



Report on the 3rd round of negotiations between the EU and Chile for modernising the trade part of the EU-Chile Association Agreement

Brussels, 28 May-1 June 2018

The third negotiation round for the modernisation of the trade part of the EU-Chile Association Agreement took place in Brussels on 28 May-1st June 2018. In total, 22 negotiating groups met, which resulted in constructive exchanges and substantive progress in most areas, as follows:

1. Trade in goods

Trade in goods: Chile and the EU reviewed all the articles of the consolidated text on Trade in Goods and agreed on most of the articles. Further discussions will be needed on origin marking, elimination of customs duties, remanufactured goods and import and export restrictions. On Market Access for goods, both parties exchanged views on the process for further discussions on tariff liberalisation, including by identifying and exchanging views on offensive and defensive interests of each side.

2. Rules of origin

Discussions resulted in progress on a number of issues. The EU and Chile managed to significantly agree on the merged text of the General principles (Section A). Further work is necessary on cumulation, calculation methods, accounting segregation and direct transport/ non alteration. It was not possible to discuss the part covering proof and verification (Section B) on this occasion, but Chile will submit its counter-proposal shortly. A first discussion on product-specific rules of origin took place, with the EU presenting its general approach and specific proposals for agricultural and processed agricultural products. The EU also presented a new proposal for anti-fraud rules.

3. Technical Barriers to Trade

Very good progress on several articles such as technical regulations, definition of international standards, standards, conformity assessment and transparency. A substantial number of provisions were agreed. On conformity assessment, both parties discussed their respective approaches, where Chile has opted for a system that relies heavily on third party conformity assessment, while the EU relies, for low risk products, on self-declaration of conformity issued by the manufacturer.

4. Customs and trade facilitation

The negotiating group continued the discussion on rules and procedures that would facilitate, simplify and accelerate trade, while allowing the necessary control on goods at the border. Both sides want to achieve an ambitious chapter that goes beyond, wherever possible, the provisions of the WTO Trade Facilitation Agreement. Constructive discussions allowed significant progress with provisional agreement reached on eleven articles.

5. Services

Very productive discussions took place on nearly all of the services-related texts. Consolidated texts were used as a basis for discussions on both Cross Border Trade in Services and Temporary Entry, with substantial further consolidation achieved. Work took place on the texts for Telecoms and Domestic Regulation and MRAs. For Financial Services, discussions focused on a comparison between the Chilean and EU proposals, and the Parties noted their different approaches in relation to the structure and substance of the proposals relating to investment protection of financial services. In most other areas, there is substantial agreement on substance, and it should be possible to conclude an ambitious text on services. On digital trade, there were also very constructive discussions on the basis of the texts on the table

6. Investment

The parties managed to go through most of the provisions of the investment chapter. There is an emerging convergence of views with regard to many substantive investment provisions, even if there are still some differences regarding drafting and/or placement. Parties agreed on the need to confirm in a self-standing article in the investment chapter the Parties' right to regulate, as well as their intention to ensure clarity with regard to the scope of protection offered to investors and their investments under the agreement. Further discussions are needed on the overall structure of the investment chapter in view of the differing points for departure of the Parties. There is also need for further discussions on the scope of some protection standards, in particular Fair and Equitable Treatment vs. Minimum Standard of Treatment under Customary International Law. The EU indicated that it intends to provide a proposal for a Chapter on Capital Movements before the next round.

Talks continued on the respective proposals on provisions for an **Investment Court System/for Resolution of Investment Disputes**. Discussions constructively moved forward on important horizontal issues on which the EU and Chile had previously agreed that there already is some degree of convergence. Parties agreed on the importance of amicable resolution of disputes and regulation of third party funding, and more specifically discussed provisions on mediation and consultations and third party funding. Based on the text proposals by either side on the table, the Parties held substantive and textual discussions allowing them to gain a better understanding of each other's positions and where positions differ. In this way several important aspects of common understanding as well as areas for further work and reflection were identified.

7. Mediation and dispute settlement

Discussions allowed the parties to find common ground and agree on core issues relating to state to state dispute settlement. At the same time the exchange of views enabled the parties to identify some issues where further discussions will be needed to bridge the gaps in their respective approaches, notably the applicable timelines.

8. Intellectual Property Rights (IPR) and Geographical indications (GIs)

The Parties exchanged views and provided further clarifications on the IPR text on the table with special focus on the most relevant areas for further work. Discussions covered all sections of the IPR chapter, inter alia patents, copyright and related rights, trademarks, designs, plant varieties, undisclosed information including trade secrets, and IPR enforcement. The Parties continued sharing information on their respective IP legislation and procedures. Talks on geographical indications covered relevant provisions on protection and enforcement of rights and the Parties also exchanged views on possible procedural steps in relation to the protection of GIs of either side.

9. Trade and Sustainable Development

Trade and Sustainable Development: Detailed discussions were held on the text on the table including the recently submitted EU text proposal. This allowed for a number of clarifications and a good understanding of respective positions. There appears to be a good degree of convergence for some articles such as fisheries, while for others the objectives are broadly shared but further work is needed. Clear differences remain on structure and institutional provisions, and whether or not to have separate labour and environment chapters and parallel institutional provisions. Both sides agreed that there are new issues which need to be analysed and also that further work is needed to agree on how to resolve disputes in this area.

10. Trade and Gender equality

The meeting resulted in constructive discussions where Chile provided its initial comments to the recently submitted EU text proposal. This resulted in identifying a lot of commonalities and agreement on the importance to focus on the trade-related aspects of gender, while also recognising that further detailed discussions are needed on certain points. This includes for example the provisions on non-weakening of the protection granted to equality of opportunities for men and women, or the provisions on dispute settlement, where key areas for further work are the possibilities for government consultations and panel of experts.

11. SPS

The meeting resulted in constructive discussions, in which the EU explained the main elements of its text proposal, which Chile will reflect upon in view of further discussions.

12. Competition

The Parties made good progress on the consolidated text and reached agreement in several areas. Open issues still remain on some issues and in particular on the articles on consultations and cooperation. Both Parties will reflect on these issues.

13. Subsidies

On the basis of the texts on the table, the Parties had constructive discussions as to the scope of the provisions, the consultation article and the article on subsidies subject to conditions. The main open issues are to what extent subsidies for services and agriculture should be covered.

14. State-owned enterprises (SOEs)

The parties achieved substantial progress in the texts and work will continue on some remaining definitions and information items together with the scope of certain provisions.

15. Energy and raw materials (ERM)

Both parties engaged in a useful and in-depth discussion of the provisions that would be related to 60% of Chile's exports to the EU and two important investment sectors for the EU in Chile (energy and mining). While both parties share the goal of promoting sustainable trade and investment in ERMs, differences need to be overcome on certain issues such as the proposals to eliminate dual pricing and export monopolies.

16. Trade defence instruments

Constructive discussions took place based on the consolidated text. Reasonable progress was made concerning transparency. Regarding anti-dumping, further discussions are needed on the proposals for provisions on public interest and lesser duty rule. . Regarding bilateral safeguard, further work, including how close to stick to WTO provisions, is needed.

17. Small and Medium Enterprises

A text based discussion took place in a constructive atmosphere. The SME Chapter text was reviewed, several clarifications were provided and text modifications were introduced. Good progress was achieved on information sharing provisions and on the institutional set-up to ensure an appropriate implementation of the SME Chapter.

18. Anti-corruption

Constructive discussions took place on the basis of the texts on the table which also allowed Chile to explain their legislation in place in a number of specific issues. It was agreed that at the next discussion the Parties will start working on a consolidated text. The EU briefly presented its proposal for a dispute resolution mechanism for the Anticorruption provisions, as well as its proposal to have a subcommittee.

19. Administrative and institutional provisions and final provisions

There were good discussions on institutional provisions on a conceptual level on the initial and institutional provisions specific to the trade part of the association agreement. The exchange allowed the EU and Chile to identify common ground and to provide explanations on some of the issues discussed and to agree to have a text proposal on these issues before the next round to allow discussions to progress.

20. Public Procurement

The Parties held fruitful discussions on public procurement and considered the comments and the additional provisions tabled by either side for a Chapter on Public Procurement, which draws upon the WTO Government Procurement Agreement (GPA) with some additional provisions. The Parties discussed some modifications to cater for specific domestic legislations or coming from other FTAs. The Parties also exchanged views on the issue of environmental and social considerations in public procurement and on the domestic review procedures. The Parties agreed to prepare a consolidated version of the text, including the brackets reflecting the EU and Chilean proposals, before the next meeting.

Further process

The Parties agreed on work in relation to the various areas and contacts will continue with the aim of advancing in all areas in preparation for the next round of negotiations, the date of which has yet to be confirmed.