



REPORT ON THE 2ND ROUND OF NEGOTIATIONS BETWEEN THE EU AND CHILE FOR MODERNISING THE TRADE PART OF THE EU-CHILE ASSOCIATION AGREEMENT

15-19 January 2018

The second round for the modernisation of the trade part of the EU-Chile Association Agreement took place in Santiago de Chile on 15-19 January 2018. These were the first substantive discussions on trade issues after the launch of the negotiations on 16 November 2017.

Overall, there were constructive exchanges and good progress in most of the negotiating groups. The discussions focussed on initial exchanges on substance or working on the initial textual proposals. Seventeen negotiating groups met in total, some via Video conference.

The following is the outcome of these discussions per negotiating group:

1. Trade in goods

Chile and the EU discussed the disciplines on Trade in Goods. Both sides noted that they share similar objectives and all the articles of a consolidated text were reviewed which allowed identifying the issues which need further work. As regards Market Access for goods, both parties exchanged views on the process that should be followed for initiating discussions on further tariff liberalisation, including the exchange of Trade data.

2. Rules of origin:

The discussions on Rules of Origin resulted in good progress. The EU and Chile managed to prepare a merged text of the General principles (also referred to as Section A). Discussions took place on, amongst others, the concept of cumulation, non-alteration rule, sufficiently worked or processed goods and tolerances. On the part covering proof and verification (Section B), the discussion addressed the main concepts e.g. importer's knowledge, self – certification, verification through administrative cooperation and guarantees. The first discussion on the principle of anti-fraud rules also took place.

3. Technical Barriers to Trade:

Chile and the EU agreed to work on the basis of a consolidated text. Both sides noted that they share similar objectives in several areas, in particular regarding the use of standards in support of technical regulations, marking and labelling, and transparency related provisions affecting the WTO TBT notification procedure. Chile and the EU also discussed the inclusion of provisions on cooperation and exchanged views on the issue of conformity assessment.

4. Customs and trade facilitation:

The work of the group focussed on discussing rules and procedures that would facilitate, simplify and accelerate trade, while allowing the necessary control on goods at the border. The first exchanges between the EU and Chile allowed for positive and cooperative work and negotiators were able to agree on several articles of the textual proposal on the table, including on the approach to be used by customs administrations on risk-management and post-clearance audit.

5. Services:

Discussions focused on the basic disciplines for the liberalisation of investment, cross-border trade in services, and the temporary movement of service suppliers, as well as financial services, telecoms, and digital trade. This was a constructive meeting, demonstrating overall convergence in many areas between Chile and the EU in terms of level of ambition and approach.

6. Investment protection:

Both parties underlined the importance of ensuring a proper balance between investment protection and preserving legitimate public policy objectives in any future agreement. With this objective in view, parties exchanged preliminary views on issues such as the overall architecture of the investment chapter, scope of its application, framework for liberalisation commitments, including with regard to market access, non-discrimination, prohibition of performance requirements and relevant exceptions, and also the substantive investment protection standards. The parties agreed to continue analysing the text proposals to seek bringing both parties' approaches on specific issues closer.

7. Resolution of Investment Disputes/Investment Court System:

The EU and Chile exchanged views concerning the resolution of disputes between a foreign investor and the host state on the basis of the textual proposals. The EU provided a general presentation of its proposal for an Investment Court System (ICS) which was followed by technical discussions on both general and more specific aspects. In particular, the Parties discussed the rationale for creating a standing body, the desirability of a certain degree of consistency in jurisprudence, the importance of transparency and the need for an appeal mechanism.

8. Mediation and dispute settlement:

The parties had good and constructive discussions on state-to-state dispute settlement and mediation, and exchanged views on all matters covered i.e. State-to-State dispute settlement, mediation, rules of procedure and code of conduct. The EU provided clarifications in response to Chile's questions on the text, article by article, including on the proposed timelines and the scope of the mediation mechanism.

9. Intellectual Property Rights (IPR) and Geographical indications (GIs):

Chile and the EU exchanged preliminary views on the IPR Chapter. Discussions covered inter alia patents, copyright and related rights, trademarks, designs, geographical indications, plant varieties, undisclosed information including trade secrets, and IPR border measures. The parties had the opportunity to provide clarifications and share information on their respective IPR legislation and procedures, including practical examples and jurisprudence. Regarding GIs, Chile and the EU had a constructive discussion on the textual proposal on the table for geographical indications for agricultural/foodstuff products, which also gave

the opportunity to ask questions, exchange preliminary views and to highlight some of the relevant areas of further work.

10. Trade Sustainable Development:

The first round of discussions on trade and sustainable development was structured into two sessions – one on trade and environment and another on trade and labour. It provided an opportunity to better understand the rationale for each side's approach. It was clear from the discussions that Chile and the EU have a lot in common, aiming at an ambitious text covering environment, labour and cross-cutting issues such as responsible business conduct and reflecting a shared conviction that the trade agreement should be supportive of high levels of environmental and labour protection. Issues for further discussion include the overall structure in which these provisions should be placed and institutional provisions and some procedural elements.

11. Trade and Gender:

In preparation of the elaboration of textual proposals, the two sides exchanged views on both content and structure of a text on trade and gender, finding a lot of common ground. The parties agreed that it would be important that the provisions provide flexibility and allow for periodic reviews.

12. Competition and Subsidies:

Negotiations took place on the basis of the textual proposals. It was agreed to separate the two sections into separate chapters. On competition, the EU answered Chile's questions regarding certain parts of the previous agreement, in particular on consultations and notifications and some brackets were removed. As regards subsidies, the parties exchanged views as to the scope and to what extent subsidies for services and agriculture should be covered and the need to obtain a balanced text. They also agreed on the need for future exchange of information e.g. on state aid control.

13. State-owned enterprises (SOEs):

The parties held a positive first discussion on SOEs, focussing on the textual proposals. The two sides examined the differences between the EU and the TPP agreement, in particular definitions and scope, differences as regards the definitions on SOE and enterprises granted special rights or privileges, the level of government, and the link to procurement. The parties also discussed the links to services provisions.

14. Energy and raw materials (ERM):

An in depth discussion took place on the scope and content of the text for a possible ERM chapter and information was exchanged on the EU's policy areas as well as on the policy and legislative framework in Chile.

15. Administrative and institutional provisions and final provisions:

the Parties had a fruitful discussion and noted a common approach on many issues discussed regarding the administrative and institutional provisions of the Agreement of relevance to trade, including Initial and Final Provisions and the General Definitions (trade-related).

16. Transparency:

the EU and Chile exchanged views on their respective approaches on Transparency and Good Regulatory Practice (GRP). On transparency, the main points discussed referred to (i) publication of measures of general application; (ii) mechanisms to respond to enquiries and Party-to-Party information exchange mechanisms, (iii) administration of measures of general application and (iv) review of administrative decisions and appeal.

17. Good regulatory practises

As regards GRP, the following aspects were discussed: (i) early information on planned regulatory measures; (ii) public consultations; (iii) impact assessment and (iv) retrospective evaluation.

18. Public Procurement

The EU and Chile had a useful first exchange. EU and Chile went through the textual proposals, article by article, and also discussed some specific policies related to sustainable procurement, the support of SMEs in procurement procedures and gender aspects of procurement. There seems to be convergence regarding many points of procurement policies, as well as regarding many of the substantive provisions of the text.

19. Trade Remedies

Constructive discussions took place on the basis of textual proposal. Chile also explained the context of trade remedies in Chile. The EU made an introduction of the articles in the text and clarified various issues and Chile explained its framework for trade defence instruments, including as regards the scope for a possible rules on lesser duty rule, the public interest or the form of measures. The parties also discussed the merits of a new bilateral Safeguard clause in comparison to what is in the current agreement.

20. Further process

The parties agreed to stay in contact to prepare for the next negotiation round (date to be defined).