

CHAPTER 29

GOOD REGULATORY PRACTICES

Article 29.1

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. The provisions in this Chapter shall not be construed as 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 29.2

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.

(b) "regulatory measures" means:

(i) for the European Union:

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

(2) implementing and delegated acts, as provided in Article 290 and Article 291 TFEU, respectively;

(ii) For Chile: Laws¹ and Decrees of general application, adopted by the regulatory authorities and which compliance is mandatory.

Article 29.3

Scope

1. This Chapter shall apply to regulatory measures 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 of the European Union.

Article 29.4

Internal Coordination of Regulatory Development

Each Party shall maintain internal coordination or review processes or mechanisms with respect to regulatory measures that its regulatory authorities are preparing. Such processes or mechanisms should seek, inter alia, to:

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

¹ Potestad Reglamentaria de ejecución

- (b) identify and avoid unnecessary duplication and inconsistent requirements in the Party's regulatory measures;
- (c) consider its international trade obligations; and
- (d) promote consideration of the impacts of the regulatory measures under preparation, including those on small and medium-sized enterprises.

Article 29.5

Transparency of the Regulatory Processes and Mechanisms

Each Party shall make publicly available descriptions, 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 regarding opportunities for 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 major² planned regulatory measures.
2. With respect to each major regulatory measure included in paragraph 1, each Party shall endeavour make publicly available, in a timely manner:
 - (a) a brief description of its scope and objectives;
 - (b) if available, the estimated timing for its adoption , including where applicable opportunities for public consultations.

² The regulatory authority of each party may determine what constitute a major regulatory measure for the purposes of its obligations under this chapter.

Article 29.7

Public Consultations

1. When preparing a major³ regulatory measure, each Party shall when applicable in accordance with its respective rules and procedures:
 - (a) publish either the draft regulatory measures or consultation documents providing sufficient details about regulatory measures under preparation to allow any person⁴ 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.
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 purposes of providing information and receiving comments related to public consultations.
3. The regulatory authority of each Party shall endeavour 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 Impact Assessments when proposing major regulatory measures.
2. When carrying out an impact assessment, the regulatory authority of each Party shall promote processes and mechanisms that consider the following factors:

³ The regulatory authority of each party may determine what constitute a major regulatory measure for the purposes of its obligations under this chapter.

⁴ For greater certainty, this paragraph does not prevent a Party from undertaking targeted consultations with interested parties under conditions defined by its rules and procedures.

- (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 (including the option of not regulating), if any, that would achieve the Party's public policy objective;
 - (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 an impact assessment that a regulatory authority has conducted for a regulatory measure, each Party shall prepare a final report detailing the factors it considered in its assessment and the relevant findings. Such reports shall be made publicly available when the regulatory measure is made publicly available.

Article 29.9

Retrospective Evaluation

The Parties recognise the positive contribution of periodic retrospective evaluations of regulatory measures in effect to reducing unnecessary regulatory burdens, including on small and medium-sized enterprises, and to achieving more effectively public policy objectives. 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, freely accessible internet 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 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

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

Article 29.13

Dispute Settlement

Chapter X (Dispute Settlement) shall not apply to this Chapter.