using articles bearing or embodying the protected design where such acts are undertaken for commercial purposes, unduly prejudice the normal exploitation of the design, or are not compatible with fair trade practice.

3. A design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new or original:

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the complex product, and

(b) to the extent that visible features of the component part referred to in subparagraph (a) fulfil in themselves the requirements of novelty or originality.

4. For the purposes of subparagraph (a) of paragraph 3, "normal use" means the use by the end user, excluding maintenance, servicing or repair work.

ARTICLE 25.29

Duration of protection

The duration of protection available shall amount to at least 15 years from the date of filing of the application.

ARTICLE 25.30

Exceptions and exclusions

1. Each Party may provide for limited exceptions to the protection of designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected designs and do not unreasonably prejudice the legitimate interests of the holder of the protected design, taking account of the legitimate interests of third parties.

2. Design protection shall not extend to designs that are dictated essentially by technical or functional considerations.

3. A design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its own function.

4. By way of derogation from paragraph 3, a design may subsist in a design, which has the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

ARTICLE 25.31

Relationship to copyright

A design shall also be eligible for protection under the copyright law of a Party as from the date on which the design was created or fixed in any form. Each Party shall determine the extent to which, and the conditions under which, such a protection is conferred, including the level of originality required.

SUB-SECTION 4

GEOGRAPHICAL INDICATIONS

ARTICLE 25.32

Definition and scope

1. For the purposes of this Agreement, "geographical indication" means an indication which identifies a good as originating in the territory of a Party, or a region or locality in its territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

2. This Sub-Section applies to geographical indications, which identify products listed in Annex 25-C.

3. The Parties agree to consider, after the entry into force of this Agreement, extend the scope of geographical indications covered by this Sub-Section to other product types of geographical indications not covered by paragraph 2, and in particular handicrafts, by taking into account the legislative developments of the Parties.

4. A Party shall protect geographical indications of the other Party, in accordance with this Sub-Section, if those geographical indications are protected as such in the country of origin.

ARTICLE 25.33

Listed geographical indications

Each Party, having examined both the legislation of the other Party referred to in Annex 25-A and the geographical indications of the other Party listed in Annex 25-C, and having completed proper publicity measures, in accordance with its laws and practices, shall protect the geographical indications of the other Party listed in Annex 25-C, in accordance with the level of protection laid down in this Sub-Section.

ARTICLE 25.34

Amendment of the list of geographical indications

1. The Parties agree on the possibility to amend the list of geographical indications referred to in Article 25.33 pursuant to Article 25.40(1). Any addition to Annex 25-C by a Party shall not exceed 45 geographical indications every three years after the date of entry into force of this Agreement. The Parties shall add new geographical indications after the completion of the opposition procedure in accordance with the criteria set out in Annex 25-B and after having examined the geographical indications, to the satisfaction of both Parties.

2. When the amendment of the geographical indication listed in Annex 25-C concerns a minor change related to the spelling of a listed geographical indication or the reference to the denomination of the geographical area to which it is attributable, the procedure referred to in Article 25.40 (4) applies.

3. A geographical indication pursuant to paragraphs 1 and 2, shall be listed by mutual consent of the Parties.

ARTICLE 25.35

Scope of protection of geographical indications

1. The geographical indications listed in Annex 25-C, as well as those added pursuant to Article 25.34, shall be protected against:

(a) any commercial use of the geographical indication, for a product which is the same type of product and which:

(i) does not originate in the place of origin specified in Annex 25-C for that geographical indication; or

(ii) does originate in the place of origin specified in Annex 25-C for that geographical indication, but which was not produced or manufactured in accordance with the product specification of the protected name, even where the name is accompanied by terms such as "kind", "type", "style", "imitation", "flavour", or other expressions of the sort;

(b) the use of any means in the designation or presentation of a product that indicates or suggests that the product in question originates in a geographical area other than the true place of origin in a manner which bears the risk of misleading the public as to the geographical origin of the product;

(c) any use which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention, including the exploitation of the reputation of a geographical indication or any false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material, or the documents related to the goods themselves, and any practice liable to mislead the consumer as to the true origin of the product.

2. Protected geographical indications shall not become generic in the territories of the Parties.

3. There shall be no obligation under this Sub-section to protect geographical indications which are not, or cease to be, protected in their territory of origin.

4. A Party shall not preclude the possibility that the protection or recognition of a geographical indication may be cancelled by the competent authorities in the territory of its origin on the basis that the protected or recognized term has ceased meeting the conditions upon which the protection or recognition was originally granted in its territory of origin.

5. Each Party shall notify the other Party if a geographical indication ceases to be protected in its territory of origin. Such notification shall take place in accordance with procedures laid down in Article 25.40.

6. Nothing in this Sub-Section shall prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except if such name is used with the purpose of misleading the public.

7. The protection provided under this Sub-Section shall apply to the translation of the geographical indications listed in Annex 25-C, if the use of such translation bears the risk to mislead the public.

8. If a translation of a geographical indication is identical to, or contains, generic or descriptive terms, including nouns and adjectives, or terms that are customary in common language as the common name for a product in the territory of a Party, or if a geographical indication is not identical to, but contains such a term, the provisions of this Sub-Section shall not prejudice the right of any person to use that term in association with that product.

9. The protection provided for under this Sub-Section does not apply to an individual component of a multicomponent term that is protected as a geographical indication listed in Appendix 25-C-1, if the individual component[1] is a term in the common language as the common name for the associated product.

[1] In accordance with Appendix 25-C-1, which contains terms for which protection is not sought.

10. Nothing in this Sub-Section shall prevent the use, in the territory of a Party, with respect to any product, of a name of a plant variety or an animal breed.[1]

11. For new geographical indications to be added in accordance with Article 25.34, nothing shall require a Party to protect a geographical indication which is identical to the term that is customary in common language as the common name for the associated product in the territory of that Party.[2]

ARTICLE 25.36

Right of use of geographical indications

1. A name protected under this Sub-section as a geographical indication may be used by any operator marketing a product which conforms to the corresponding specification.

2. A name protected under this Sub-Section as a geographical indication shall not be subject to any registration of users, or further charges.

---

1 Explanatory notes in Annex 25-C define the plants varieties and animal breeds the use of which shall not be prevented.

2 In determining new geographical indications to be added, whether a term is the term customary in common language as the common name for the relevant good in its territory, a Party's authorities shall have the authority to take into account how consumers understand the term in the territory of that Party. Factors relevant to such consumer understanding may include: (a) whether the term is used to refer to the type of product in question, as indicated by competent sources such as dictionaries, newspapers and relevant websites; or (b) how the product referenced by the term is marketed and used in trade in the territory of that Party.

ARTICLE 25.37

Relation between trademarks and geographical indications

1. The Parties shall refuse to register a trademark the use of which would contravene Article 25.35 and which relates to the same type of product, provided that the application to register such a trademark is submitted after the date of application for protection of the geographical indication in the territory of the Party concerned.

2. Trademarks registered in breach of paragraph 1 shall be invalidated, *ex officio* or at the request of an interested party, in accordance with the law and practice of the Parties.

3. For geographical indications referred to in Article 25.33, the date of submission of the application for protection referred to in paragraph 1 and 2 shall be 1 November 2022.

4. For geographical indications added to Annex 25-C in accordance with Article 25.34, the date of submission of the application for protection shall be the date of the transmission of a request to the other Party to protect a geographical indication subject to the successful conclusion of the process to amend the list of protected geographical indications referred to in Article 25.34.

5. The Parties shall protect geographical indications also if a prior trademark exists. Prior trademarks registered in good faith may be renewed and may be subject to variations that require the filing of new trademark applications, provided that those variations do not undermine the protection of geographical indications and that there are no grounds for invalidation of the trademark under the law of the Parties.

6. For the purposes of paragraph 5 of this Article, a "prior trademark" means a trademark the use of which contravenes Article 25.35, for which an application for registration has been made or which has been established by use, if that possibility is provided for by the legislation concerned, in good faith in the territory of one Party before the date on which the application for protection of the geographical indication is submitted by the other Party under this Agreement.

ARTICLE 25.38

Enforcement of protection

Each Party shall enforce the protection provided for in Articles 25.35, 25.36 and 25.37 by administrative action at the request of an interested party. Each Party shall provide, within its law and practice, for additional administrative and judicial steps to prevent or stop the unlawful use of protected geographical indications.

ARTICLE 25.39

General rules

1. A Party shall not be required to protect a name as a geographical indication under this Sub-Section if that name conflicts with the name of a plant variety or an animal breed and, as a result, is likely to mislead the consumer as to the true origin of the product.

2. If geographical indications of the Parties are homonymous, protection shall be granted by the other Party to each geographical indication, provided that there is sufficient distinction in practice between conditions of usage and presentation of the names so as to not mislead the consumer.

3. If a Party, in the context of bilateral negotiations with a third country, proposes to protect a geographical indication of that third country which is homonymous with a geographical indication of the other Party, it shall inform the other Party, which shall be given the opportunity to comment before that geographical indication is protected.

4. Import, export and marketing of products corresponding to the geographical indications referred to in Annex 25-C shall be conducted in compliance with the laws and regulations applying in the territory of the Party in which the products are placed on the market.

5. Any matter arising from product specifications of protected geographical indications shall be dealt with in the Sub-Committee referred to in Article 25.40.

6. The geographical indications protected under this Sub-Section may only be cancelled by the Party in which the product originates. A Party shall notify the other Party if a geographical indication listed in Annex 25-C ceases to be protected in its territory. Following such notification, Annex 25-C shall be amended pursuant to Article 25.40(3).

7. A product specification referred to in this Sub-Section shall be that approved, including any amendments also approved, by the authorities of the Party in the territory from which the product originates.

ARTICLE 25.40

Sub-Committee, co-operation and transparency

1. For the purposes of this Sub-Section, the Sub-Committee referred to in Article 25.66 may recommend to the Trade Council to amend, pursuant to subparagraph (a) of Article 33.1(6):

(a) Annex 25-A as regards the references to the law applicable in the Parties;

(b) Annex 25-B as regards the criteria to be included in the opposition procedure; and

(c) Annex 25-C as regards the geographical indications.

2. For the purposes of this Sub-Section, the Sub-Committee referred to in Article 25.66 shall be responsible for exchanging information on:

(a) legislative and policy developments on geographical indications;

(b) geographical indications for the purpose of considering their protection in accordance with this Sub-Section; and

(c) any other matter of mutual interest in the area of geographical indications.

3. Following the notification referred to in Article 25.39(6), the Sub-Committee shall recommend to the Trade Council to amend Annex 25-C in accordance with subparagraph (c) of paragraph 1 of this Article to end the protection under this Agreement.

4. In case of a minor change related to the spelling of a listed geographical indication or the reference to the denomination of the geographical area to which it is attributable, a Party shall notify the other Party in the Sub-Committee of such change together with its explanation. The Sub-Committee shall recommend to the Trade Council to amend Annex 25-C, pursuant to subparagraph (a) of Article 33.1(6), with such minor change.

5. The Parties shall, either directly or through the Sub-Committee, remain in contact on all matters relating to the implementation and the functioning of this Sub-Section. In particular, a Party may request from the other Party information relating to product specifications and their amendments, as well as contact points for administrative enforcement.

6. The Parties may make publicly available the product specifications or a summary thereof and contact points for administrative enforcement corresponding to the geographical indications of the other Party protected pursuant to this Sub-Section.

ARTICLE 25.41

Other protection

1. This Sub-Section shall apply without prejudice to the rights and obligations of the Parties in accordance with the WTO Agreement, or any other multilateral agreement on intellectual property law to which the European Union and Chile are parties.

2. This Sub-Section is without prejudice to the right to seek recognition and protection of a geographical indication under the relevant legislation of the Parties.

SUB-SECTION 5

PATENTS

ARTICLE 25.42

International agreements

Each Party[1] shall comply with the Patent Cooperation Treaty, done at Washington on 19 June 1970, as amended on 28 September 1979, last modified on 3 October 2001.

ARTICLE 25.43

Supplementary protection in case of delays in marketing approval for pharmaceutical products

1. The Parties recognise that pharmaceutical products protected by a patent in their respective territory may be subject to a marketing approval or sanitary permit procedure before being put on the market.

[1] For the European Union, the obligation under this Article is fulfilled by the Member States.

2. Each Party shall provide for an adequate and effective mechanism which provides an additional term of protection to compensate the patent owner for the reduction of the effective patent protection resulting from unreasonable delays[1] in the granting of the first marketing approval or sanitary permit in its territory. The additional term of protection shall not exceed five years.

3. Notwithstanding paragraph 2, a Party may provide for further protection, in accordance with its laws and regulations, for a product which is protected by a patent and which has been subject to a marketing approval or sanitary permit procedure, to compensate the holder of a patent for the reduction of the effective patent protection. The duration of such further protection shall not exceed five years.[2]

4. For greater certainty, in implementing the obligations of this Article, each Party may provide for conditions and limitations, provided that the Party continues to give effect to this Article.

---

1 For the purposes of this Article, an unreasonable delay shall include a delay of at least more than two years in the first substantive response to the applicant after the date of filing of the application for marketing approval or the sanitary permit. Any delays that occur in the granting of a marketing approval or sanitary permit due to periods attributable to the applicant or any period that is beyond the control of the authority processing the application for marketing approval or of the sanitary registration authority need not be included in the determination of such delay.

2 This maximum duration is without prejudice to a possible further extension of the period of protection in the case of medicinal products for which pediatric studies have been carried out, and the results of those studies are reflected in the product information.

5. Each Party shall make best efforts to process applications for marketing approval or sanitary registration of pharmaceutical products in an efficient and timely manner, with a view to avoiding unreasonable or unnecessary delays. With the objective of avoiding unreasonable delays, a Party may adopt or maintain procedures that expedite the processing of applications for marketing approval or sanitary permit.

SUB-SECTION 6

PROTECTION OF UNDISCLOSED INFORMATION

ARTICLE 25.44

Scope of protection of trade secrets

1. In fulfilling its obligation to comply with the TRIPS Agreement, and in particular paragraphs 1 and 2 of Article 39 of the TRIPS Agreement, each Party shall provide for appropriate civil judicial procedures and remedies for any trade secret holder to prevent, and obtain redress for, the acquisition, use or disclosure of a trade secret whenever carried out in a manner contrary to honest commercial practices.

2. For the purposes of this Sub-Section:

(a) "trade secret" means information that:

(i) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;

(ii) has commercial value because it is secret; and

(iii) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret;

(b) "trade secret holder" means any natural or juridical person lawfully controlling a trade secret.

3. For the purposes of this Sub-Section, at least the following conducts shall be considered contrary to honest commercial practices:

(a) the acquisition of a trade secret without the consent of the trade secret holder, whenever carried out by unauthorised access to, appropriation of, or copying of any documents, objects, materials, substances or electronic files, lawfully under the control of the trade secret holder, containing the trade secret or from which the trade secret can be deduced;

(b) the use or disclosure of a trade secret whenever carried out, without the consent of the trade secret holder, by a person who is found to meet any of the following conditions:

(i) having acquired the trade secret in a manner referred to in subparagraph (a);

(ii) being in breach of a confidentiality agreement or any other duty not to disclose the trade secret; or

(iii) being in breach of a contractual or any other duty to limit the use of the trade secret;

(c) the acquisition, use or disclosure of a trade secret whenever carried out by a person who, at the time of the acquisition, use or disclosure, knew or ought, under the circumstances, to have known that the trade secret had been obtained directly or indirectly from another person who was using or disclosing the trade secret unlawfully within the meaning of subparagraph (b).

4. Nothing in this Sub-Section shall be understood as requiring either Party to consider any of the following conducts as contrary to honest commercial practices:

(a) independent discovery or creation by a person of the relevant information;

(b) reverse engineering of a product by a person who is lawfully in possession of it and who is free from any legally valid duty to limit the acquisition of the relevant information;

(c) acquisition, use or disclosure of information required or allowed by the law of that Party; or

(d) use by employees of their experience and skills honestly acquired in the normal course of their employment.

5. Nothing in this Sub-Section shall be understood as restricting freedom of expression and information, including media freedom, as protected in each Party.

ARTICLE 25.45

Civil judicial procedures and remedies of trade secrets

1. Each Party shall ensure that any person participating in the civil judicial proceedings referred to in Article 25.44 or who has access to documents that form part of those legal proceedings, is not permitted to use or disclose any trade secret or alleged trade secret which the competent judicial authorities have, in response to a duly reasoned application by an interested party, identified as confidential and of which that person became aware as a result of such participation or access.

2. In the civil judicial proceedings referred to in Article 25.44, each Party shall provide that its judicial authorities have the authority at least to:

(a) order provisional measures, in accordance with the laws and regulations of a Party, to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(b) order injunctive relief to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(c) order the person that knew or ought to have known that they were acquiring, using or disclosing a trade secret in a manner contrary to honest commercial practices to pay the trade secret holder damages that are appropriate to the actual prejudice suffered as a result of such acquisition, use or disclosure of the trade secret;

(d) take specific measures to preserve the confidentiality of any trade secret or alleged trade secret produced in civil proceedings relating to the alleged acquisition, use and disclosure of a trade secret in a manner contrary to honest commercial practices; such specific measures may include, in accordance with the law of the Party concerned, the possibility of:

(i) restricting access to certain documents in whole or in part;

(ii) restricting access to hearings and their corresponding records or transcripts;

(iii) making available a non-confidential version of the judicial decision in which the passages containing trade secrets have been removed or redacted;

(e) impose sanctions on parties or any other persons participating in the legal proceedings who fail or refuse to comply with the orders of competent judicial authorities concerning the protection of the trade secret or alleged trade secret.

3. Each Party shall ensure that its judicial authorities do not have to apply the judicial procedures and remedies referred to in Article 25.44 if the conduct contrary to honest commercial practices is carried out, in accordance with its law, to reveal misconduct, wrongdoing or illegal activity or for the purpose of protecting a legitimate interest recognised by the law of that Party.

ARTICLE 25.46

Protection of undisclosed data related to pharmaceutical products

1. If a Party requires, as a condition for a marketing approval or sanitary permit of a pharmaceutical product which utilises a new chemical entity that has not been previously approved, the submission of an undisclosed test or other data necessary to determine whether the use of that product is safe and effective, the Party shall protect such data against disclosure to third parties if the origination of such data involves considerable effort, except where the disclosure is necessary for an overriding public interest or unless steps are taken to ensure that the data are protected against unfair commercial use.

2. Each Party shall ensure that, for at least five years from the date of a first marketing approval or sanitary permit in the Party concerned, a pharmaceutical product subsequently authorised on the basis of the results of pre-clinical tests and clinical trials submitted in the application for the first marketing approval or sanitary permit shall not be placed on the market without the explicit consent of the holder of the first marketing approval or sanitary permit.

3. There shall be no limitation on either Party to implement abbreviated authorisation procedures for pharmaceutical products on the basis of bioequivalence and bioavailability studies.

4. Each Party may provide for conditions and limitations in implementing the obligations of this Article, provided that the Party continues to give effect to this Article.

ARTICLE 25.47

Protection of data related to agrochemical products

1. If a Party requires, as a condition for granting marketing authorisation for an agrochemical product which utilises a new chemical entity, the submission of tests or study reports concerning the safety and efficacy of that product, that Party shall not grant the authorisation for another product on the basis of those tests or study reports without the consent of the person that previously submitted them, for at least ten years after the date of the marketing authorisation of the agrochemical product.

2. A Party may limit the protection under this Article to tests or study reports that fulfil the following conditions:

(a) they are necessary for the authorisation or for an amendment of an authorisation to allow the use on other crops; and

(b) they are certified as compliant with the principles of good laboratory practice or of good experimental practice.

3. Each Party may establish rules to avoid duplicative testing on vertebrate animals.

4. In implementing the obligations of this Article, each Party may provide for conditions and limitations, provided that the Party continues to give effect to this Article.

SUB-SECTION 7

PLANT VARIETIES

ARTICLE 25.48

Protection of plant variety rights

The Parties shall protect plant variety rights, in accordance with the International Convention for the Protection of New Varieties of Plants of 2 December 1961, as lastly revised at Geneva on 19 March 1991 ("the UPOV Convention"), including the exceptions to the breeder's right as referred to in Article 15 of the UPOV Convention, and cooperate to promote and enforce those rights.

SECTION C

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

CIVIL AND ADMINISTRATIVE ENFORCEMENT

ARTICLE 25.49

General obligations

1. Each Party reaffirms its commitments under the TRIPS Agreement and shall ensure the enforcement of intellectual property rights in accordance with its law and practice. The Parties shall provide for the measures, procedures and remedies provided for under this Sub-section.

2. This Section shall not apply to the rights covered by Sub-Section 6 of Section B.

3. A Party shall provide for measures, procedures and remedies that shall be fair and equitable, and shall not be unnecessarily complicated or costly or entail unreasonable time-limits or unwarranted delays.

4. Those measures, procedures and remedies shall also be effective, proportionate and dissuasive and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

5. Nothing in this Section creates any obligation on either Party:

(a) to put in place a judicial system for the enforcement of intellectual property rights that is distinct from that for the enforcement of law in general; or

(b) with respect to the distribution of resources as between enforcement of intellectual property rights and the enforcement of law in general.

ARTICLE 25.50

Persons entitled to seek application of enforcement measures, procedures and remedies

Each Party shall recognise the following as persons entitled to seek application of the measures, procedures and remedies referred to in this Section and in Part III of the TRIPS Agreement:

(a) holders of intellectual property rights in accordance with the law of each Party;

(b) all other persons authorised to use those rights, in particular licensees, insofar as permitted by and in accordance with the law of each Party;

(c) intellectual property collective rights management bodies which are regularly recognised as having a right to represent holders of intellectual property rights, insofar as permitted by and in accordance with the law of each Party;

(d) entities[1] which are regularly recognised as having a right to represent holders of intellectual property rights, insofar as permitted by and in accordance with the law of each Party.

ARTICLE 25.51

Evidence

1. Each Party shall ensure that, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may, upon submission of an application by a party who has presented reasonably available evidence to support their claims that their intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information under the law of that Party. In ordering provisional measures, the judicial authorities shall take into account the legitimate interests of the alleged infringer.

[1] For Chile, the term "entities" means "federations and associations". For the European Union, the term "entities" means "professional defence bodies".

2. The provisional measures referred to in paragraph 1 may include a detailed description, with or without the taking of samples, or the physical seizure of the allegedly infringing goods and, in appropriate cases, the materials and implements predominantly used in the production or distribution of those goods and the documents relating thereto.

3. Each Party shall, in case of infringement of an intellectual property right committed on a commercial scale, take the measures that are necessary to enable the competent judicial authorities to order, where appropriate, upon application by a party, the communication of banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.

ARTICLE 25.52

Right of information

1. Each Party shall ensure that, during civil proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order the infringer or any other person to provide information on the origin and distribution networks of the goods or services which infringe an intellectual property right.

2. For the purposes of paragraph 1, "any other person" means a person who, at least:

(a) was found in possession of the infringing goods on a commercial scale;

(b) was found to be using the infringing services on a commercial scale;

(c) was found to be providing, on a commercial scale, services used in infringing activities; or

(d) was indicated by the person referred to in this paragraph, as being involved in the production, manufacture or distribution of the infringing goods or the provision of the infringing services.

3. The information referred to in paragraph 1 may, as appropriate, comprise:

(a) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers; and

(b) the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

4. This Article shall apply without prejudice to other laws of a Party which:

(a) grant the right holder rights to receive fuller information;

(b) govern the use, in civil proceedings, of the information communicated pursuant to this Article;

(c) govern responsibility for misuse of the right of information;

(d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph 1 to admit their own participation or that of their close relatives in an infringement of an intellectual property right; or

(e) govern the protection of confidentiality of information sources or the processing of personal data.

ARTICLE 25.53

Provisional and precautionary measures

1. Each Party shall ensure that the judicial authorities may, at the request of the applicant, issue against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis and subject, where appropriate, to a recurring penalty payment if provided for by the law of that Party, the continuation of the alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder. An interlocutory injunction may also be issued, under the same conditions, where appropriate, against a third party[1] over whom the relevant judicial authority exercises jurisdiction and whose services are used to infringe an intellectual property right.

2. Each Party shall ensure that its judicial authorities may, at the request of the applicant, order the seizure or the delivery up[2] of goods suspected of infringing an intellectual property right, so as to prevent their entry into, or movement within, the channels of commerce.

[1] For the purposes of this Article, a Party may provide that a "third party" includes an intermediary.

[2] A Party may choose between seizure and delivery up to implement this paragraph.

3. In the case of an alleged infringement committed on a commercial scale, each Party shall ensure that, if the applicant demonstrates circumstances likely to endanger the recovery of damages, the judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of their bank accounts and other assets. For those purposes, the competent authorities may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

ARTICLE 25.54

Remedies

1. Each Party shall ensure that the judicial authorities have the authority to order, at the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the destruction or at least the definitive removal from the channels of commerce, of goods that they have found to be infringing an intellectual property right. If appropriate, the judicial authorities may also order the destruction of materials and implements predominantly used in the creation or manufacture of those goods.

2. The judicial authorities of each Party shall have the authority to order that those measures be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

3. In considering a request for remedies the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.

ARTICLE 25.55

Injunctions

Each Party shall ensure that, where a judicial decision is taken finding an infringement of an intellectual property right, the judicial authorities may issue against the infringer and, if appropriate, against a third party[1] over whom the relevant judicial authority exercises jurisdiction and whose services are used to infringe an intellectual property right, an injunction aimed at prohibiting the continuation of the infringement.

ARTICLE 25.56

Alternative measures

Each Party may provide that the judicial authorities, in appropriate cases and at the request of the person liable to be subject to the measures provided for in Article 25.54 or 25.55, may order pecuniary compensation to be paid to the injured party instead of applying the measures provided for in Article 25.54 or 25.55 if that person acted unintentionally and without negligence, if execution of the measures in question would cause that person disproportionate harm and if pecuniary compensation to the injured party appears reasonably satisfactory.

[1] For the purposes of this Article, a Party may provide that a "third party" includes an intermediary.

ARTICLE 25.57

Damages

1. Each Party shall ensure that the judicial authorities, on application of the injured party, order the infringer who knowingly, or with reasonable grounds to know, engaged in an infringing activity, to pay the right holder damages adequate to compensate for the injury that the right holder has suffered as a result of the infringement.

2. In determining the amount of damages under paragraph 1, the judicial authorities of each Party shall have the authority to consider, *inter alia*, any legitimate measure of value that the right holder submits, which may include lost profits, the value of the infringed goods or services measured by the market price, or the suggested retail price[1]. At least in cases of copyright or related rights infringement and trademark counterfeiting, each Party shall provide that, in civil judicial proceedings, its judicial authorities have the authority to order the infringer to pay the right holder the infringer's profits that are attributable to the infringement, whether as an alternative to, in addition to, or as part of the damages.

3. As an alternative to paragraph 2, each Party may provide that its judicial authorities have the authority, in appropriate cases, to set the damages as a lump sum on the basis of elements such as at least the amount of royalties or fees which would have been due if the infringer had requested authorisation to use the intellectual property right in question.

[1] For the European Union, this would also include, as appropriate, elements other tan economic factors such as the moral prejudice caused to the right holder by the infringement.

4. Nothing in this Article precludes either Party from providing that, if the infringer did not knowingly, or with reasonable grounds to know, engage in infringing activity, its judicial authorities may order in favour of the injured party the recovery of profits or the payment of damages, which may be pre-established.

ARTICLE 25.58

Legal costs

Each Party shall provide that its judicial authorities, where appropriate, have the authority to order, at the conclusion of civil judicial proceedings concerning the enforcement of intellectual property rights, that the prevailing party be awarded the payment by the losing party of legal costs and other expenses, as provided for under the law of the Party concerned.

ARTICLE 25.59

Publication of judicial decisions

Each Party shall ensure that, in legal proceedings instituted for infringement of an intellectual property right, the judicial authorities may order, at the request of the applicant and at the expense of the infringer, appropriate measures for the dissemination of the information concerning the decision, including displaying the decision and publishing it in full or in part.

ARTICLE 25.60

Presumption of authorship or ownership

The Parties shall recognise that for the purposes of applying the measures, procedures and remedies provided for in this Section :

(a) for the author of a literary or artistic work, in the absence of proof to the contrary, to be regarded as such, and consequently to be entitled to institute infringement proceedings, it shall be sufficient for the name of the author to appear on the work in the usual manner; and

(b) subparagraph (a) shall apply *mutatis mutandis* to the holders of rights related to copyright with regard to their protected subject matter.

ARTICLE 25.61

Administrative procedures

To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, such procedures shall conform to principles that are equivalent in substance to those set forth in the relevant provisions of this Sub-Section.

SUB-SECTION 2

BORDER ENFORCEMENT

ARTICLE 25.62

Border measures

1. With respect to goods under customs control, each Party shall adopt or maintain procedures under which a right holder may submit applications requesting competent authorities to suspend the release of or detain suspected goods. For the purposes of this Sub-Section, "suspected goods" means goods suspected of infringing trademarks, copyrights and related rights, geographical indications, patents, utility models, industrial designs and topographies of integrated circuits.

2. Each Party shall have in place electronic systems for the management by competent authorities of the applications granted or recorded.

3. Each Party shall ensure that its competent authorities do not charge a fee to cover the administrative costs resulting from the processing of an application or a recordation.

4. Each Party shall ensure that its competent authorities decide about granting or recording of an application within a reasonable period of time.

5. Each Party shall ensure that the granted or recorded application or recordation applies to multiple shipments.

6. With respect to goods under customs control, each Party shall ensure that its customs authorities may act upon their own initiative to suspend the release of or detain goods suspected of infringing trademarks or copyright.

7. Customs authorities shall use risk analysis to identify goods suspected of infringing intellectual property rights. Each Party shall implement this paragraph in accordance with its law.

8. Each Party may have in place procedures allowing for the destruction of goods suspected of infringing intellectual property rights, without the need for prior administrative or judicial proceedings for the formal determination of the infringements in cases where the persons concerned agree or do not oppose to such destruction. If such goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, such goods are disposed of outside the commercial channel in a manner that avoids any harm to the right holder.

9. Each Party may have in place procedures allowing for the swift destruction of counterfeit trademark and pirated goods that are sent through postal or express couriers consignments.

10. A Party may decide not to apply this Article to the import of goods that are put on the market of a third country by, or with the consent of, the right holders. A Party may also decide not to apply this Article to goods of a non-commercial nature contained in travellers' personal luggage.

11. The customs authorities of the Parties shall maintain a regular dialogue and promote cooperation with the relevant stakeholders and with other authorities involved in the enforcement of intellectual property rights.

12. The Parties shall cooperate in respect of international trade in suspected goods. In particular, the Parties shall share, as far as possible, information on trade in suspected goods affecting the other Party.

13. Without prejudice to other forms of cooperation, the Protocol to this Agreement on Mutual Administrative Assistance in Customs Matters applies to breaches of legislation on intellectual property rights for the enforcement of which the customs authorities of a Party are competent in accordance with this Article.

ARTICLE 25.63

Consistency with GATT and TRIPS Agreement

In implementing border measures for the enforcement of intellectual property rights by its customs authorities, whether or not covered by this Sub-section, each Party shall ensure consistency with its obligations under GATT 1994 and the TRIPS Agreement and, in particular, with Article V of GATT 1994 and Article 41 and Section 4 of Part III of the TRIPS Agreement.

SECTION D

FINAL PROVISIONS

ARTICLE 25.64

Cooperation

1. The Parties shall cooperate with a view to supporting the implementation of the commitments and obligations undertaken under this Chapter.

2. The areas of cooperation on intellectual property rights protection and enforcement matters may include but are not limited to the following activities:

(a) exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement;

(b) exchange of experience between the Parties on legislative progress;

(c) exchange of experience between the Parties on the enforcement of intellectual property rights;

(d) exchange of experience between the Parties on enforcement at central and sub-central level by customs authorities, police, administrative and judiciary authorities;

(e) coordination to prevent exports of counterfeit goods, including with third countries;

(f) technical assistance, capacity building; exchange and training of personnel;

(g) the protection and defence of intellectual property rights and the dissemination of information in this regard in, *inter alia*, business circles and civil society;

(h) public awareness of consumers and right holders, as well as enhancement of institutional cooperation, particularly between their intellectual property offices;

(i) active promotion of awareness and education of the general public on policies concerning intellectual property rights;

(j) public-private collaboration engaging SMEs, including at SME-focused events or gatherings, regarding the protection and enforcement of intellectual property rights and the reduction of their infringement; and

(k) formulation of effective strategies to identify audiences and communication programmes to increase consumer and media awareness on the impact of intellectual property rights' violations, including the risk to health and safety and the connection to organised crime.

3. Each Party may make publicly available the product specifications, or a summary thereof, and relevant contact points for control or management of geographical indications of the other Party as protected pursuant to Sub-Section 4 of Section B.

4. The Parties shall, either directly or through the Sub-Committee referred to in Article 25.66, maintain contact on all matters related to the implementation and functioning of this Chapter.

ARTICLE 25.65

Voluntary stakeholder initiatives

Each Party shall endeavour to facilitate voluntary stakeholder initiatives to reduce intellectual property rights infringements, including online and in other marketplaces focusing on concrete problems and seeking practical solutions that are realistic, balanced, proportionate and fair for all concerned including in the following ways:

(a) each Party shall endeavour to convene stakeholders consensually in its territory to facilitate voluntary initiatives to find solutions and resolve differences regarding the protection and enforcement of intellectual property rights and reducing infringement;

(b) each Party shall endeavour to exchange information with the other Party regarding efforts to facilitate voluntary stakeholder initiatives in its territory; and

(c) the Parties shall endeavour to promote open dialogue and cooperation among the Parties' stakeholders, and to encourage the Parties' stakeholders to jointly find solutions and resolve differences regarding the protection and enforcement of intellectual property rights and reducing their infringement.

ARTICLE 25.66

Sub-Committee on Intellectual Property

The Sub-Committee on Intellectual Property ("Sub-Committee"), established pursuant to Article 33.4(1), shall monitor and ensure proper implementation and functioning of this Chapter and Annexes 25-A, 25-B and 25-C. The Sub-Committee shall also perform specific tasks attributed to it in this Chapter, including Article 25.40.

CHAPTER 26

TRADE AND SUSTAINABLE DEVELOPMENT

SECTION A

COMMON PROVISIONS

ARTICLE 26.1

Objectives

1. The Parties recall the Agenda 21 on Environment and Development, adopted at the UN Conference on Environment and Development held in Rio de Janeiro, on 3 to 14 June 1992, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development of 2002, the International Labour Organization ("ILO") Declaration on Social Justice for a Fair Globalization, adopted by the International Labour Conference at its 97th Session, held in Geneva on 10 June 2008 (the "ILO Declaration on Social and Justice for a Fair Globalization"), the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want", and the 2030 Agenda and its Sustainable Development Goals.

2. The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being interdependent and mutually reinforcing for the welfare of present and future generations.

3. In light of the above, the objective of this Chapter is to enhance the trade and investment relationship between the Parties in a way that contributes to sustainable development, in particular its labour[1] and environmental dimensions that are relevant to trade and investment.

4. This Chapter embodies a cooperative approach based on common values and interests.

ARTICLE 26.2

Right to regulate and levels of protection

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, in particular to establish its own levels of domestic labour and environmental protection and its own labour and environmental priorities, and to adopt or modify its law related to labour and environment and policies accordingly.

[1] For the purposes of this Chapter, the term "labour" means the strategic objectives of the ILO under the Decent Work Agenda, which is expressed in the ILO Declaration on Social Justice for a Fair Globalization.

2. The levels of protection, law and policies referred to in paragraph 1 shall be consistent with each Party's commitment to the multilateral environmental agreements ("MEAs") and multilateral labour standards and agreements, referred to in this Chapter to which it is party.

3. Each Party shall strive to ensure that its environmental and labour laws, regulations and policies provide for and encourage a high level of environmental and labour protection and shall strive to continue improving its levels of environmental and labour protection provided in its laws, regulations and policies.

4. A Party shall not weaken or reduce the levels of protection afforded in its environmental and labour laws and regulations in order to encourage trade or investment.

5. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental and labour laws and regulations in a manner that weakens or reduces the levels of protection afforded in those laws and regulations in order to encourage trade or investment.

6. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental and labour laws and regulations in a manner affecting trade or investment.

7. Each Party retains the right to exercise reasonable discretion and to make *bona fide* decisions with regard to the allocation of enforcement resources in accordance with priorities for the enforcement of its environmental and labour laws and regulations.

8. A Party shall not apply its environmental and labour laws and regulations in a manner which would constitute a disguised restriction on trade or investment.

ARTICLE 26.3

Trade and responsible business conduct and management of supply chains

1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct or corporate social responsibility practices, and the role of trade in pursuing this objective.

2. In accordance with paragraph 1, each Party shall:

(a) promote responsible business conduct or corporate social responsibility by encouraging the uptake by businesses of relevant practices that are consistent with internationally recognised principles, standards and guidelines, including sectorial guidelines of due diligence, that have been endorsed or are supported by that Party; and

(b) support the dissemination and use of relevant international instruments that have been endorsed or are supported by that Party, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy adopted in Geneva in November 1977 (the "ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy"), the UN Global Compact and the UN Guiding Principles on Business and Human Rights endorsed by the Human Rights Council in its Resolution 17/4 of 16 June 2011.

3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility or responsible business conduct and shall promote joint work in this regard. The Parties shall also implement measures to promote the adherence to OECD Due Diligence Guidelines.

4. The Parties recognise the importance of promoting trade in goods that contribute to enhanced social conditions and environmentally sound practices, such as environmental goods and services contributing to a resource-efficient, low-carbon economy, goods whose production is not linked to deforestation and goods that are the subject of voluntary sustainability assurance schemes and mechanisms.

5. The Parties shall exchange information as well as best practices and, as appropriate, cooperate bilaterally, regionally and in international fora, on issues covered by this Article.

ARTICLE 26.4

Scientific and technical information

1. When establishing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment between the Parties, each Party shall take into account available scientific and technical evidence, preferably from recognised technical and scientific bodies, as well as relevant international standards, guidelines or recommendations, where they exist.

2. If scientific evidence or information is insufficient or inconclusive and there is a risk of serious environmental degradation or risk to occupational health and safety in its territory, a Party may adopt measures based on the precautionary principle. Such measures shall be subject to review if new or additional scientific information becomes available.

3. If a measure adopted in accordance with paragraph 2 has an impact on trade or investment between the Parties, a Party may request the Party that adopted the measure to provide information indicating that the measure is consistent with its own levels of protection, and may request discussion of the matter in the Sub-Committee on Trade and Sustainable Development.

4. Such measures shall not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade or investment.

ARTICLE 26.5

Transparency and good regulatory practices

The Parties recognise the importance of the application of the rules on transparency and good regulatory practices in accordance with Chapters 28 and 29, in particular the rules providing opportunities for interested persons to submit views in respect of:

(a) measures aimed at protecting the environment and labour conditions that may affect trade or investment; and

(b) trade or investment measures that may affect the protection of the environment or labour conditions.

ARTICLE 26.6

Public awareness, information, participation and procedural guarantees

1. Each Party shall promote public awareness of its labour and environmental laws and regulations, including by ensuring that its labour and environmental laws and regulations and enforcement and compliance procedures are publicly available.

2. Each Party shall seek to accommodate requests for information from any person regarding the Party's implementation of this Chapter.

3. Each Party shall make use of the mechanisms referred to in Articles 33.5, 33.6 and 33.7 to seek views on matters related to the implementation of this Chapter.

4. Each Party shall provide for the receipt of, and give due consideration to, communications and opinions by way of written submissions from a person of that Party on matters related to the implementation of this Chapter in accordance with its domestic procedures. A Party shall respond in writing and in a timely manner to such submissions. It may notify such communications and opinions to its Domestic Consultative Group established pursuant to Article 33.6 and the contact point of the other Party designated pursuant to Article 26.19(6).

5. Each Party shall, in accordance with its law, ensure that access to administrative or judicial procedures is available to persons with a legally recognised interest in a particular matter or who claim that their right has been infringed, in order to permit action against infringements of its environmental or labour law, including appropriate remedies for violations of such law.

6. Each Party shall, in accordance with its law, ensure that the procedures referred to in paragraph 5 comply with due process, are not prohibitively costly, do not entail unreasonable time limits or unwarranted delays, provide injunctive relief if appropriate, and are fair, equitable and transparent.

ARTICLE 26.7

Cooperation activities

1. The Parties recognise the importance of cooperation activities on trade-related aspects of environmental and labour policies in order to achieve the objectives of this Agreement and implement this Chapter.

2. Cooperation activities can be developed and implemented with the participation of international and regional organisations as well as with third countries, businesses, employers' and workers' organisations, education and research organisations and other non-governmental organisations, as appropriate.

3. Cooperation activities shall be carried out on issues and topics agreed upon by the Parties to address matters of common interest.

4. The Parties may cooperate on issues as specified throughout this Chapter as well as, *inter alia*:

(a) labour and environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the UN High-level Political Forum on Sustainable Development, the UN Environment Programme ("UNEP"), the ILO and MEAs;

(b) the impact of labour and environmental laws and standards on trade and investment;

(c) the impact of trade and investment law on labour and the environment; and

(d) trade-related aspects of:

(i) initiatives on sustainable consumption and production, including those aimed at promoting a circular economy and green growth and pollution abatement; and

(ii) initiatives to promote environmental goods and services, including by addressing related non-tariff barriers.

5. The priorities for cooperation activities shall be decided jointly by the Parties based on areas of mutual interest and available resources.

6. The Parties may carry out activities in the cooperation areas set out in this Chapter in person or by any technological means available to the Parties.

SECTION B

ENVIRONMENT AND TRADE

ARTICLE 26.8

Objectives

1. The Parties aim to promote mutually supportive trade and environmental policies, high levels of environmental protection in line with MEAs to which they are party respectively and effective enforcement of their respective environmental laws and regulations, and to enhance their capacity to address trade-related environmental issues, including through cooperation.

2. The Parties recognise that enhanced cooperation to protect and conserve the environment and sustainably manage their natural resources has benefits that can contribute to sustainable development, strengthen their environmental governance and complement the objectives of this Agreement.

3. The Parties recognise the importance of mutually supportive trade and environmental policies and practices to improve environmental protection in promoting sustainable development.

ARTICLE 26.9

Multilateral environmental governance and agreements

1. The Parties recognise the importance of the UN Environment Assembly of the UNEP. The Parties recognise the critical role of MEAs in addressing global, regional and domestic environmental challenges. The Parties further recognise the need to enhance mutual supportiveness between trade and environmental policies. Accordingly, each Party shall effectively implement MEAs and protocols to which it is party.

2. The Parties recognise the right of each Party to adopt or maintain measures to further the objectives of MEAs to which it is party.

3. The Parties shall engage in dialogue and cooperate, as appropriate, on trade and environmental issues of mutual interest, in particular with respect to MEAs. This shall include regular exchanges of information on the initiatives of each Party regarding the ratifications of MEAs, including their protocols and amendments.

ARTICLE 26.10

Trade and climate change

1. The Parties recognise the importance of MEAs in the area of climate change, in particular the need to achieve the objective of the UN Framework Convention on Climate Change, done at New York on 9 May 1992 ("UNFCCC") and the purpose and goals of the Paris Agreement, in order to address the urgent threat of climate change. Accordingly, the Parties recognise the role of trade in achieving the goal of sustainable development and addressing climate change, as well as the importance of individual and collective efforts to address climate change impacts through mitigation and adaptation actions.

2. In accordance with paragraph 1, each Party shall:

(a) effectively implement the UNFCCC and the Paris Agreement adopted thereunder including its commitments with regard to its nationally determined contributions;

(b) promote the positive contribution of trade to the transition to a low greenhouse gas emission and circular economy and to climate-resilient development, including actions on climate change mitigation and adaptation; and

(c) facilitate and promote trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, for sustainable renewable energy and for energy efficiency, in a manner consistent with other provisions of this Agreement.

3. Consistently with Article 26.7, the Parties shall cooperate, as appropriate, on trade-related aspects of climate change, bilaterally, regionally and in international fora, including in the UNFCCC, the WTO and the Montreal Protocol on Substances that Deplete the Ozone Layer, concluded at Montreal on 16 September 1987 ("Montreal Protocol"). Furthermore, the Parties may cooperate, as appropriate, on these issues also in the International Maritime Organization.

4. In accordance with paragraph 1, the Parties shall cooperate in areas such as:

(a) exchanging knowledge and experience regarding the implementation of the Paris Agreement, as well as on initiatives to promote climate resilience, renewable energy, low emission technologies, energy efficiency, carbon pricing, sustainable transport, sustainable and climate-resilient infrastructure development, emissions monitoring, and nature-based solutions; as well as explore options to cooperate in areas such as short-life climate pollutants and soil carbon sequestration; and

(b) exchanging knowledge and experience regarding an ambitious phase-out of ozone depleting substances and the phase-down of hydrofluorocarbons under the Montreal Protocol through measures to control their production, consumption and trade, the introduction of environmentally friendly alternatives to them, updating of safety and other relevant standards, combating the illegal trade of substances regulated by the Montreal Protocol, as appropriate.

ARTICLE 26.11

Trade and forests

1. The Parties recognise the importance of sustainable forest management, and the role of trade in pursuing this objective.

2. In accordance with paragraph 1, each Party shall:

(a) implement measures to combat illegal logging and related trade, including through cooperation activities with third countries, as appropriate;

(b) encourage the conservation and sustainable management of forests;

(c) promote trade and consumption of timber and timber products which are legally obtained from sustainably managed forests; and

(d) exchange information and, as appropriate, cooperate with the other Party on trade-related initiatives on combatting illegal logging, sustainable forest management, deforestation and forest degradation, forest governance and on the conservation of forest cover to maximise the impact and mutual supportiveness of their respective policies of common interest.

3. Recognising that forests and their sustainable management have a key role in combatting climate change and maintaining biodiversity, each Party shall promote initiatives addressing deforestation, including through deforestation-free supply chains. Additionally, the Parties shall cooperate, as appropriate and consistently with Article 26.7, bilaterally, regionally and in relevant international fora, to minimise deforestation and forest degradation worldwide.

ARTICLE 26.12

Trade and wild flora and fauna

1. The Parties recognise the importance of ensuring that international trade of wild fauna and flora does not threaten their survival, as set out in the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington D.C. on 3 March 1973 ("CITES").

2. In accordance with paragraph 1, each Party shall:

(a) implement effective measures to combat illegal trade in wild flora and fauna, including through cooperation activities with third countries, as appropriate; and

(b) promote the long-term conservation and sustainable use of the species listed in the Appendices to CITES, including by cooperating in the relevant CITES bodies to keep the Appendices to CITES up to date and by promoting the inclusion of species considered at risk because of international trade and other criteria established under CITES.

3. Consistently with Article 26.7, the Parties may, as appropriate, cooperate or exchange information bilaterally, regionally and in international fora on issues of mutual interest related to tackling illegal trade in wild flora and fauna, including through raising awareness to reduce demand for illegal wildlife products and initiatives to enhance cooperation on information sharing and enforcement.

ARTICLE 26.13

Trade and biological diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity, and the role of trade in pursuing these objectives, consistent with the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992 ("CBD"), other relevant MEAs to which they are party, and the decisions adopted thereunder.

2. In accordance with paragraph 1, each Party shall take measures to conserve biological diversity when it is subject to pressures linked to trade and investment, including through the exchange of information and experience, and measures to prevent the spread of invasive alien species, recognising that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health.

3. The Parties recognise the importance of respecting, preserving and maintaining knowledge and practices of indigenous and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity, and the role of trade therein.

4. The Parties recognise the importance of facilitating access to genetic resources and of promoting the fair and equitable sharing of benefits arising from the use of genetic resources, consistent with their respective domestic measures and each Party's international obligations.

5. The Parties also recognise the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures concerning the conservation and sustainable use of biological diversity.

6. Consistently with Article 26.7, the Parties may, as appropriate, promote, cooperate or exchange information bilaterally, regionally and in international fora, on trade-related aspects of biological diversity policies and measures of mutual interest, such as:

(a) initiatives and good practices concerning trade in natural resource-based products obtained through a sustainable use of biological resources and contributing to the conservation of biodiversity;

(b) the conservation and sustainable use of biological diversity, and the protection, restoration and valuation of ecosystems and their services and related economic instruments; and

(c) access to genetic resources and the fair and equitable sharing of benefits from their utilisation.

ARTICLE 26.14

Trade and sustainable management of fisheries and aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems, and the role of trade in pursuing these objectives.

2. While developing and implementing conservation and management measures, the Parties shall take into consideration social, trade, development and environmental concerns and the importance of artisanal or small-scale fisheries to the livelihoods of local fishing communities.

3. The Parties acknowledge that illegal, unreported and unregulated (IUU) fishing[1] can have significant negative impacts on fish stocks, the sustainability of trade in fisheries products, development and the environment, and confirm the need for action to address the problems of overfishing and unsustainable utilization of fisheries resources.

[1] The term "illegal, unreported and unregulated fishing" is to be understood to have the same meaning as set out in paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the UN Food and Agricultural Organization, adopted in Rome, 2001 ("2001 IUU Fishing Plan of Action").

4. In accordance with paragraphs 1 to 3, each Party shall:

(a) implement and act consistently with the principles of the UN Convention on the Law of the Sea, done at Montego Bay, on 10 December 1982, the UN Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, adopted in New York, on 4 August 1995, the Food and Agriculture Organisation of the UN ("FAO"), the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted in Rome, on 24 November 1993, the FAO Code of Conduct for Responsible Fisheries, adopted in Resolution 4/95 on 31 October 1995, and the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done in Rome, on 22 November 2009;

(b) participate in the FAO's initiative on the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels;

(c) seek to operate a fisheries management system based on the best available scientific evidence and on internationally recognised best practices for fisheries management and conservation, as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species[1], and designed, *inter alia*, to:

(i) prevent overfishing and overcapacity;

(ii) reduce bycatch of non-target species;

(iii) promote the recovery of overfished stocks for all marine fisheries; and

(iv) promote fisheries management with an ecosystem approach, including through cooperation among the Parties;

(d) in support of efforts to combat IUU fishing practices and to help deter trade in products from species harvested from those practices:

(i) implement effective measures to combat IUU fishing;

---

[1] These instruments include, among others, and as they may apply, UN Convention on the Law of the Sea, the UN Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the FAO Code of Conduct for Responsible Fisheries, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, the 2001 IUU Fishing Plan of Action, and the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

(ii) ensure the use of monitoring, control, surveillance, compliance and enforcement systems, to:

(A) prevent and deter, in accordance with its international obligations and its law, vessels that are flying its flag and its natural persons from engaging in IUU fishing activities; and

(B) address the transhipment at sea of fish or fish products to deter and avoid IUU fishing activities;

(iii) implement port state measures; and

(iv) implement measures to prevent IUU fishing and fish products from entering in each Party's supply chains and cooperate to this end, including by facilitating the exchange of information;

(e) participate actively in the work of the regional fisheries management organisations ("RFMOs") to which it is a member, observer, or cooperating non-contracting party, with the aim of achieving good fisheries governance and sustainable fisheries, such as through the promotion of scientific research and the adoption of conservation measures based on best scientific evidence available, the strengthening of compliance mechanisms, the undertaking of periodical performance reviews and the adoption of effective control, monitoring and enforcement of the RFMOs' management measures and, where applicable, the adoption and implementation of catch documentation or certification schemes and port state measures;

(f) strive to act consistently with relevant conservation and management measures adopted by RFMOs of which it is not a member so as not to undermine those measures and endeavour not to undermine catch or trade documentation schemes operated by RFMOs or arrangements of which it is not a member; and

(g) promote the development of sustainable and responsible aquaculture, taking into account its economic, social and environmental aspects, according to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries.

5. The Parties shall cooperate, as appropriate and consistently with Article 26.7, bilaterally and within RFMOs with the aim of promoting sustainable fishing practices and trade in fish products from sustainably managed fisheries. Additionally, the Parties may cooperate to exchange knowledge and good practices to support the implementation of this Article.

SECTION C

LABOUR AND TRADE

ARTICLE 26.15

Objectives

1. The Parties recognise that trade and investment provides opportunities for job creation and decent work, including for young people, with terms and conditions of employment that adhere to the principles laid down in the ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference in Geneva on 18 June 1998 and as amended in 2022 (the "ILO Declaration on Fundamental Principles and Rights at Work") and the ILO Declaration on Social Justice for a Fair Globalization of 2008 as amended in 2022.

2. The Parties aim to ensure high levels of labour protection in line with the international labour standards to which they adhere and to promote mutually supportive trade and labour policies with a view to improving the working conditions and quality of work life of employees. They will strive to improve the development and management of human capital for enhanced employability, business excellence, and greater productivity for the benefit of both workers and enterprise. Accordingly, the Parties endeavour to provide opportunities for young people to develop the necessary skills to successfully access and remain in the labour market.

3. The Parties aim to cooperate on trade-related labour issues of mutual interest in order to strengthen the broader relationship between the Parties.

ARTICLE 26.16

Multilateral labour standards and agreements

1. The Parties affirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, in particular women, young people and persons with disabilities, in line with their respective obligations under the ILO, including those stated in the ILO Declaration on Fundamental Principles and Rights at Work as amended in 2022 and the ILO Declaration on Social Justice for a Fair Globalization as amended in 2022.

2. Recalling the ILO Declaration on Social Justice for a Fair Globalization as amended in 2022, the Parties note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.

3. Each Party shall effectively implement the ILO Conventions ratified by Chile and the Member States respectively.

4. In accordance with the Constitution of the ILO, adopted as Part XIII of the Treaty of Versailles, signed on 28 June 1919 and the ILO Declaration on Fundamental Principles and Rights at Work as amended in 2022, each Party shall respect, promote and effectively implement the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour including the prohibition on the worst forms of child labour;

(d) the elimination of discrimination in respect of employment and occupation; and

(e) a safe and healthy working environment.

5. The Parties shall regularly exchange information on their respective progress with regard to the ratification of ILO Conventions or protocols that are classified as up-to-date by the ILO and to which they are not yet party.

6. Each Party shall promote the ILO Decent Work Agenda as set out in the ILO Declaration on Social Justice for a Fair Globalization as amended in 2022, in particular with regard to:

(a) decent working conditions for all, with regard to, *inter alia*, wages and earnings, working hours, other conditions of work and social protection; and

(b) social dialogue on labour matters among workers and employers and their respective organisations, and with relevant governmental authorities.

7. Consistently with its commitments under the ILO, each Party shall:

(a) adopt and implement measures and policies regarding occupational safety and health; and

(b) maintain a labour inspection system in accordance with the relevant ILO standards on labour inspection.

ARTICLE 26.17

Forced or compulsory labour

1. Recalling that the elimination of forced labour is among the objectives of the Agenda 2030, the Parties underline the importance of the ratification and the effective implementation of the Protocol of 2014 to the Forced Labour Convention 1930, adopted at Geneva, on 11 June 2014.

2. The Parties recognise the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour.

3. Consequently, the Parties shall identify opportunities for cooperation, sharing information, experiences and good practices related to the elimination of all forms of forced or compulsory labour.

ARTICLE 26.18

Cooperation on trade and labour issues

Consistently with Article 26.7, the Parties shall consult and cooperate, as appropriate, bilaterally and in the context of the ILO, on trade-related labour issues of mutual interest, including, but not limited to:

(a) job creation and the promotion of productive, high quality employment, including policies to generate job-rich growth and promote sustainable enterprises and entrepreneurship;

(b) promotion of improvements in business and labour productivity, particularly in respect of small and medium-sized enterprises;

(c) human capital development, access to labour market and the enhancement of employability, in particular of young people, including through lifelong learning and vocational training, continuous education, training and the development and upgrading of skills, including in emerging and environmental industries;

(d) work-life balance and innovative workplace practices to enhance workers' well-being;

(e) promotion of the awareness of the ILO Decent Work Agenda, including on the inter-linkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue and gender equality;

(f) promotion of decent quality jobs through trade, including the safety and health at work of pregnant workers and workers who have recently given birth;

(g) occupational safety and health and labour inspection, for example, improving compliance and enforcement mechanisms;

(h) addressing the challenges and opportunities of a diverse, multigenerational workforce, including by way of:

    (i) promotion of equality and elimination of discrimination in respect of employment and occupation; and

(ii) protection of vulnerable workers;

(i) improving labour relations, for example, best practice in alternative dispute resolution and tripartite consultation;

(j) the implementation of fundamental, priority and other up-to-date ILO Conventions, as well as the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and the UN Guiding Principles on Business and Human Rights; and

(k) labour statistics.

SECTION D

INSTITUTIONAL ARRANGEMENTS

ARTICLE 26.19

Sub-Committee on Trade and Sustainable Development and contact points

1. The Sub-Committee on Trade and Sustainable Development ("Sub-Committee"), established pursuant to Article 33.4(1), shall be composed, for Chile, of officials from the institutions responsible for trade, labour, environment and gender issues.

2. The Sub-Committee shall have specific sessions for environmental and labour matters[1], respectively, as well as for cross-cutting issues related to trade and sustainable development.

3. The functions of the Sub-Committee shall be to:

(a) facilitate, monitor and review the implementation of this Chapter;

(b) determine, organize, oversee and assess the cooperation activities laid down in this Chapter, including exchange of information and experience on areas of mutual interest;

(c) report and make recommendations to the Trade Committee on any matter related to this Chapter, including with regard to topics for discussion with the civil society mechanisms referred to in Article 33.5;

(d) carry out the tasks referred to in Articles 26.21 and 26.22;

(e) coordinate with other Sub-Committees established under this Agreement, as appropriate, including as regards the efforts to integrate gender-related issues, considerations and activities in their work as referred to in Article 27.4(8); and

(f) carry out any other functions as the Parties may agree.

[1] The environmental and labour matters can be discussed in isolated sessions or in consecutive sessions.

4. The Sub-Committee, as mutually agreed, may consult or seek the advice of relevant stakeholders or experts on matters relating to the implementation of this Chapter.

5. The Sub-Committee shall, by consensus, prepare a report on each meeting and shall publish it after the meeting.

6. Each Party shall designate a contact point within its administration to facilitate communication and coordination between the Parties on any matter relating to the implementation of this Chapter. For Chile, specific contact points for labour, environmental and gender matters shall be within its Undersecretariat of International Economic Relations of the Ministry of Foreign Affairs or its successor. Each Party shall promptly notify the other Party of its contact points and provide their contact information.

7. The contact points shall:

(a) facilitate regular communication and coordination between the Parties;

(b) notwithstanding Article 33.3(2) assist the Sub-Committee including establishing the agenda and conducting all other necessary preparations for the meetings of the Sub-Committee.

(c) communicate with their respective civil society, as appropriate; and

(d) work together, including with other appropriate bodies of their administrations, to develop and implement cooperative activities.

ARTICLE 26.20

Dispute resolution

1. The Parties shall make all possible efforts through dialogue, exchange of information and cooperation to address any disagreement between the Parties regarding the interpretation or application of this Chapter.

2. In case of a disagreement between the Parties regarding the interpretation or application of this Chapter, the Parties shall have recourse exclusively to the dispute resolution procedures established pursuant to Articles 26.21 and 26.22.

ARTICLE 26.21

Consultations

1. A Party ("the requesting Party") may, at any time, request consultations with the other Party ("the responding Party") regarding any matter arising regarding the interpretation or application of this Chapter by delivering a written request to the contact point of the responding Party. The request shall set out the reasons for requesting consultations, including a sufficiently specific description of the matter at issue and the provisions of this Chapter that it considers applicable.

2. The responding Party shall, unless agreed otherwise with the requesting Party, reply in writing no later than 10 days after the date of receipt of the request.

3. The Parties shall begin consultations no later than 30 days after the date of receipt of the request by the responding Party, unless the Parties agree otherwise.

4. The consultations may be held in person or by any technological means available to the Parties. If consultations are held in person, they shall be held in the territory of the responding Party, unless the Parties agree otherwise.

5. In the consultations the Parties shall:

(a) provide sufficient information to enable a full examination of the matter; and

(b) treat any information exchanged in the course of the consultations confidentially.

6. The Parties shall enter into consultations with the aim of reaching a mutually satisfactory resolution of the matter, taking into account opportunities for cooperation related to the matter. In respect of matters related to the multilateral agreements referred to in this Chapter, the Parties shall consider information from the ILO or relevant bodies established under those agreements. Where relevant, the Parties may agree to seek advice from such organisations or bodies, or any other expert or body they deem appropriate to assist them in the consultations.

7. If the Parties are unable to resolve the matter within 60 days of the delivery of the written request for consultations pursuant to paragraph 1, each Party may, by delivering a written request to the contact point of the other Party, request that the Sub-Committee be convened to consider the matter. The Sub-Committee shall convene promptly and endeavour to agree on a resolution of the matter.

8. Each Party or the Sub-Committee convened pursuant to paragraph 7 may, if appropriate, seek the views of the Domestic Consultative Groups referred to in Article 33.6 or other expert advice.

9. If the Parties are able to resolve the matter, they shall document the outcome including, if appropriate, specific steps and timelines agreed upon. The Parties shall make the outcome available to the public, unless they agree otherwise.

ARTICLE 26.22

Panel of experts

1. If the Parties fail to resolve the matter within 60 days of the delivery of a written request to convene the Sub-Committee as referred to in Article 26.21(7) or, if no such request is made, within 120 days of the delivery of a written request for consultations pursuant to Article 26.21(1), the requesting Party may request the establishment of a panel of experts to examine the matter. Any such request shall be made in writing to the contact point of the responding Party. The request shall identify the reasons for requesting the establishment of a panel of experts, including a sufficiently specific description of the matter at issue, and explain how that matter constitutes a breach of specific provisions of this Chapter.

2. Except as otherwise provided for in this Article, Articles 31.6, 31.10, 31.13, 31.14(1), 31.15, 31.19, 31.20(2), 31.21, 31.22, 31.24, 31.32, 31.33, 31.34, 31.35, as well as the Rules of Procedure in Annex 31-A and the Code of Conduct in Annex 31-B shall apply *mutatis mutandis*.

3. The Sub-Committee shall, at its first meeting, recommend to the Trade Committee the establishment of at least 15 individuals who are willing and able to serve on the panel of experts. Based on this recommendation, the Trade Committee shall no later than one year after entry into force of this Agreement establish a list of such individuals. The list shall be composed of three sub-lists:

(a) one sub-list of individuals established on the basis of proposals by the European Union;

(b) one sub-list of individuals established on the basis of proposals by Chile; and

(c) one sub-list of individuals who are not nationals of either Party and who shall serve as chairperson to the panel of experts.

4. Each sub-list shall include at least five individuals. The Trade Committee shall ensure that the list is kept up to date and that it is maintained at that minimum number of individuals.

5. The individuals referred to in paragraph 3 shall have specialised knowledge of or expertise in labour or environmental law, issues addressed in this Chapter, or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to issues related to the disagreement, or be affiliated with the government of any Party, and shall comply with the Code of Conduct in Annex 31-B.

6. When the panel of experts is composed according to the procedures set out in Article 31.6(3), (4) and (6), the experts shall be selected from the relevant sub-lists referred to in paragraph 3 of this Article.

7. Unless the Parties agree otherwise within five days of the date of establishment of the panel of experts the terms of reference shall be:

"to examine, in the light of the relevant provisions of Chapter 26 of the Interim Agreement on Trade between the European Union, of the one part, and the Republic of Chile, of the other part, the matter referred to in the request for the establishment of the panel of experts, and to issue a report, in accordance with Article 26.23 of that Agreement, with its findings and recommendations for the resolution of the matter".

8. With regard to matters related to multilateral agreements referred to in this Chapter, the panel of experts should seek information from the ILO or relevant bodies established under those agreements, including any pertinent available interpretative guidance, findings or decisions adopted by the ILO and those bodies. Any such information shall be provided to both Parties for their comments.

9. The panel of experts shall interpret the provisions of this Chapter in accordance with the customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties.

10. The panel of experts shall issue to the Parties an interim report and a final report setting out the findings of facts, the applicability of the relevant provisions and the rationale behind any findings, conclusions and the recommendations it makes.

11. The panel of experts shall deliver to the Parties the interim report within 100 days after the date of establishment of the panel of experts. If the panel of experts considers that this time limit cannot be met, the chairperson of the panel of experts shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its interim report. The time limit set out in this paragraph may be extended by mutual agreement of the Parties.

12. A Party may deliver to the panel of experts a reasoned request to review particular aspects of the interim report within 25 days after the delivery of the interim report. A Party may comment on the other Party's request within 15 days of the delivery of the request.

13. After considering the request and comments, the panel of experts shall prepare the final report. If no request to review particular aspects of the interim report is delivered within the time period referred to in paragraph 11, the interim report shall become the final report of the panel of experts.

14. The panel of experts shall deliver its final report to the Parties within 175 days of the date of establishment of that panel. If the panel of experts considers that this time limit cannot be met, the chairperson of the panel shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its final report. The time limit set out in this paragraph may be extended by mutual agreement of the Parties.

15. The final report shall include a discussion of any written request by the Parties on the interim report and clearly address any comments provided by the Parties.

16. The Parties shall make the final report available to the public within 15 days of its delivery by the panel of experts.

17. If the panel of experts finds in the final report that a Party has not conformed with its obligations under this Chapter, the Parties shall discuss appropriate measures to be implemented taking into account the report and recommendations of the panel of experts. The responding Party shall inform its Domestic Consultative Group referred to in Article 33.6 and the other Party of its decisions on any actions or measures to be implemented no later than three months after the report has been made publicly available.

18. The Sub-Committee shall monitor the follow-up to the final report and recommendations of the panel of experts. The Domestic Consultative Groups referred to in Article 33.6 may submit observations to the Sub-Committee in this regard.

ARTICLE 26.23

Review

1. For the purpose of enhancing the achievement of the objectives of this Chapter, the Parties shall discuss through the meetings of the Sub-Committee its effective implementation, taking into account, *inter alia*, major policy developments in each Party and developments in international agreements.

2. Taking into account the outcome of such discussions, a Party may request the review of this Chapter at any time after the date of entry into force of this Agreement. For this purpose, the Sub-Committee may recommend to the Parties amendments of the relevant provisions of this Chapter in accordance with the amendment procedure established in Article 33.9(1).

CHAPTER 27

TRADE AND GENDER EQUALITY

ARTICLE 27.1

Context and objectives

1. The Parties agree on the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and on the key role that gender-responsive policies can play in this regard. This includes removing barriers to women's participation in the economy and international trade, including improving equal opportunities of access to work functions and sectors for men and women in the labour market.

2. The Parties acknowledge that international trade and investment are engines of economic growth and also recognise the important contribution of women to economic growth through their participation in economic activity, including business and international trade.

3. The Parties recognise that women's participation in international trade can contribute to advancing their economic empowerment and economic independence. Furthermore, women's access to, and ownership of, economic resources contribute to sustainable and inclusive economic growth, prosperity, competitiveness, and the well-being of society. Accordingly, the Parties underline their intention to implement this Agreement in a manner that promotes and enhances equality between men and women.

4. The Parties recall the United Nations 2030 Agenda for Sustainable Development and the Goals pertaining to trade and gender equality, in particular Goal 5: achieve gender equality and empower all women and girls.

5. The Parties recall the objectives of the Joint Declaration on Trade and Women's Economic Empowerment on the Occasion of the WTO Ministerial Conference held in Buenos Aires in December 2017.

6. The Parties recall their commitments on mainstreaming gender equality and the empowerment of women and girls as well as the respect for democratic principles and human rights and fundamental freedoms, as set out in the Universal Declaration of Human Rights, adopted by the UN General Assembly on 10 December 1948 and other relevant international human rights instruments related to gender equality to which they are party.

7. The Parties reaffirm their commitments under the Beijing Declaration and Platform for Action, adopted at the Fourth World Conference of Women, held in Beijing from 4 to 15 September 1995, noting in particular the objectives and provisions related to women's equal access to resources, employment, markets and trade.

8. The Parties reaffirm the importance of inclusive trade policies which contribute to the promotion of equal rights, treatment and opportunities between men and women as well as to the elimination of all forms of discrimination against women.

9. The Parties emphasise the role of the private sector in fostering gender equality by applying non-discrimination and diversity policies in their corporate operations in line with international guidelines and standards endorsed or supported by the Parties.

10. The Parties aim to:

(a) enhance their trade relations, cooperation and dialogue in ways that are conducive to equal opportunities and treatment for women and men, as workers, producers, traders or consumers, in accordance with their international commitments.

(b) facilitate cooperation and dialogue with the aim of enhancing women's capacity, conditions and access to opportunities created by trade.

(c) further improve their capacities to address trade-related gender issues, including through exchange of information and best practices.

ARTICLE 27.2

Multilateral agreements

1. Each Party reaffirms its commitment to effectively implement its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the UN General Assembly on 18 December 1979, noting in particular those provisions related to eliminating discrimination against women in economic life and in the field of employment.

2. The Parties recall their respective obligations under Article 26.16 of this Agreement regarding the ILO Conventions related to gender equality and the elimination of discrimination in respect of employment and occupation ratified by Member States and Chile.

3. Each Party reaffirms its commitment to effectively implement its obligations under other multilateral agreements to which it is party addressing gender equality or women's rights.

ARTICLE 27.3

General provisions

1. The Parties recognise the right of each Party to establish its own scope and guarantees of equal opportunities for men and women and to adopt or modify accordingly its relevant laws and policies, consistent with its commitments under international agreements referred to in Article 27.2.

2. Each Party shall strive to ensure that its relevant laws and policies provide for, and promote equal rights, treatment and opportunities between men and women, in accordance with its international commitments. Each Party shall strive to improve such laws and policies.

3. Each Party shall endeavour to gather sex-disaggregated data related to trade and gender with a view to better understanding the different impacts of trade policy instruments on women and men in their roles as workers, producers, traders or consumers.

4. Each Party shall promote in its territory public awareness of its laws and policies related to gender equality, including their impact on and relevance for inclusive economic growth and for trade policy.

5. Each Party shall, when relevant, take into account the objective of equality between men and women when formulating, implementing and reviewing measures in the areas covered under this Agreement.

6. Each Party shall encourage trade and investment by promoting equal opportunities and the participation of women and men in the economy and international trade. This includes, *inter alia*, measures that aim at: progressively eliminating all types of discrimination on grounds of sex; promoting the principle of equal pay for work of equal value in order to address the gender pay gap and facilitating that women are not discriminated in employment and occupation, including for reasons of pregnancy and maternity.

7. A Party shall not weaken or reduce the protection granted under its respective laws aimed at ensuring gender equality or equal opportunities for women and men, in order to encourage trade or investment.

8. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its respective laws aimed at ensuring gender equality or equal opportunities for women and men, in a manner that weakens or reduces the protection granted pursuant to those laws, in order to encourage trade or investment.

9. A Party shall not fail to effectively enforce, through a sustained or recurring course of action or inaction, the protection granted under its respective laws aimed at ensuring gender equality or equal opportunities for women and men in a manner affecting trade or investment.

ARTICLE 27.4

Cooperation activities

1. The Parties acknowledge the benefits of sharing their respective experiences in designing, implementing, monitoring and strengthening trade-related aspects of gender equality measures.

2. In accordance with paragraph 1, the Parties shall carry out cooperation activities designed to improve the capacity and conditions for women, including workers, businesswomen and entrepreneurs, to access and fully benefit from the opportunities created by this Agreement.

3. Cooperation activities shall be carried out on issues and topics agreed upon by the Parties.

4. Cooperation activities can be developed and implemented with the participation of the UN, WTO, ILO, OECD and other international organisations as well as with third countries, businesses, employers' and workers' organisations, education and research organisations and other non-governmental organisations, as appropriate.

5. Areas of cooperation may include sharing experiences and best practices relating to policies and programmes to encourage women's increased participation in international trade as well as trade-related aspects of:

(a) the promotion of women's financial inclusion and education as well as access to financing and financial assistance;

(b) the advancement of women's leadership and the development of women's networks;

(c) the promotion of women's full participation in the economy by encouraging their participation, leadership and education, in particular in fields in which they are underrepresented such as science, technology, engineering, mathematics (STEM), as well as innovation and business;

(d) the promotion of gender equality within enterprises;

(e) women's participation in decision-making positions in the public and private sectors;

(f) public and private initiatives aimed at the promotion of female entrepreneurship, including the integration of women in the formal sector of the economy, enhancing the competitiveness of women-led enterprises to allow them to participate and compete in local, regional, and global value chains, and activities to promote the internationalisation of small and medium-sized enterprises led by women;

(g) policies and programmes to improve women's digital skills and access to online business tools and e-commerce platforms;

(h) the advancement of care policies and programmes as well as work-life balance measures with a gender perspective;

(i) the exploration of the link between increased women's participation in international trade and the reduction of the gender pay gap;

(j) the development of gender-based analysis of trade policies, including design, implementation and monitoring of their effects;

(k) the collection of sex-disaggregated data, the use of indicators, monitoring and evaluation methodologies, and the analysis of statistics related to trade from a gender perspective;

(l) the exploration of linkages between women's participation in international trade and areas such as decent work, occupational segregation, and working conditions of women, including the safety and health at work of pregnant workers and workers who have recently given birth, in line with subparagraph (f) of Article 26.18;

(m) policies and programs to prevent, mitigate and respond to the differentiated economic impact that crises and emergencies have on women and men; and

(n) other issues as agreed by the Parties.

6. The priorities for cooperation activities shall be decided jointly by the Parties based on areas of mutual interest and available resources.

7. Cooperation, including in the areas set out in paragraph 5, may be undertaken in person or by any technological means available to the Parties, through activities such as: workshops, seminars, conferences, collaborative programmes and projects; exchange of experiences, and sharing of best practices on policies and procedures; and the exchange of experts.

8. Through the Sub-Committee on Trade and Sustainable Development established pursuant to Article 33.4 (1), the Parties shall encourage efforts by the bodies established in this Agreement to integrate gender-related issues, considerations and activities in their work.

9. The Parties shall encourage inclusive participation of women in the implementation of the cooperation activities established pursuant to this Article, as appropriate.

ARTICLE 27.5

Institutional arrangements

1. The Sub-Committee on Trade and Sustainable Development, established pursuant to Article 33.4(1) shall be responsible for the implementation of this Chapter. Article 26.19 shall apply to this Chapter *mutatis mutandis*[1].

2. When interacting with the civil society in the Domestic Consultative Groups created or designated pursuant to Article 33.6 and in the Civil Society Forum organised pursuant to Article 33.7, the Parties shall encourage the participation of organisations promoting equality between men and women.

ARTICLE 27.6

Dispute resolution

1. Articles 26.20, 26.21 and 26.22 apply to this Chapter *mutatis mutandis*[2].

---

[1] For greater certainty, any reference to Chapter 26, or to environmental and labour issues or matters, in that Article shall be understood as referring to this Chapter, or gender issues or matters, as applicable.

[2] For greater certainty, any reference to Chapter 26, or to environmental and labour issues, matters or laws, in those Articles shall be understood as referring to this Chapter, or gender issues, matters or laws related to these issues or matters, as applicable.

ARTICLE 27.7

Review

1. The Parties agree on the importance of monitoring and assessing, jointly or individually, through their respective processes and institutions, as well as those set up under this Agreement the impact of the implementation of this Agreement on equality between men and women and opportunities provided for women in relation to trade.

2. The Parties may review this Chapter in light of the experience gained in its implementation and if necessary, suggest how it may be strengthened.

CHAPTER 28

TRANSPARENCY

ARTICLE 28.1

Objective

1. The Parties, recognising the impact which their respective regulatory environments may have on trade and investment between them, aim at providing a predictable regulatory environment and efficient procedures for economic operators, especially small and medium-sized enterprises.

2. The Parties reaffirm their respective commitments under the WTO Agreement and in this Chapter build on those commitments and lay down further arrangements for transparency.

ARTICLE 28.2

Definitions

For the purposes of this Chapter:

(a) "administrative decision" means a decision or action with legal effect that applies to a specific person, good or service in an individual case and covers the failure to take an administrative decision as provided for in the law of a Party; and

(b) "administrative ruling of general application" means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within the ambit of that administrative ruling or interpretation, and that establishes a norm of conduct, but does not include:

(i) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or

(ii) a ruling that adjudicates with respect to a particular act or practice.

ARTICLE 28.3

Publication

1. Each Party shall ensure that its laws, regulations, procedures, administrative rulings of general application and judicial decisions with respect to any matter covered by this Agreement are promptly published via an officially designated medium and, where feasible, by electronic means, or otherwise made available in such a manner as to enable any person to become acquainted with them.

2. Each Party shall provide an explanation of the objective of, and rationale for, its laws, regulations, procedures, administrative rulings of general application and judicial decisions with respect to any matter covered by this Agreement.

3. Each Party shall provide a reasonable period of time between the date of publication and the date of entry into force of the laws and regulations with respect to any matter covered by this Agreement, except where it is not possible on grounds of urgency. This paragraph does not apply to administrative rulings of general application and judicial decisions.

ARTICLE 28.4

Enquiries and provision of information

1. Each Party shall establish or maintain appropriate mechanisms for responding to enquiries from any person regarding any laws or regulations with respect to any matter covered by this Agreement.

2. Upon request of a Party, the other Party shall promptly provide information and respond to enquiries pertaining to any laws or regulations whether in force or planned, with respect to any matter covered by this Agreement, unless a specific mechanism is established under another Chapter of this Agreement.

ARTICLE 28.5

Administrative proceedings

1. Each Party shall administer all laws, regulations, procedures and administrative rulings of general application with respect to any matter covered by this Agreement in an objective, impartial and reasonable manner.

2. If administrative proceedings relating to particular persons, goods or services of the other Party are initiated in respect of the application of laws, regulations, procedures or administrative rulings of general application, referred to in paragraph 1, each Party shall:

(a) endeavour to provide persons who are directly affected by administrative proceedings with reasonable notice, in accordance with its laws and regulations, when proceedings are initiated, including a description of the nature of the proceedings, a statement of the legal authority under which the proceedings are initiated and a general description of any issue in question; and

(b) afford such persons a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative decision to the extent that time, the nature of the proceedings and the public interest permit.

ARTICLE 28.6

Review and appeal

1. Each Party shall establish or maintain judicial, arbitral or administrative tribunals or procedures, for the purpose of the prompt review and, if warranted, correction of administrative decisions with respect to any matter covered by this Agreement.

2. Each Party shall ensure that its judicial, arbitral or administrative tribunals carry out procedures for appeal or review in a non-discriminatory and impartial manner. Such tribunals shall be impartial and independent of the authority entrusted with administrative enforcement powers and shall not have any interest in the outcome of the matter.

3. With respect to the tribunals or procedures referred to in paragraph 1, each Party shall ensure that the parties before such tribunals or to such proceedings are provided with:

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of records or, where required by its law, the records compiled by the relevant authority.

4. Each Party shall ensure that the decision referred to in subparagraph (b) of paragraph 3 is implemented by the authority entrusted with administrative enforcement powers, subject to appeal or further review as provided for in its laws and regulations.

ARTICLE 28.7

Relation to other Chapters

The provisions set out in this Chapter apply in addition to the specific rules set out in other Chapters.

CHAPTER 29

GOOD REGULATORY PRACTICES

ARTICLE 29.1

Scope

1. This Chapter applies to regulatory measures adopted or initiated by regulatory authorities in respect to any matter covered by this Agreement.

2. This Chapter does not apply to regulatory authorities and regulatory measures, practices or approaches of the Member States.

ARTICLE 29.2

General principles

1. The Parties recognise the importance of:

(a) using good regulatory practices in the process of planning, designing, issuing, implementing, evaluating and reviewing regulatory measures for achieving domestic policy objectives; and

(b) maintaining and enhancing the benefits of this Agreement to facilitate trade in goods and services and increasing investment between the Parties.

2. Each Party shall be free to determine its approach to good regulatory practices under this Agreement in a manner consistent with its own legal framework, practice and fundamental principles, including the precautionary principle, underlying its regulatory system.

3. Nothing in this Chapter shall be construed to require a Party to:

(a) deviate from domestic procedures for preparing and adopting regulatory measures;

(b) take actions that would undermine or impede the timely adoption of regulatory measures to achieve its public policy objectives; or

(c) achieve any particular regulatory outcome.

ARTICLE 29.3

Definitions

For the purposes of this Chapter:

(a) "regulatory authority" means:

(i) for the European Union: the European Commission; and

(ii) for Chile: any regulatory authority of the executive branch; and

(b) "regulatory measures" means:

(i) for the European Union:

(A) regulations and directives, as provided for in Article 288 of the Treaty on the Functioning of the European Union; and

(B) implementing and delegated acts, as provided for in Article 290 and Article 291 Treaty on the Functioning of the European Union, respectively; and

(ii) for Chile: laws and decrees of general application that are adopted by the regulatory authorities and compliance with which is mandatory[1].

[1] According to paragraph II.1 of presidential instruction N° 3 of 2019 and its modifications.

ARTICLE 29.4

Internal coordination of regulatory development

Each Party shall maintain internal coordination or review processes or mechanisms for the preparation, evaluation and review of regulatory measures. Such processes or mechanisms should seek, *inter alia*, to:

(a) foster good regulatory practices, including those set out in this Chapter;

(b) identify and avoid unnecessary duplication and inconsistent requirements in the Party's regulatory measures;

(c) ensure compliance with the international trade obligations of the Party; and

(d) promote the consideration of the impact of the regulatory measures under preparation, including the impact on small and medium-sized enterprises.

ARTICLE 29.5

Transparency of the regulatory processes and mechanisms

Each Party shall make publicly available description, in accordance with its respective rules and procedures, of the processes and mechanisms used by its regulatory authority to prepare, evaluate or review regulatory measures. These descriptions shall refer to relevant guidelines, rules or procedures, including those allowing the public to provide comments.

ARTICLE 29.6

Early information on planned regulatory measures

1. Each Party shall endeavour to publish on an annual basis, in accordance with its respective rules and procedures, information on planned major[1] regulatory measures.

2. With respect to each major regulatory measure referred to in paragraph 1, each Party shall endeavour to make publicly available, in a timely manner:

(a) a brief description of its scope and objectives; and

[1] The regulatory authority of each Party may determine what constitutes a major regulatory measure for the purposes of its obligations under this Chapter.

(b) if available, the estimated timing for its adoption, including, where applicable, opportunities for public consultations.

ARTICLE 29.7

Public consultations

1. When preparing a major[1] regulatory measure, each Party shall, if applicable, in accordance with its respective rules and procedures:

(a) publish a draft regulatory measure or consultation documents providing sufficient details about the regulatory measure under preparation to allow any person[2] to assess whether and how the person's interests might be significantly affected;

(b) offer reasonable opportunities for any person, on a non-discriminatory basis, to provide comments; and

(c) consider the comments received.

---

1 The regulatory authority of each Party may determine what constitutes a major regulatory measure for the purposes of its obligations under this Chapter.

2 For greater certainty, this paragraph does not prevent a Party from undertaking targeted consultations with interested persons under conditions defined by its rules and procedures.

2. The regulatory authority of each Party should make use of electronic means of communication and seek to maintain a dedicated electronic portal for the purpose of providing information and receiving comments related to public consultations.

3. The regulatory authority of each Party shall endeavour to make publicly available a summary of the results of the consultations or any comments received, except to the extent necessary to protect confidential information or withhold personal data or inappropriate content.

ARTICLE 29.8

Impact assessment

1. Each Party shall promote that its regulatory authority, in accordance with the applicable rules and procedures, carries out an impact assessment of the major regulatory measures it is preparing.

2. When carrying out an impact assessment, the regulatory authority of each Party shall promote processes and mechanisms that consider the following factors:

(a) the need for the regulatory measure, including the nature and the significance of the problem the regulatory measure intends to address;

(b) feasible and appropriate regulatory and non-regulatory alternatives, if any, that would achieve the Party's public policy objective, including the option of not regulating;

(c) to the extent possible and relevant, the potential social, economic and environmental impact of those alternatives, including on international trade and on small and medium-sized enterprises; and

(d) how the options under consideration relate to relevant international standards, if any, including the reason for any divergence, where appropriate.

3. With respect to any impact assessment that a regulatory authority has conducted for a regulatory measure, that regulatory authority shall prepare a final report detailing the factors it considered in its assessment and the relevant findings. Such report shall be made publicly available when the regulatory measure concerned is made publicly available.

ARTICLE 29.9

Retrospective evaluation

The Parties recognise the positive contribution of periodic retrospective evaluations of existing regulatory measures in effect to reducing unnecessary regulatory burden, including on small and medium-sized enterprises, and to achieving public policy objectives more effectively. The Parties shall endeavour to promote the use of periodic retrospective evaluations in their regulatory systems.

ARTICLE 29.10

Regulatory register

Each Party shall ensure that regulatory measures that are in effect are published in a designated register that identifies regulatory measures by topic and that is publicly available on a single and freely accessible website. The website should allow searches for regulatory measures by citations or by word. Each Party shall periodically update its register.

ARTICLE 29.11

Cooperation and exchange of information

The Parties may cooperate in order to facilitate the implementation of this Chapter. This cooperation may include the organisation of any relevant activities to strengthen cooperation between their regulatory authorities and the exchange of information on the regulatory practices set out in this Chapter.

ARTICLE 29.12

Contact points

Each Party shall designate a contact point to facilitate the exchange of information between the Parties, within one month after the entry into force of this Agreement.

ARTICLE 29.13

Non-application of dispute settlement

Chapter 31 does not apply to this Chapter.

CHAPTER 30

SMALL AND MEDIUM-SIZED ENTERPRISES

ARTICLE 30.1

Objectives

The Parties recognise the importance of small and medium-sized enterprises ("SMEs") in their bilateral trade and investment relations and affirm their commitment to enhance the ability of SMEs to benefit from this Agreement.

ARTICLE 30.2

Information sharing

1. Each Party shall establish or maintain a publicly accessible SMEs-specific website that contains information regarding this Agreement, including:

(a) a summary of this Agreement; and

(b) information designed for SMEs that contains:

(i) a description of the provisions in this Agreement that each Party considers to be relevant to SMEs of both Parties; and

(ii) any additional information that the Party considers would be useful for SMEs interested in benefitting from the opportunities provided by this Agreement.

2. Each Party shall include on the website provided for in paragraph 1 an internet link to the:

(a) text of this Agreement, including Annexes and Appendices, in particular tariff schedules, and product-specific rules of origin;

(b) equivalent website of the other Party; and

(c) websites of its own authorities that the Party considers would provide useful information to persons interested in trading and doing business in that Party.

3. Each Party shall include on the website provided for in paragraph 1 an internet link to websites of its own authorities with information related to the following:

(a) customs regulations and procedures for importation, exportation and transit as well as relevant forms, documents and other information required;

(b) regulations and procedures concerning intellectual property rights, including geographical indications;

(c) technical regulations including, where necessary, obligatory conformity assessment procedures and links to lists of conformity assessment bodies, in cases where third party conformity assessment is obligatory, as provided for in Chapter 9;

(d) sanitary and phytosanitary measures relating to importation and exportation as provided for in Chapter 6;

(e) rules on public procurement, a database containing public procurement notices and other relevant provisions of Chapter 21;

(f) company registration procedures; and

(g) other information which the Party considers may be of assistance to SMEs.

4. Each Party shall include on the website provided for in paragraph 1 an internet link to a database that is electronically searchable by Harmonised System code and that includes the following information with respect to access to its market:

(a) rates of customs duties and quotas, including most-favoured nation, rates concerning non most-favoured-nation countries and preferential rates and tariff rate quotas;

(b) excise duties;

(c) taxes (such as value added tax);

(d) customs or other fees, including other product specific fees;

(e) rules of origin as provided for in Chapter 3;

(f) duty drawback, deferral, or other types of relief that reduce, refund, or waive customs duties;

(g) criteria used to determine the customs value of the good;

(h) other tariff measures;

(i) information needed for import procedures; and

(j) information related to non-tariff measures or regulations.

5. Each Party shall regularly, or when requested by the other Party, update the information and links referred to in paragraphs 1 to 4 that it maintains on its website to ensure they are up-to-date and accurate.

6. Each Party shall ensure that the information referred to in this Article is presented in an adequate manner for the use of SMEs. Each Party shall endeavour to make such information available in English.

7. A Party shall not apply any fee for access to the information provided pursuant to paragraphs 1 to 4 for any person of a Party.

ARTICLE 30.3

SMEs contact points

1. Each Party shall communicate to the other Party its SMEs contact point that will carry out the functions listed in this Article. A Party shall notify the other Party promptly of any change in the details of those contact points.

2. The SMEs contact points shall:

(a) ensure that SMEs' needs are taken into account in the implementation of this Agreement so that SMEs of both Parties can take advantage of new opportunities under this Agreement;

(b) ensure that the information referred to in Article 30.2 is up-to-date and relevant for SMEs; either Party may, through the SMEs contact point, suggest additional information that the other Party may include in the information to be provided in accordance with Article 30.2;

(c) examine any matter relevant to SMEs in connection with the implementation of this Agreement, including:

(i) exchanging information to assist the Trade Committee in its tasks to monitor and implement the SMEs–related aspects of this Agreement;

(ii) assisting Sub-Committees and other contact points established by this Agreement, in considering matters of relevance to SMEs;

(d) report periodically on their activities, jointly or individually, to the Trade Committee for its consideration; and

(e) consider any other matter arising under this Agreement pertaining to SMEs as the Parties may agree.

3. SMEs contact points shall meet as necessary and shall carry out their work through the communication channels agreed by the Parties, which may include electronic mail, video-conferencing or other means.

4. SMEs contact points may seek to cooperate with experts and external organisations, as appropriate, in carrying out their activities.

ARTICLE 30.4

Non-application of dispute settlement

Chapter 31 does not apply to this Chapter.

CHAPTER 31

DISPUTE SETTLEMENT

SECTION A

OBJECTIVE AND SCOPE

ARTICLE 31.1

Objective

The objective of this Chapter is to establish an effective and efficient mechanism for avoiding and settling any dispute between the Parties concerning the interpretation and application of this Agreement with a view to reaching a mutually agreed solution.

ARTICLE 31.2

Scope

This Chapter applies with respect to any dispute between the Parties concerning the interpretation and application of the provisions of this Agreement ("covered provisions"), unless otherwise provided in this Agreement.

ARTICLE 31.3

Definitions

For the purposes of this Chapter and Annexes 31-A and 31-B:

(a) "complaining Party" means the Party that requests the establishment of panel pursuant to Article 31.5 ; and

(b) “mediator” means an individual who has been selected as mediator in accordance with Article 38.27;

(c) “panel” means a panel established pursuant to Article 38.6;

(d) “panellist” means a member of a panel; and

(e) “Party complained against” means the Party that is alleged to be in breach of a covered provision.

SECTION B

CONSULTATIONS

ARTICLE 31.4

Consultations

1. The Parties shall endeavour to resolve any dispute referred to in Article 31.2 by entering into consultations in good faith with a view to reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request delivered to the other Party identifying the measure at issue and the covered provisions that it considers applicable.

3. The Party to which the request for consultations is made shall reply to the request promptly, but no later than 10 days after the date of delivery of the request for consultations. Consultations shall be held within 30 days after the date of delivery of the request for consultations, and take place, unless the Parties agree otherwise, in the territory of the Party to which the request is made. The consultations shall be deemed concluded 46 days after the date of delivery of the request for consultations, unless the Parties agree to continue consultations.

4. Consultations on matters of urgency, including those regarding perishable goods or seasonal goods or services, shall be held within 15 days after the date of delivery of the request for consultations. The consultations shall be deemed concluded 23 days after the date of delivery of the request for consultations, unless the Parties agree to continue consultations.

5. During consultations, each Party shall provide sufficient factual information so as to allow a complete examination of the manner in which the measure at issue could affect the application of this Agreement. Each Party shall endeavour to ensure the participation of personnel of its competent governmental authorities who have expertise in the matter subject to the consultations.

6. Consultations and, in particular, all information designated as confidential and positions taken by a Party during consultations, shall be confidential, and without prejudice to the rights of each Party in any further proceedings.

7. If the Party to which the request for consultations is made does not respond to the request within 10 days after the date of its delivery, or if consultations are not held within the timeframes laid down in paragraph 3 or 4 respectively, or if the Parties agree not to have consultations, or if consultations have been concluded and no mutually agreed solution has been reached, the Party that requested consultations may have recourse to Article 31.5.

SECTION C

PANEL PROCEDURES

ARTICLE 31.5

Initiation of panel procedures

1. If the Parties fail to resolve the matter through consultations as provided for in Article 31.4, the Party that requested consultations may request the establishment of a panel.

2. The request for the establishment of a panel shall be made by means of a written request delivered to the other Party. The complaining Party shall identify the measure at issue in its request, specify the covered provisions that it considers applicable, and explain how that measure constitutes a breach of the covered provisions in such a manner sufficient to present the legal basis for the complaint clearly.

ARTICLE 31.6

Establishment of a panel

1. A panel shall be composed of three panellists.

2. Within 14 days after the date of delivery to the Party complained against of the request for the establishment of a panel, the Parties shall consult with a view to agree on the composition of the panel.

3. If the Parties do not agree on the composition of the panel within the time period provided for in paragraph 2, each Party shall appoint a panellist from the sub-list of that Party established under Article 31.8(1) within 10 days after the date of expiry of the time period provided for in paragraph 2. If the Party complained against does not appoint a panellist from its sub-list within that time period, the co-chair of the Trade Committee of the complaining Party shall select by lot, within five days after the date of expiry of that time period, the panellist from the sub-list of that Party. The co-chair of the Trade Committee of the complaining Party may delegate such selection by lot of the panellist.

4. If the Parties do not agree on the chairperson of the panel within the time period provided for in paragraph 2, the co-chair of the Trade Committee of the complaining Party shall select by lot, within 10 days after the date of expiry of that time period, the chairperson of the panel from the sub-list of chairpersons established under subparagraph (c) of Article 31.8(1). The co-chair of the Trade Committee from the complaining Party may delegate such selection by lot of the chairperson of the panel.

5. The panel shall be deemed to be established 15 days after the date on which the three selected panellists have notified the Parties their acceptance of the appointment in accordance with Annex 31-A, unless the Parties agree otherwise. Each Party shall promptly make public the date of establishment of the panel.

6. If any of the lists provided for in Article 31.8 have not been established or do not contain sufficient names at the time a request is made pursuant to paragraph 3 or 4 of this Article, the panellists shall be selected by lot from the individuals who have been formally proposed by one Party or both Parties, in accordance with Annex 31-A.

ARTICLE 31.7

Choice of forum

1. If a dispute arises concerning a particular measure in alleged breach of an obligation under this Agreement and a substantially equivalent obligation under another international agreement to which both Parties are party, including the WTO Agreement, the Party seeking redress shall select the forum in which to settle the dispute.

2. Once a Party has selected the forum and initiated dispute settlement procedures under this Section or under another international agreement with respect to the particular measure referred to in paragraph 1, that Party shall not initiate dispute settlement procedures under that other international agreement or this Section, respectively, unless the forum first selected fails to make findings for procedural or jurisdictional reasons.

3. For the purposes of this Article:

(a) dispute settlement procedures under this Section are deemed to be initiated by a Party's request for the establishment of a panel pursuant to Article 31.5;

(b) dispute settlement procedures under the WTO Agreement are deemed to be initiated by a Party's request for the establishment of a panel pursuant to Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, contained in Annex 2 to the WTO Agreement; and

(c) dispute settlement procedures under any other agreement are deemed to be initiated in accordance with the relevant provisions of that agreement.

4. Without prejudice to paragraph 2, nothing in this Agreement shall preclude a Party from suspending obligations authorised by the Dispute Settlement Body of the WTO or authorised under the dispute settlement procedures of another international agreement to which the Parties are party. The WTO Agreement or any other international agreement between the Parties shall not be invoked to preclude a Party from suspending obligations pursuant to this Section.

ARTICLE 31.8

Lists of panellists

1. The Trade Committee shall, no later than one year after the date of entry into force of this Agreement, establish a list of at least 15 individuals who are willing and able to serve as panellists. The list shall be composed of three sub-lists:

(a) one sub-list of individuals established on the basis of proposals by the European Union;

(b) one sub-list of individuals established on the basis of proposals by Chile; and

(c) one sub-list of individuals who are not nationals of either Party and who shall serve as chairperson of the panel.

2. Each sub-list shall include at least five individuals. The Trade Committee shall ensure that the list is always maintained at this minimum number of individuals.

3. The Trade Committee may establish additional lists of individuals with expertise in specific sectors covered by this Agreement. If the Parties so agree, such additional lists shall be used to compose the panel in accordance with the procedure set out in Article 31.6.

ARTICLE 31.9

Requirements for panellists

1. Each panellist shall:

(a) have demonstrated expertise in law, international trade and other matters covered by this Agreement;

(b) be independent of, and not be affiliated with or take instructions from, either Party;

(c) serve in their individual capacities and not take instructions from any organisation or government with regard to matters related to the dispute; and

(d) comply with Annex 31-B.

2. The chairperson shall, in addition to fulfilling the requirements set out in paragraph 1, have experience in dispute settlement procedures.

3. In view of the subject-matter of a particular dispute, the Parties may agree to derogate from the requirements listed in subparagraph (a) of paragraph 1.

ARTICLE 31.10

Functions of the panel

The panel:

(a) shall make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the covered provisions;

(b) shall set out, in its decisions and reports, the findings of facts, the applicability of the covered provisions and the basic rationale behind any findings and conclusions that it makes; and

(c) should consult regularly with the Parties and provide adequate opportunities for the development of a mutually agreed solution.

ARTICLE 31.11

Terms of reference

1. Unless the Parties agree otherwise within five days after the date of establishment of the panel, the terms of reference of the panel shall be:

"to examine, in the light of the relevant provisions of the Interim Agreement on Trade between the European Union, of the one part, and the Republic of Chile, of the other part, cited by the Parties, the matter referred to in the request for the establishment of the panel, to make findings on the conformity of the measure at issue with the covered provisions of that Agreement and to deliver a report in accordance with Article 31.13 of that Agreement".

2. If the Parties agree on other terms of reference than those set out in paragraph 1, they shall notify the panel of the agreed terms of reference within the time period set out in paragraph 1.

ARTICLE 31.12

Decision on urgency

1. If a Party so requests, the panel shall decide, within 10 days after the date of its establishment, whether the case concerns a matter of urgency.

2. In cases of urgency, the applicable time periods set out in this Section shall be half of the time set out therein, except for the time periods referred to in Articles 31.6 and 31.11.

ARTICLE 31.13

Interim and final report

1. The panel shall deliver an interim report to the Parties within 90 days after the date of establishment of the panel. If the panel considers that that deadline cannot be met, the chairperson of the panel shall notify the Parties, stating the reasons for the delay and the date on which the panel plans to deliver its interim report. The panel shall under no circumstances deliver its interim report later than 120 days after the date of establishment of the panel.

2. Each Party may deliver to the panel a written request to review precise aspects of the interim report within 10 days after the date of its delivery. A Party may comment on the other Party's request within six days after the date of delivery of that request.

3. If no request is delivered pursuant to paragraph 2, the interim report shall become the final report.

4. The panel shall deliver its final report to the Parties within 120 days after the date of establishment of the panel. If the panel considers that that deadline cannot be met, the chairperson of the panel shall notify the Parties, stating the reasons for the delay and the date on which the panel plans to deliver its final report. The panel shall under no circumstances deliver its final report later than 150 days after the date of establishment of the panel.

5. The final report shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties. The panel shall set out the following in the interim and the final report:

(a) a descriptive section containing a summary of the arguments of the Parties and of the comments referred to in paragraph 2;

(b) its findings on the facts of the case and on the applicability of the relevant covered provisions;

(c) its findings on whether the measure at issue is or is not in conformity with the relevant covered provisions; and

(d) the reasons for the findings referred to in subparagraphs (b) and (c).

6. The final report shall be final and binding on the Parties.

ARTICLE 31.14

Compliance measures

1. The Party complained against shall take any measure necessary to comply promptly with the final report in order to bring itself in compliance with the covered provisions.

2. The Party complained against shall, no later than 30 days after the date of delivery of the final report, notify the complaining Party of any measure which it has taken or envisages to take to comply with the final report.

ARTICLE 31.15

Reasonable period of time

1. If immediate compliance is not possible, the Party complained against shall, no later than 30 days after the date of delivery of the final report, notify the complaining Party of the length of the reasonable period of time it will require for compliance. The Parties shall endeavour to agree on the length of the reasonable period of time to comply with the final report.

2. If the Parties have not agreed on the length of the reasonable period of time, the complaining Party may, no earlier than 20 days after the date of delivery of the notification referred to in paragraph 1, request, in writing, the original panel to determine the length of the reasonable period of time. The panel shall deliver its decision to the Parties within 20 days after the date of delivery of the request.

3. The Party complained against shall, at least one month before the expiry of the reasonable period of time, notify the complaining Party of its progress in complying with the final report.

4. The Parties may agree to extend the reasonable period of time.

ARTICLE 31.16

Compliance review

1. The Party complained against shall, no later than at the date of expiry of the reasonable period of time referred to in Article 31.15, notify the complaining Party of any measure that it has taken to comply with the final report.

2. When the Parties disagree on the existence or the consistency with the covered provisions of any measure taken to comply, the complaining Party may deliver a request, in writing, to the original panel to decide on the matter. The request shall identify any measure at issue and explain how that measure constitutes a breach of the covered provisions in a manner sufficient to present the legal basis for the complaint clearly. The panel shall deliver its decision to the Parties within 46 days after the date of delivery of the request.

ARTICLE 31.17

Temporary remedies

1. On request of, and after consultations with, the complaining Party, the Party complained against shall present an offer for temporary compensation if:

(a) the Party complained against notifies the complaining Party that it is not possible to comply with the final report;

(b) the Party complained against fails to notify any measure taken to comply or which it envisages to take to comply, within the time period referred to in Article 31.14 or of any measure taken to comply before the date of expiry of the reasonable period of time referred to in Article 31.15;

(c) the panel finds that no measure taken to comply exists, in accordance with Article 31.16; or

(d) the panel finds that the measure taken to comply is inconsistent with the covered provisions, in accordance with Article 31.16.

2. In any of the circumstances referred to in subparagraph (a), (b), (c) or (d) of paragraph 1, the complaining Party may notify the Party complained against that it intends to suspend the obligations set out in the covered provisions if:

(a) the complaining Party decides not to make a request pursuant to paragraph 1; or

(b) the complaining Party has made a request pursuant to paragraph 1 and the Parties do not agree on the temporary compensation within 20 days after the date of expiry of the reasonable period of time referred to in Article 31.15 or the delivery of the panel decision pursuant to Article 31.16.

3. The complaining Party may suspend the obligations 10 days after the date of delivery of the notification referred to in paragraph 2, unless the Party complained against has made a request pursuant to paragraph 6.

4. The level of the suspension of obligations shall not exceed the level equivalent to the nullification or impairment caused by the violation. The notification referred to in paragraph 2 shall specify the level of intended suspension of obligations.

5. In considering which obligations to suspend, the complaining Party should first seek to suspend the obligations in the same sector or sectors as those affected by the measure that the panel has found to be inconsistent with the covered provisions. The suspension of obligations may be applied to other sector or sectors covered by this Agreement than those in which the panel has found nullification or impairment, in particular if the complaining Party is of the view that such suspension in the other sector is practicable or effective in inducing compliance.

6. If the Party complained against considers that the notified level of intended suspension of obligations exceeds the level equivalent to the nullification or impairment caused by the violation, it may, before the expiry of the time period set out in paragraph 3, deliver a written request to the original panel to decide on the matter. The panel shall deliver its decision on the level of the suspension of obligations to the Parties within 30 days after the date of the request. The complaining Party shall not suspend any obligations until the panel has delivered its decision. The suspension of obligations shall be consistent with that decision.

7. The suspension of obligations, or the compensation referred to in this Article, shall be temporary and shall not be applied after:

(a) the Parties have reached a mutually agreed solution pursuant to Article 31.32;

(b) the Parties have agreed that the measure taken to comply brings the Party complained against into conformity with the covered provisions; or

(c) any measure taken to comply which the panel has found to be inconsistent with the covered provisions has been withdrawn or amended so as to bring the Party complained against into conformity with those provisions.

ARTICLE 31.18

Review of measures taken to comply after temporary remedies

1. The Party complained against shall notify the complaining Party of any measure it has taken to comply following the suspension of obligations or following the application of temporary compensation, as the case may be. With the exception of cases referred to in paragraph 2, the complaining Party shall terminate the suspension of obligations within 30 days after the date of delivery of that notification. In cases where compensation has been applied, and with the exception of cases referred to in paragraph 2, the Party complained against may terminate the application of such compensation within 30 days after the date of delivery of its notification that it has complied.

2. If the Parties do not reach an agreement on whether the measure notified according to paragraph 1 brings the Party complained against into conformity with the covered provisions within 30 days after the date of delivery of that notification, the complaining Party shall deliver a written request to the original panel to decide on the matter. The panel shall deliver its decision to the Parties within 46 days after the date of the delivery of the request. If the panel finds that the measure taken to comply is in conformity with the covered provisions, the suspension of obligations or compensation, as the case may be, shall be terminated. If relevant, the complaining Party shall adjust the level of suspension of obligations or of compensation in light of the panel decision.

3. If the Party complained against considers that the level of suspension implemented by the complaining Party exceeds the level equivalent to the nullification or impairment caused by the violation, it may deliver a written request to the original panel to decide on the matter.

ARTICLE 31.19

Replacement of panellists

If during panel procedures under this Section, a panellist is unable to participate, withdraws or needs to be replaced because he or she does not comply with the requirements of Annex 31-B, a new panellist shall be appointed in accordance with Article 31.6. The time period for the delivery of a report or a decision referred to in this Section shall be extended for the time necessary for the appointment of the new panellist.

ARTICLE 31.20

Rules of procedure

1. Panel procedures under this Section shall be governed by this Chapter and Annex 31-A.

2. Any hearing of the panel shall be open to the public unless otherwise provided for in Annex 31-A.

ARTICLE 31.21

Suspension and termination

1. At the joint request of the Parties, the panel shall suspend its work at any time for a period agreed by the Parties and not exceeding 12 consecutive months.

2. The panel shall resume its work before the end of the suspension period at the written request of both Parties, or at the end of the suspension period at the written request of either Party. The requesting Party shall notify the other Party accordingly. If a Party does not request the resumption of the work of the panel at the end of the suspension period, the authority of the panel shall lapse and the dispute settlement procedure shall be terminated.

3. If the work of the panel is suspended pursuant to this Article, the relevant time periods under this Section shall be extended by the same period of time for which the work of the panel was suspended.

ARTICLE 31.22

Right to seek information

1. At the request of a Party, or upon its own initiative, the panel may seek, from the Parties, information it considers necessary and appropriate. The Parties shall respond promptly and fully to any request by the panel for such information.

2. On request of a Party or its own initiative, the panel may seek information it considers necessary and appropriate from any source. The panel also has the right to seek the opinion, including information and technical advice, of experts, as it deems appropriate, and subject to any terms and conditions agreed by the Parties, if applicable.

3. The panel shall consider *amicus curiae* submissions from natural persons of a Party or juridical persons established in a Party in accordance with Annex 31-A.

4. Any information obtained by the panel pursuant to this Article shall be disclosed to the Parties and the Parties may provide comments on that information.

ARTICLE 31.23

Rules of interpretation

1. The panel shall interpret the covered provisions in accordance with customary rules of interpretation of public international law, including those codified in the Vienna Convention on the Law of Treaties.

2. The panel shall also take into account relevant interpretations in reports of WTO panels and the Appellate Body adopted by the Dispute Settlement Body of the WTO.

3. Reports and decisions of the panel cannot add to or diminish the rights and obligations of the Parties under this Agreement.

ARTICLE 31.24

Reports and decisions of the panel

1. The deliberations of the panel shall be kept confidential. The panel shall make every effort to draft reports and take decisions by consensus. If this is not possible, the panel shall decide the matter by majority vote. In no case shall separate opinions of panellists be disclosed.

2. Each Party shall make its submissions and the reports and decisions of the panel publicly available, subject to the protection of confidential information.

3. The reports and decisions of the panel shall be accepted unconditionally by the Parties. They shall not create any rights or obligations for persons.

4. The panel and the Parties shall treat as confidential any information submitted by a Party to the panel in accordance with Annex 31-A.

SECTION D

MEDIATION MECHANISM

ARTICLE 31.25

Objective

1. The objective of the mediation mechanism is to facilitate the finding of a mutually agreed solution through a comprehensive and expeditious procedure with the assistance of a mediator.

2. The mediation procedure may only be initiated by mutual agreement of the Parties in order to explore mutually agreed solutions and consider any advice and proposed solutions by the mediator.

ARTICLE 31.26

Initiation of the mediation procedure

1. A Party ("the requesting Party") may at any time request the other Party ("the responding Party") in writing to enter into a mediation procedure with respect to any measure of the responding Party allegedly adversely affecting trade or investment between the Parties.

2. The request referred to in paragraph 1 shall be sufficiently detailed to present the concerns of the requesting Party clearly and shall:

(a) identify the measure at issue;

(b) provide a statement of the adverse effects that the requesting Party considers the measure has, or will have, on trade or investment between the Parties; and

(c) explain how the requesting Party considers that those effects are linked to the measure.

3. The responding Party shall give sympathetic consideration to the request and deliver its written acceptance or rejection to the requesting Party within 10 days after the date of its delivery. Otherwise the request shall be regarded as rejected.

ARTICLE 31.27

Selection of the mediator

1. The Parties shall endeavour to agree on a mediator within 14 days after the date of initiation of the mediation procedure.

2. If the Parties are unable to agree on the mediator within the time period laid down in paragraph 1 of this Article, either Party may request the co-chair of the Trade Committee of the requesting Party to select the mediator by lot, within five days after the date of the request, from the sub-list of chairpersons established pursuant to subparagraph (c) of Article 31.8(1). The co-chair of the Trade Committee of the requesting Party may delegate such selection by lot of the mediator.

3. If the sub-list of chairpersons referred to in subparagraph (c) of Article 31.8(1) has not been established at the time a request is made pursuant to Article 31.26, the mediator shall be selected by lot from the individuals who have been formally proposed by one Party or both Parties for that sub-list.

4. A mediator shall not be a national of either Party or employed by either Party, unless the Parties agree otherwise.

5. A mediator shall comply with Annex 31-B.

ARTICLE 31.28

Rules of the mediation procedure

1. Within 10 days after the date of the appointment of the mediator, the requesting Party shall deliver to the mediator and to the responding Party a detailed written description of its concerns, in particular relating to the operation of the measure at issue and its possible adverse effects on trade or investment. Within 20 days after the date of delivery of this description, the responding Party may deliver written comments on that description. A Party may include any information that it deems relevant in its description or comments.

2. The mediator shall assist the Parties in a transparent manner in bringing clarity to the measure at issue and its possible adverse effects on trade or investment. In particular, the mediator may organise meetings between the Parties, consult the Parties jointly or individually, seek the assistance of, or consult with, relevant experts and stakeholders and provide any additional support requested by the Parties. The mediator shall consult with the Parties before seeking the assistance of, or consulting with, relevant experts and stakeholders.

3. The mediator may offer advice and propose a solution for the consideration of the Parties. The Parties may accept or reject the proposed solution, or agree on a different solution. The mediator shall not advise or comment on the consistency of the measure at issue with this Agreement.

4. The mediation procedure shall take place in the territory of the responding Party, or by mutual agreement in any other location or by any other means.

5. The Parties shall endeavour to reach a mutually agreed solution within 60 days after the date of the appointment of the mediator. Pending a final agreement, the Parties may consider possible interim solutions, in particular if the measure relates to perishable goods or seasonal goods or services.

6. On request of either Party, the mediator shall deliver a draft factual report to the Parties, providing:

(a) a brief summary of the measure at issue;

(b) the procedures followed; and

(c) if applicable, any mutually agreed solution reached, including possible interim solutions.

7. The mediator shall allow the Parties 15 days after the date of the delivery of the draft factual report to comment on the draft factual report. After considering the comments of the Parties received, the mediator shall, within 15 days of the receipt of the comments, deliver a final factual report to the Parties. The draft and final factual reports shall not include any interpretation of this Agreement.

8. The mediation procedure shall be terminated:

(a) by the adoption of a mutually agreed solution by the Parties, on the date of the notification thereof to the mediator;

(b) by mutual agreement of the Parties at any stage of the procedure, on the date of the notification of that agreement to the mediator;

(c) by a written declaration of the mediator, after consultation with the Parties, that further efforts at mediation would be to no avail, on the date of the notification of that declaration to the Parties; or

(d) by a written declaration of a Party after having explored mutually agreed solutions under the mediation procedure and after having considered any advice and proposed solutions by the mediator, on the date of the notification of that declaration to the mediator and the other Party.

ARTICLE 31.29

Confidentiality

Unless the Parties agree otherwise, all steps of the mediation procedure, including any advice or proposed solution, are confidential. A Party may disclose to the public the fact that a mediation is taking place.

ARTICLE 31.30

Relationship to dispute settlement procedures

1. The mediation procedure is without prejudice to the Parties' rights and obligations under Sections B and C or dispute settlement procedures under any other agreement.

2. A Party shall not rely on, or introduce as evidence, in other dispute settlement procedures under this Agreement or any other agreement, and a panel shall not take into consideration:

(a) positions taken by the other Party in the course of the mediation procedure or information exclusively gathered under of Article 31.28(2);

(b) the fact that the other Party has indicated its willingness to accept a solution to the measure subject to mediation; or

(c) advice given or proposals made by the mediator.

3. Unless the Parties agree otherwise, a mediator shall not serve as a panellist in dispute settlement procedures under this Agreement or under any other agreement involving the same matter for which he or she has been a mediator.

SECTION E

COMMON PROVISIONS

ARTICLE 31.31

Request for information

1. Before a request for consultations or mediation is made pursuant to Article 31.4 or 31.26 respectively, a Party may request information from the other Party regarding a measure allegedly adversely affecting trade or investment between the Parties. The Party to which such request is made shall, within 20 days after the date of delivery of the request, deliver a written response with its comments on the requested information.

2. If the Party to which the request is made considers it will not be able to deliver a response within 20 days after the date of delivery of the request, it shall promptly notify the other Party, stating the reasons for the delay and providing an estimate of the shortest period within which it will be able to deliver its response.

3. A Party is normally expected to request information pursuant to paragraph 1 of this Article before a request for consultations or mediation is made pursuant to Article 31.4 or 31.26 respectively.

ARTICLE 31.32

Mutually agreed solution

1. The Parties may reach a mutually agreed solution at any time with respect to any dispute referred to in Article 31.2.

2. If a mutually agreed solution is reached during the panel or mediation procedure, the Parties shall jointly notify that solution to the chairperson of the panel or the mediator, respectively. Upon such notification, the panel or mediation procedure shall be terminated.

3. Each Party shall take measures necessary to implement the mutually agreed solution immediately or within the agreed time period, as applicable.

4. No later than at the expiry of the agreed time period the implementing Party shall inform the other Party, in writing, of any measure that it has taken to implement the mutually agreed solution.

ARTICLE 31.33

Time periods

1. All time periods set out in this Chapter shall be counted from the day following the act to which they refer.

2. Any time period referred to in this Chapter may be modified by mutual agreement of the Parties.

3. Under Section C, the panel may at any time propose to the Parties to modify any time period referred to in this Chapter, stating the reasons for the proposal.

ARTICLE 31.34

Costs

1. Each Party shall bear its own expenses derived from the participation in the panel or mediation procedure.

2. The Parties shall share jointly and equally the expenses derived from organisational matters, including the remuneration and expenses of the panellists and of the mediator. The remuneration of the panellists shall be determined in accordance with Annex 31-A. The rules on the remuneration of the panellists laid down in Annex 31-A shall apply to mediators *mutatis mutandis*.

ARTICLE 31.35

Amendment of Annexes

The Trade Council may adopt a decision to amend Annexes 31-A and 31-B, pursuant to Article 33.1(6).

CHAPTER 32

EXCEPTIONS

ARTICLE 32.1

General exceptions

1. For the purposes of Chapters 2, 4, 8, 10[1], 19 and 22 of this Agreement, Article XX of GATT 1994, including its Notes and Supplementary Provisions, is incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on investment liberalisation or trade in services, nothing in Chapters 8, 10[2], 11, 12, 13, 14, 15, 16, 17, 18, 19, 20[3] or 22 of this Agreement shall be construed to prevent the adoption or enforcement by either Party of measures:

(a) necessary to protect public security or public morals or to maintain public order;[4]

---

1 This provision shall not apply to Article 10.7..

2 This provision shall not apply to Article 10.7..

3 For greater certainty, nothing in this Article shall be construed as limiting the rights set out in Annex 20.

4 The exceptions set out in this subparagraph may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

(b) necessary to protect human, animal or plant life or health;

(c) necessary to secure compliance with laws or regulations which are not inconsistent with this Agreement, including those relating to:

(i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on contracts;

(ii) the protection of privacy in relation to the processing and dissemination of personal data, and the protection of the confidentiality of individual records and accounts; or

(iii) safety.

3. For greater certainty, the Parties understand that, to the extent that such measures are inconsistent with the provisions of the Chapters of this Agreement referred to in paragraphs 1 and 2 of this Article:

(a) the measures referred to in subparagraph (b) of Article XX of GATT 1994 and in subparagraph (b) of paragraph 2 of this Article include environmental measures which are necessary to protect human, animal or plant life or health;

(b) subparagraph (g) of Article XX of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources; and

(c) measures taken to implement multilateral environmental agreements can fall under subparagraph (b) or (g) of Article XX of GATT 1994 or under subparagraph (b) of paragraph 2 of this Article.

4. Before a Party applies any measure provided for in subparagraphs (i) and (j) of Article XX of GATT 1994, that Party shall provide the other Party with all relevant information, with a view to seeking a solution acceptable to the Parties. If an acceptable solution is not reached within 30 days of the provision of the relevant information, the Party intending to apply the measure may do so. Where exceptional and critical circumstances requiring immediate action prevent the prior provision and examination of information, the Party intending to apply the measures may immediately apply any precautionary measures necessary to address the situation. That Party shall inform the other Party immediately of the application of such measures.

ARTICLE 32.2

Security exceptions

1. Nothing in this Agreement shall be construed:

(a) to require a Party to furnish or provide access to any information the disclosure of which it considers contrary to its essential security interests; or

(b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

(i) connected to the production of or traffic in arms, ammunition and implements of war and to such traffic and transactions in other goods and materials, services and technology, and to economic activities, as carried out directly or indirectly for the purposes of supplying a military establishment;

(ii) relating to fissionable and fusionable materials or the materials from which they are derived; or

(iii) taken in time of war or other emergency in international relations; or

(c) to prevent a Party from taking any action pursuant to its obligations under the Charter of the United Nations for the maintenance of international peace and security.

2. A Party shall inform the Trade Committee to the fullest extent possible of any action it takes under subparagraphs (b) and (c) of paragraph 1 and of the termination of that action.

ARTICLE 32.3

Taxation

1. For the purposes of this Article:

(a) "residence" means residence for tax purposes;

(b) "tax agreement" means an agreement on the avoidance of double taxation or any other international agreement or arrangement relating wholly or mainly to taxation to which any Member State, the European Union or Chile is a party; and

(c) "taxation measure" means a measure applying the tax law of the European Union, of any Member State, or of Chile.

2. This Agreement applies to taxation measures only insofar as their application is necessary to give effect to the provisions of this Agreement.

3. Nothing in this Agreement shall affect the rights and obligations of either the European Union, or its Member States or Chile under any tax agreement. In the event of any inconsistency between this Agreement and any tax agreement, the tax agreement shall prevail to the extent of the inconsistency. With regard to a tax agreement between the European Union or its Member States and Chile, the relevant competent authorities, of the European Union or of its Member States, on the one hand, and of Chile, on the other hand, under this Agreement and that tax agreement, shall jointly determine whether an inconsistency exists between this Agreement and that tax agreement.

4. Any most-favoured-nation obligation under this Agreement shall not apply with respect to an advantage accorded by the European Union, its Member States or Chile pursuant to a tax agreement.

5. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade and investment, nothing in this Agreement shall be construed to prevent the adoption, maintenance or enforcement by a Party of any measure aimed at ensuring the equitable or effective imposition or collection of direct taxes that:

(a) distinguishes between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested; or

(b) aims at preventing the avoidance or evasion of taxes under a tax agreement or fiscal law of that Party.

ARTICLE 32.4

Disclosure of information

1. Nothing in this Agreement shall be construed as requiring a Party to make available confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private, except where a panel requires such confidential information in dispute settlement proceedings under Chapter 31. In such cases, the panel shall ensure that confidentiality is fully protected.

2. When a Party submits information considered confidential under its law to the Trade Council, Trade Committee, Sub-Committees or other bodies established under this Agreement, the other Party shall treat that information as confidential, unless the submitting Party agrees otherwise.

ARTICLE 32.5

WTO waivers

If an obligation under this Agreement is substantially equivalent to an obligation under the WTO Agreement, any measure taken in conformity with a waiver adopted pursuant to Article IX of the WTO Agreement shall be deemed to be in conformity with the substantively equivalent obligation under this Agreement.

CHAPTER 33

INSTITUTIONAL AND FINAL PROVISIONS

SECTION A

INSTITUTIONAL PROVISIONS

ARTICLE 33.1

The Trade Council

1. The Parties hereby establish a Trade Council. The Trade Council shall oversee the fulfilment of the objectives of this Agreement and supervise its implementation. It shall examine any matters arising within the framework of this Agreement.

2. The Trade Council shall meet within a year of the date of entry into force of this Agreement, and thereafter on a biennial basis, or as otherwise agreed by the Parties. The meetings of the Trade Council shall take place in person or by any technological means in accordance with its rules of procedure. Meetings that take place in person shall be held in Brussels and Santiago alternately. The agenda of a meeting of the Trade Council shall be established by the coordinators of this Agreement, pursuant to Article 33.3(2).

3. The Trade Council shall be composed of representatives of the Parties with responsibility for trade and investment matters. The Trade Council shall be co-chaired by a representative of each Party.

4. The Trade Council shall have the power to adopt decisions in the cases provided for in this Agreement and to make recommendations, in accordance with its rules of procedure. The Trade Council shall adopt its decisions and make recommendations by mutual agreement. Decisions shall be binding on the Parties, which shall take all necessary measures to implement those decisions[1]. Recommendations shall have no binding force.

5. The Trade Council shall establish its own rules of procedure and the rules of procedure of the Trade Committee at its first meeting.

6. The Trade Council may:

(a) adopt decisions to amend:

(i) the tariff schedules in the Appendices 2-1 and 2-2 in order to accelerate tariff dismantling;

(ii) Chapter 3 and Annexes 3-A to 3-E;

[1] For greater certainty, Chile will implement any decisions adopted by the Trade Council through *acuerdos de ejecución* (executive agreements), in accordance with Chilean law.

(iii) Annexes 6-F and 6-G, and Appendix 6-E-1;

(iv) Annexes 9-A, 9-D and 9-E, and paragraph 1 of Annex 9-B;

(v) Annex 14-B;

(vi) Annex 22;

(vii) the definition of "subsidy" in Article 24.2(1) insofar as it relates to enterprises supplying services, with a view to incorporating the outcome of future discussions in the WTO or related plurilateral fora on that matter;

(viii) Annex 25-A as regards the references to the law applicable in the Parties;

(ix) Annex 25-B as regards the criteria to be included in the opposition procedure;

(x) Annex 25-C as regards the geographical indications;

(xi) Annexes 31-A and 31-B; and

(xii) any other provision, annex, appendix or protocol, the amendment of which is provided for in this Agreement;

(b) adopt decisions to issue interpretations of the provisions of this Agreement, which shall be binding on the Parties and all bodies established under this Agreement and the panels referred to in Chapters 26 and 31;

(c) delegate any of its functions to the Trade Committee, including the power to adopt decisions and to make recommendations;

(d) establish additional Sub-Committees and other bodies pursuant to Article 33.4(2); and

(e) establish the rules of procedure of the Sub-Committees and other bodies, if it deems so appropriate, pursuant to Article 33.4(7).

ARTICLE 33.2

The Trade Committee

1. The Parties hereby establish a Trade Committee. The Trade Committee shall assist the Trade Council in the performance of its functions.

2. The Trade Committee shall be responsible for the general implementation of this Agreement. The circumstance that a matter or issue is being considered by the Trade Committee shall not prevent the Trade Council from also dealing with it.

3. The Trade Committee shall meet within a year of the date of entry into force of this Agreement, and thereafter once a year, or as otherwise agreed by the Parties. The meetings of the Trade Committee shall take place in person or by any technological means in accordance with its rules of procedure. Meetings that take place in person shall be held in Brussels and Santiago alternately. The agenda of a meeting of the Trade Committee shall be established by the coordinators of this Agreement, pursuant to Article 33.3(2).

4. The Trade Committee shall be composed of representatives of the Parties with responsibility for trade and investment matters. The Trade Committee shall be co-chaired by a representative of each Party.

5. The Trade Committee shall have the power to adopt decisions in the cases provided for in this Agreement or when such power has been delegated to it by the Trade Council pursuant to subparagraph (c) of Article 33.1(6). The Trade Committee shall also have the power to make recommendations, including when that power has been delegated pursuant to subparagraph (c) of Article 33.1(6). The Trade Committee shall adopt its decisions and make recommendations by mutual agreement and in accordance with its rules of procedure. When exercising delegated functions, the Trade Committee shall adopt its decisions and make recommendations in accordance with the rules of procedure of the Trade Council. Decisions shall be binding on the Parties, which shall take all necessary measures to implement those decisions[1]. Recommendations shall have no binding force.

[1] For greater certainty, Chile will implement any decisions adopted by the Trade Committee through *acuerdos de ejecución* (executive agreements), in accordance with Chilean law.

6. The Trade Committee shall:

(a) be responsible for the proper implementation of this Agreement; in this respect, and without prejudice to the rights established under Chapter 31, a Party may refer for discussion within the Trade Committee any issue relating to the application or interpretation of this Agreement;

(b) oversee the further elaboration of this Agreement as necessary and evaluate the results obtained from its application;

(c) seek appropriate ways of preventing and solving problems, which might otherwise arise in areas covered by this Agreement;

(d) supervise the work of all Sub-Committees established under Article 33.4; and

(e) examine any effect on this Agreement of the accession of a new Member State to the European Union.

7. The Trade Committee may:

(a) establish additional Sub-Committees and other bodies pursuant to Article 33.4(2);

(b) adopt decisions to amend this Agreement pursuant to subparagraph (a) of Article 33.1(6) and to issue the interpretations referred to in subparagraph (b) of Article 33.1(6) in between meetings of the Trade Council, when the Trade Council cannot meet or as otherwise provided for in this Agreement; and

(c) establish the rules of procedure of the Sub-Committees and other bodies, if it deems so appropriate, pursuant to Article 33.4(7).

ARTICLE 33.3

Coordinators

1. Each Party shall appoint a coordinator for this Agreement, within 60 days of the date of entry into force of this Agreement, and notify the other Party the contact details of that coordinator.

2. The coordinators shall jointly establish the agenda and conduct all other necessary preparations for the meetings of the Trade Council, the Trade Committee, and the Sub-Committees and other bodies established pursuant to Article 33.4. The coordinators shall follow-up on the decisions of the Trade Council and the Trade Committee, as appropriate.

ARTICLE 33.4

Sub-Committees and other bodies

1. The Parties hereby establish the following Sub-Committees:

(a) the Sub-Committee on Customs, Trade Facilitation and Rules of Origin;

(b) the Sub-Committee on Financial Services;

(c) the Sub-Committee on Intellectual Property;

(d) the Sub-Committee on Public Procurement;

(e) the Sub-Committee on Sanitary and Phytosanitary Measures;

(f) the Sub-Committee on Services and Investment;

(g) the Sub-Committee on Sustainable Food Systems;

(h) the Sub-Committee on Technical Barriers to Trade;

(i) the Sub-Committee on Trade in Goods; and

(j) the Sub-Committee on Trade and Sustainable Development.

2. The Trade Council or the Trade Committee may adopt a decision to establish an additional Sub-Committee or other body. The Trade Council or the Trade Committee may assign to a Sub-Committee or other body established pursuant to this paragraph tasks within their respective competence to assist in the performance of their respective functions and to address specific tasks or subject matters. The Trade Council or the Trade Committee may change the tasks assigned to, or dissolve, any Sub-Committee or other body established pursuant to this paragraph.

3. Sub-Committees and other bodies shall be composed of representatives of the Parties and shall be co-chaired by a representative of each Party.

4. Except as otherwise provided for in this Agreement or as otherwise agreed by the Parties, Sub-Committees shall meet within a year of their establishment, thereafter, upon request of either Party or of the Trade Council or the Trade Committee, at an appropriate level. Sub-Committees may also convene at their own initiative, subject to their respective rules of procedure. The meetings of the Sub-Committees shall take place in person or by any technological means in accordance with its rules of procedure. Meetings that take place in person shall be held in Brussels and Santiago alternately. The agenda of a meeting of the Sub-Committees and other bodies shall be established by the coordinators of this Agreement, pursuant to Article 33.3(2).

5. Except as otherwise provided for in this Agreement, Sub-Committees and other bodies shall report on their activities to the Trade Committee, regularly as well as upon request of the Trade Committee.

6. The circumstance that a matter or issue is being considered by any of the Sub-Committees or other bodies shall not prevent the Trade Council or the Trade Committee from also dealing with it.

7. The Trade Council or the Trade Committee may establish rules of procedure of the Sub-Committees and other bodies, if it deems so appropriate. If the Trade Council or the Trade Committee does not establish such rules of procedure, the rules of procedure for the Trade Committee shall apply *mutatis mutandis*.

8. The Sub-Committees and other bodies may make recommendations, in accordance with their respective rules of procedure. The Sub-Committees and other bodies shall make recommendations by mutual agreement. Recommendations of the Sub-Committees and other bodies shall have no binding force.

ARTICLE 33.5

Participation of civil society

Each Party shall promote the participation of civil society in the implementation of this Agreement, in particular through interaction with the respective Domestic Consultative Group, referred to in Article 33.6, and with the Civil Society Forum referred to in Article 33.7.

ARTICLE 33.6

Domestic Consultative Groups

1. Each Party shall create or designate a Domestic Consultative Group within two years of the date of entry into force of this Agreement. Each Domestic Consultative Group shall comprise a balanced representation of independent civil society organisations, including non-governmental organisations, trade unions, and business and employers' organisations. For these purposes, each Party shall establish its own appointment rules in order to determine the composition of the respective Domestic Consultative Group, providing opportunities of access to actors from different sectors. The membership of each Domestic Consultative Group shall be renewed at periodic intervals, in accordance with the appointment rules established pursuant to this paragraph.

2. Each Party shall meet with its respective Domestic Consultative Group at least once a year, in order to discuss the implementation of this Agreement. Each Party may consider views or recommendations submitted by its respective Domestic Consultative Group.

3. In order to promote public awareness of its respective Domestic Consultative Group, each Party shall publish a list of the organisations participating in its respective Domestic Consultative Group, as well as its contact information.

4. The Parties shall promote the interaction between the Domestic Consultative Groups, through appropriate means.

ARTICLE 33.7

Civil Society Forum

1. The Parties shall promote the regular organisation of a Civil Society Forum to conduct a dialogue on the implementation of this Agreement.

2. The Parties shall convene meetings of the Civil Society Forum by mutual agreement. When convening a meeting of the Civil Society Forum, each Party shall invite independent civil society organisations established in its territory, including the members of its respective Domestic Consultative Group referred to in Article 33.6. Each Party shall promote a balanced representation, allowing for the participation of non-governmental organisations, trade unions, and business and employers' organisations. Each organisation shall bear the costs associated with its participation in the Civil Society Forum.

3. Representatives of the Parties participating in the Trade Council or in the Trade Committee shall, as appropriate, take part in the meetings of the Civil Society Forum. The Parties shall, jointly or individually, publish any formal statements made at the Civil Society Forum.

SECTION B

FINAL PROVISIONS

ARTICLE 33.8

Territorial application

1. This Agreement applies:

(a) with respect to the European Union, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union are applied, and under the conditions laid down in those Treaties; and

(b) with respect to Chile, to the land, maritime, and air space under its sovereignty, and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law[1] and the law of Chile[2].

[1] For greater certainty, international law includes, in particular, the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982.

[2] For greater certainty, in case of an inconsistency between the law of Chile and international law, the latter shall prevail.

References to "territory" in this Agreement shall be understood in accordance with this paragraph, except as otherwise expressly provided in this Agreement.

2. As regards the provisions concerning the tariff treatment of goods, including rules of origin and the temporary suspension of such treatment, this Agreement also applies to those areas of the customs territory of the European Union within the meaning of Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council[1] that are not covered by subparagraph (a) of paragraph 1.

ARTICLE 33.9

Amendments

1. The Parties may agree, in writing, to amend this Agreement. Amendments shall enter into force in accordance with Article 33.10, *mutatis mutandis*.

2. Notwithstanding paragraph 1 of this Article, the Trade Council may adopt decisions to amend this Agreement as set out in Articles 33.1 and 33.13(4).

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ EU L 269, 10.10.2013, p. 1).

ARTICLE 33.10

Entry into force

1. This Agreement shall enter into force on the first day of the third month following the date of the last notification by which the Parties inform each other of the completion of their respective internal procedures required for the entry into force of this Agreement.

2. Notifications made in accordance with paragraph 1 shall be sent, for the European Union, to the General Secretariat of the Council of the European Union, and, for Chile, to the Ministry of Foreign Affairs.

ARTICLE 33.11

Other agreements

1. Part IV of the Association Agreement, including any decisions taken under its Institutional Framework, shall cease to have effect upon the entry into force of this Agreement.

2. This Agreement replaces Part IV of the Association Agreement, including any decisions taken under its Institutional Framework. References to the aforementioned Agreement, including any decisions taken under its Institutional Framework, in all other agreements and understandings between the Parties shall be construed as referring to this Agreement.

3. Existing agreements falling within the scope of this Agreement shall cease to have effect upon the entry into force of this Agreement.

4. The Agreement on Trade in Wines in Annex V to the Association Agreement ("Wine Agreement") and the Agreement on Trade in Spirit Drinks and Aromatised Drinks in Annex VI to the Association Agreement ("Spirits Agreement"),[1] including all appendices, are incorporated into and made part of this Agreement, *mutatis mutandis* and as follows:

(a) references in the Wine Agreement and the Spirits Agreement to the dispute settlement mechanism referred to in Part IV of the Association Agreement, as well as to the Code of Conduct referred to in Annex XVI to the Association Agreement, are to be read as referring to the dispute settlement mechanism provided for in Chapter 31 and to the Code of Conduct provided for in Annex 31-B, respectively, of this Agreement;

(b) references in the Wine Agreement and the Spirits Agreement to the Community are to be read as referring to the European Union;

(c) references in the Wine Agreement and the Spirits Agreement to the Association Committee established by the Association Agreement are to be read as referring to the Trade Committee established pursuant to Article 33.2 of this Agreement;

(d) references in the Wine Agreement and the Spirits Agreement to Annex IV of the Association Agreement are to be read as references to Chapter 6 of this Agreement;

(e) for greater certainty, the Joint Committee established by Article 30 of the Wine Agreement and the Joint Committee established by Article 17 of the Spirits Agreement are to remain in place, and are to continue exercising the functions indicated in Article 29 of the Wine Agreement and in Article 16 of the Spirits Agreement; and

---

1 For greater certainty, the date of signature and the date of entry into force of the Wine Agreement and the Spirits Agreement are the same as the date of signature and the date of entry into force of the Association Agreement.

(f) for greater certainty, Article 1.5(2) of this Agreement applies to the Wine Agreement and the Spirits Agreement.

5. Any decision taken under the Institutional Framework of the Association Agreement concerning the Wine Agreement or the Spirits Agreement, in force upon the entry into force of this Agreement, shall be deemed to have been adopted by the Trade Committee established pursuant to Article 33.2 of this Agreement.

6. The Parties may amend the appendices to the Wine Agreement and to the Spirits Agreement, as incorporated, by exchange of letters.[1]

[1] For greater certainty, Chile will implement any amendments to the Wine Agreement and to the Spirits Agreement as incorporated into this Agreement through *acuerdos de ejecución* (executive agreements), in accordance with Chilean law.

ARTICLE 33.12

Annexes, appendices, protocols, notes and footnotes

The annexes, appendices, protocols, notes and footnotes to this Agreement shall form an integral part thereof.

ARTICLE 33.13

Future accessions to the European Union

1. The European Union shall notify Chile of any request for accession of a third country to the European Union.

2. The European Union shall notify Chile of the date of the signature and of the entry into force of the Accession Treaty of a new Member State to the European Union ("Accession Treaty").

3. In respect of a new Member State, this Agreement shall apply as from the date of accession of that new Member State to the European Union.

4. In order to facilitate the implementation of paragraph 3 of this Article, as from the date of signature of an Accession Treaty, the Trade Committee shall examine any effects on this Agreement deriving from the accession of a new Member State to the European Union, pursuant to subparagraph (e) of Article 33.2(6). The Trade Council shall adopt a decision on any necessary amendments to the Annexes to this Agreement, and on any other necessary adaptations, including transitional measures. Any decision of the Trade Council adopted pursuant to this paragraph, shall take effect on the date of accession of that new Member State to the European Union.

ARTICLE 33.14

Private rights

1. Nothing in this Agreement shall be construed as directly conferring rights or imposing obligations on persons, other than rights or obligations created between the Parties under public international law, or as allowing this Agreement to be directly invoked in the legal systems of the Parties.

2. A Party shall not provide for a right of action under the law of that Party against the other Party on the grounds that a measure of the other Party is inconsistent with this Agreement.

ARTICLE 33.15

Duration

This Agreement shall remain in force until the date of entry into force of the Advanced Framework Agreement.

ARTICLE 33.16

Termination

Notwithstanding Article 33.15, either Party may notify the other Party of its intention to terminate this Agreement. That notification shall be sent, for the European Union, to the Secretary-General of the Council of the European Union and, for Chile, to the Ministry of Foreign Affairs. The termination shall take effect six months after the date of that notification.

ARTICLE 33.17

Authentic texts

This Agreement is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned, duly authorised to this effect, have signed this Agreement.

Done at …, this… day of … in the year

For the European Union

For the Republic of Chile

Annexes