

Chile's note: This initial offer text is without prejudice to Chile's right to amend, withdraw or modify its contents in any manner and at any moment before the conclusion of the EU-CL modernisation negotiations.

**ANNEX II**

SCHEDULE OF CHILE

**Sector:** All

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment)  
Most-Favoured-Nation Treatment (Investment)

**Description:** Investment

Chile reserves the right to adopt or maintain any measure relating to the ownership or control of land within five kilometres of the coastline that is used for agricultural activities. Such measure could include a requirement that the

majority of each class of stock of a Chilean juridical person that seeks to own or control such land be held by Chilean persons or by persons residing in Chile for 183 days or more per year.

**Existing Measures:**

Decree Law 1.939, Official Gazette, November 10, 1977, Rules for acquisition, administration and disposal of State owned assets, Title I (*Decreto Ley 1.939, Diario Oficial, noviembre 10, 1977, Normas sobre adquisición, administración y disposición de bienes del Estado, Título I*)

**Sector:** All

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment)  
Senior Management and Boards of Directors (Investment)

**Description:** Investment

In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset and on the right of foreign investors or their investments to control any State company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and members of the board of directors.

A “State company”<sup>1</sup> shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the entry into force of this Agreement for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise or governmental entity.

**Existing Measures:**

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<sup>1</sup> A list of existing state enterprises in Chile can be found on the following website: <http://www.dipres.gob.cl>.

**Sector:** All

**Sub-Sector:**

**Obligations Concerned:** Most-Favoured-Nation Treatment (Investment and CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any bilateral or multilateral international agreement in force on, or signed prior to, the date of entry into force of this Agreement.

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any international agreement in force or signed after the date of entry into force of this Agreement involving:

- (a) aviation;
- (b) fisheries; or

**Existing Measures:**

<b>Sector:</b>	Communications
<b>Sub-Sector:</b>	Satellite broadcasting of digital telecommunication services.
<b>Obligations Concerned:</b>	Local Presence (CBTS)
<b>Description:</b>	<u>Cross-Border Trade in Services</u>  Chile reserves the right to adopt or maintain any measure related to cross-border trade in one way satellite broadcasting of digital telecommunication services.
<b>Existing Measures:</b>	Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI ( <i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i> )

<b>Sector:</b>	Communications
<b>Sub-Sector:</b>	Satellite broadcasting of digital telecommunication services,
<b>Obligations Concerned:</b>	National Treatment (Investment) Most-Favoured-Nation Treatment (Investment) Performance Requirements (Investment) Senior Management and Boards of Directors (Investment)
<b>Description:</b>	<u>Investment</u>  Chile reserves the right to adopt or maintain any measure related to the investors of another Party or to their investments in one way satellite broadcasting of digital telecommunication services,
<b>Existing Measures:</b>	Law 18.168, Official Gazette, October 2, 1982, General Telecommunications Law, Titles I, II, III, V and VI ( <i>Ley 18.168, Diario Oficial, octubre 2, 1982, Ley General de Telecomunicaciones, Títulos I, II, III, V y VI</i> )

**Sector:** Issues Involving Minorities

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment and CBTS)  
Most-Favoured-Nation Treatment (Investment and CBTS)  
Performance Requirements (Investment)  
Senior Management and Boards of Directors (Investment)  
Local Presence (CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure according rights or preferences to socially or economically disadvantaged minorities.

**Existing Measures:**

**Sector:** Issues Involving Indigenous Peoples

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment and CBTS)  
Most-Favoured-Nation Treatment (Investment and CBTS)  
Performance Requirements (Investment)  
Senior Management and Boards of Directors (Investment)  
Local Presence (CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure according rights or preferences to indigenous peoples.

**Existing Measures:**



**Sector:** Science and Technology

**Sub-Sector:** Science, Technology and Innovation

**Obligations Concerned:** Performance Requirements (Investment)

~~National Treatment (Investment)~~

~~Senior Management and Boards of Directors (Investment)~~

**Description:** Investment

Chile reserves the right to adopt or impose a requirement or enforce a commitment or undertaking in connection with the establishment or operation of an enterprise or any investment of an investor of the European Union or any Non-Party for achieving a given level or value of research and development in its territory.

For greater certainty, for publicly funded research and development (R & D) projects whether partially or totally funded by any governmental entity, Chile reserves the right to adopt or impose measures, requirements, limitations or enforce commitments regarding technology transfer or for achieving a given level of R & D in its territory.

**Existing Measures:**

**Sector:** Education

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment and CBTS)  
Most-Favoured-Nation Treatment (Investment and CBTS)  
Performance Requirements (Investment)  
Senior Management and Boards of Directors (Investment)  
Local Presence (CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to:

- (a) investors and an investment of an investor of another Party in education; and
- (b) natural persons who supply educational services in Chile.

Subparagraph (b) includes teachers and auxiliary personnel supplying educational services in pre-school, kindergarten, special education, elementary, secondary or higher education, professional, technical or university education, and all other persons that supply services related to education, including sponsors of educational institutions of any kind, schools, lyceums, academies, training centres, professional and technical institutes or universities.

This reservation does not apply to investors and an investment of an investor of another Party in kindergarten, pre-school, elementary or secondary private education institutions, that do not receive public resources, or to the supply of services related to second-language training, corporate, business, and industrial training and skill upgrading, which include consulting services relating to technical support, advice, curriculum, and programme development in education.

**Existing Measures:**

**Sector:** Government Finances

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment)

**Description:** Investment

Chile reserves the right to adopt or maintain any measure related to the acquisition, sale or disposal by another Party's nationals of bonds, treasury securities or any other type of debt instruments issued by the Central Bank of Chile (*Banco Central de Chile*) or the Government of Chile. This entry is not intended to affect the rights of another Party's financial institutions (banks) established in Chile to acquire, sell or dispose of such instruments when required for the purposes of regulatory capital.

**Existing Measures:**

**Sector:** Fisheries

**Sub-Sector:** Fishing related activities

**Obligations Concerned:** National Treatment (Investment and CBTS)  
Most-Favoured-Nation Treatment (Investment and CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to control the activities of foreign fishing, including fish landing, first landing of fish processed at sea and access to Chilean ports (port privileges).

Chile reserves the right to control the use of beaches, land adjacent to beaches (*terrenos de playas*), water-columns (*porciones de agua*) and sea-bed lots (*fondos marinos*) for the issuance of maritime concessions. For greater certainty, “maritime concessions” do not cover aquaculture.

**Existing Measures:** Decree Law 2.222, Official Gazette, May 31, 1978, Navigation Law, Titles I, II, III, IV and V (*Decreto Ley 2.222, Diario Oficial, mayo 31, 1978, Ley de Navegación Títulos I, II, III, IV y V*)

D.F.L. 340, Official Gazette, April 6, 1960, about Maritime Concessions (*D.F.L. 340, Diario Oficial, abril 6, 1960, sobre Concesiones Marítimas*)

Supreme Decree 660, Official Gazette, November 28, 1988, Maritime Concession Act (*Decreto Supremo 660, Diario Oficial, noviembre 28, 1988, Reglamento de Concesiones Marítimas*)

Supreme Decree 123 of the Ministry of Economic Affairs,  
Development and Reconstruction, Vice-Ministry of Fishing,  
Official Gazette, August 23, 2004, On Use of Ports (*Decreto  
Supremo 123 del Ministerio de Economía, Fomento y  
Reconstrucción, Subsecretaría de Pesca, Diario Oficial,  
agosto 23, 2004, Sobre Uso de Puertos*)

**Sector:** Arts and Cultural Industries

**Sub-Sector:**

**Obligations Concerned:** Most-Favoured-Nation Treatment (Investment and CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that accords differential treatment to countries under any existing or future bilateral or multilateral international agreement, with respect to arts and cultural industries, such as audio-visual cooperation agreements.

For greater certainty, government supported subsidy programmes for the promotion of cultural activities are not subject to the limitations or obligations of this Agreement.

For the purposes of this entry, “arts and cultural industries” includes:

- (a) books, magazines, periodical publications, or printed or electronic newspapers, excluding the printing and typesetting of any of the foregoing;
- (b) recordings of movies or videos;
- (c) music recordings in audio or video format;

- (d) printed music scores or scores readable by machines;
- (e) visual arts, artistic photography and new media;
- (f) performing arts, including theatre, dance and circus arts; and
- (g) media services or multimedia.

**Existing Measures:**

**Sector:** Entertainment and Broadcasting Services

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment and CBTS)  
Most-Favoured-Nation Treatment (Investment and CBTS)  
Performance Requirements (Investment)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to:

- (a) the organisation and presentation in Chile of concerts and musical performances;
- and
- (b) radio broadcasts aimed at the public in general, as well as all radio, television and cable television-related activities, satellite programming services and broadcasting networks.

Notwithstanding the above, Chile shall extend to the persons and investors of another Party, and their investments, treatment no less favourable than that Party accords persons and investors of Chile, and their investments.

**Existing Measures:**



**Sector:** Social Services

**Sub-Sector:**

**Obligations Concerned:** National Treatment (Investment and CBTS)  
Most-Favoured-Nation Treatment (Investment and CBTS)  
Performance Requirements (Investment)  
Senior Management and Boards of Directors (Investment)  
Local Presence (CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to the supply of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, education, public training, health care and child care.

**Existing Measures:**

**Sector:** Environmental Services

**Sub-Sector:**

**Obligations Concerned:** National Treatment (CBTS)  
Most-Favoured-Nation Treatment (CBTS)  
Local Presence (CBTS)

**Description:** Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure imposing the requirement that the production and distribution of drinking water, the collection and disposal of waste water and sanitation services, such as sewage systems, waste disposal and waste water treatment may only be supplied by juridical persons incorporated under Chilean law or created in accordance with the requirements established by Chilean law.

This entry shall not apply to consultancy services retained by the said juridical persons.

**Existing Measures:**

**Sector:** Construction Services

**Sub-Sector:**

**Obligations Concerned:** National Treatment (CBTS)  
Local Presence (CBTS)

**Description:** Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure with respect to the supply of construction services by foreign juridical persons or legal entities.

These measures may include requirements such as residency, registration or any other form of local presence.

**Existing Measures:**

**Sector:** Transportation

**Sub-Sector:** International road transportation

**Obligations Concerned:** National Treatment (Investment and CBTS)  
Most-Favoured-Nation Treatment (Investment and CBTS)  
Local Presence (CBTS)

**Description:** Investment and Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure relating to the international land transportation of cargo or passengers in border areas.

Additionally, Chile reserves the right to adopt or maintain the following limitations for the supply of international land transportation from Chile:

- (a) the service supplier must be a Chilean natural or juridical person;
- (b) the service supplier must have a real and effective domicile in Chile; and
- (c) in the case of juridical persons, the service supplier must be legally constituted in Chile and more than 50 per cent of its capital stock must be owned by Chilean nationals and its effective control must be by Chilean nationals.

**Existing Measures:**

**Sector:** Transportation Services

**Sub-Sector:** Road transportation services

**Obligations Concerned:** National Treatment (CBTS)

**Description:** Cross-Border Trade in Services

Chile reserves the right to adopt or maintain any measure that authorises only Chilean natural or juridical persons to supply land transportation of persons or merchandise inside the territory of Chile (cabotage). For this, the enterprises shall use vehicles registered in Chile.