

CHAPTER 33

INSTITUTIONAL AND FINAL PROVISIONS

SECTION A

Institutional Provisions

ARTICLE 33.1

The Trade Council

1. A Trade Council is hereby established, which shall oversee the fulfilment of the objectives of this Agreement and supervise its implementation. It shall examine any major issues arising within the framework of this Agreement.
2. The Trade Council shall meet at regular intervals, normally on a biennial basis or as otherwise mutually agreed.
3. The Trade Council shall be composed of representatives designated by Chile and the European Union with responsibility for trade matters. The Trade Council shall be co-chaired by a representative of the Union and a representative of Chile.
4. The Trade Council shall have the power to adopt decisions in the cases provided for in this Agreement, and to make appropriate recommendations, in accordance with its rules of procedure. The Trade Council shall adopt its decisions and recommendations by mutual agreement. Decisions shall be binding on the Parties, which shall take all necessary measures to implement them. A decision shall take effect on the date agreed by the Trade Council.
5. The Trade Council shall establish its own rules of procedure at its first session. It shall also establish the rules of procedure of the Trade Committee.
6. The Trade Council may:
 - (a) delegate any of its functions to the Trade Committee, including the power to take binding decisions;

(b) adopt decisions to amend this Agreement in the following cases¹:

- i. Annex XXX (Elimination of Customs Duties), with the object of incorporating one or more goods into the tariff reduction schedule;
- ii. the Schedules attached to Annex XXX (Elimination of Customs Duties) in order to accelerate tariff dismantling;
- iii. Appendix XXX, Appendix XXX and Appendix XXX to Annex XXX (Elimination of Customs Duties);
- iv. Rules of Origin [*to be specified*];
- v. Annex XXXX (Government Procurement);
- vi. Annex XXXX (Protected Geographical Indications);
- vii. Annex XX (Equivalency [SPS chapter]);
- viii. Annex XX (Rules of Procedure [Dispute Settlement chapter])
- ix. Annex XX (Code of Conduct for Panelists and Mediators [Dispute Settlement chapter]);
- x. Annex XXI (Sub-Committees); and
- xi. Any other provision, protocol, appendix or annex, for which the possibility of such decision is explicitly foreseen in this Agreement.

(c) adopt decisions to issue binding interpretations of the provisions of this Agreement. Such interpretations shall be binding on the Parties and all bodies established under this Agreement, including the panels referred to under Chapter 31 (Dispute Settlement).

¹ Chile shall implement any decisions adopted by the Trade Council through *acuerdos de ejecución* (executive agreements), in accordance with Chilean law.

ARTICLE 33.2

The Trade Committee

1. A Trade Committee is hereby established. The Trade Committee shall be responsible for the general implementation of this Agreement.
2. The Trade Committee shall be composed of representatives of the European Union and Chile with responsibility for trade-related matters. The Trade Committee shall be co-chaired by a representative of the European Union and a representative of Chile.
3. The Trade Committee shall:
 - (a) assist the Trade Council in the performance of its duties;
 - (b) be responsible for the proper implementation and application of the provisions of this Agreement. In this respect, and without prejudice to the rights established in Chapter 31 (Dispute Settlement) of this agreement, any Party may refer for discussion within the Trade Committee any issue relating to the application or interpretation of this Agreement;
 - (c) oversee the further elaboration of the provisions of this Agreement as necessary and evaluate the results obtained from its application;
 - (d) seek appropriate ways of preventing and solving problems which might otherwise arise in areas covered by this Agreement;
 - (e) supervise the work of all Sub-Committees established under the this Agreement;
 - (f) have the power to adopt decisions by mutual agreement in the cases provided for in this Agreement or where such power has been delegated to it by the Trade Council. They shall be binding on the Parties specified by the decision, which shall take all necessary measures to implement them. When exercising delegated powers, the Trade Committee shall take its decisions in accordance with the Rules of Procedure of the Trade Council;
 - (g) have the power to adopt recommendations by mutual agreement in the cases provided for in this Agreement, or where such power has been delegated to it by the Trade Council; and

- (h) examine any effects on this Agreement of the accession of a new Member State to the European Union.
4. In the performance of its duties under paragraph 3, the Trade Committee may:
- (a) establish additional Sub-Committees and other bodies from those established in this Agreement, composed of representatives of the European Union and of Chile, and assign them responsibilities within its competence. It may also decide to modify the functions that are assigned to the Sub-Committees and other bodies it establishes, as well as dissolve them;
 - (b) adopt the decisions to amend the Agreement or to issue the interpretations referred to in Article 33.1 in between meetings of the Trade Council, when the Trade Council cannot meet or when the Agreement so provides.²
5. The Trade Committee shall meet once a year, or as otherwise decided by mutual agreement. The meeting shall take place on a date and with an agenda agreed in advance by Chile and the European Union, in Brussels and Santiago alternately. Special meetings may be convened, by mutual agreement. Meetings may also be held through any technological means accepted in the rules of procedure.

ARTICLE 33.3

Coordinators

1. The European Union and Chile shall appoint a Coordinator for this Agreement, within sixty days after the entry into force of this Agreement and notify each other the contact details.
2. The coordinators shall jointly establish the agenda and conduct all other necessary preparations for the meetings of the Trade Council and the Trade Committee

² Chile shall implement any decisions adopted by the Trade Committee through *acuerdos de ejecución* (executive agreements), in accordance with Chilean law.

according to the above provisions, and shall follow-up on the decisions of such bodies, as appropriate.

ARTICLE 33.4

Sub-Committees and Other Bodies

1. The Trade Committee may establish Sub-Committees or other bodies to assist in the performance of its duties and to address specific tasks or subject matters. It may change the tasks assigned to, or dissolve, any Sub-Committee or body set up by it pursuant to this paragraph.
2. The Trade Council may also establish the bodies referred to in paragraph 1, by mutual agreement.
3. The Parties hereby establish the following Sub-Committees and other bodies:
 - (a) Sub-Committee on Customs Trade Facilitation and Rules of Origin
 - (b) Sub-Committee on Sanitary and Phytosanitary Measures
 - (c) Sub-Committee on Services and Investment
 - (d) Sub-Committee on Financial Services
 - (e) (list all the other Sub committees established by this Agreement)
4. Sub-Committees and other bodies shall be composed of representatives of the European Union, on the one part, and of representatives of Chile, on the other part, and shall be co-chaired by both Parties.
5. Except as otherwise provided for in this Agreement, or as agreed between the Parties, Sub-Committees shall meet within a year of the date of entry into force of this Agreement and, thereafter, at the request of either Party or of the Trade Committee, at an appropriate level. They may also convene at their own initiative, subject to any relevant requirements that may be established in their respective rules of procedure. Meetings shall take place in person

or by any technological means agreed by its members. When in person, meetings shall be held alternately in Brussels or Santiago.

6. Except as otherwise provided for in this Agreement, Sub-Committees and other bodies established pursuant to this Article shall report on their activities to the Trade Committee, regularly or when requested.

7. The circumstance that any matter or issue is being considered by any of the Sub-Committees shall not prevent the Trade Committee or the trade Council from dealing with the same question.

8. The Trade Committee may establish the rules of procedure of the Sub-Committees, if it deems so appropriate. As long as the Trade Committee does not establish their rules of procedure, the rules of procedure for the Trade Committee shall apply *mutatis mutandis*.

9. The Sub-Committees and other bodies may make appropriate recommendations in the cases provided for under this Agreement. Recommendations shall be made by mutual consent.

ARTICLE 33.5

Participation of civil society

The Parties shall promote the participation of civil society in the implementation of this Agreement, in particular through interaction with the Civil Society Forum referred to in Articles 33.7, and with their respective Domestic Consultative Group, referred to in Article 33.6.

ARTICLE 33.6

Domestic Consultative Groups

1. Chile and the European Union shall each create or designate a Domestic Consultative Group within two years from the entry into force of this Agreement. Each of them shall

comprise a balanced representation of independent civil society organisations, namely, non-governmental organisations, trade unions, and business and employers' organisations. For these purposes, Chile and the European Union shall each establish their own appointment rules in order to determine the composition of their respective Domestic Consultative Group, enabling opportunities of access to actors coming from different sectors. The membership of each Domestic Consultative Group shall be renewed at periodic intervals, in accordance with the appointment rules established in conformity with this paragraph.

2. Chile and the European Union shall each meet with their respective Domestic Consultative Group at least once a year, in order to discuss about the implementation of this Agreement. Chile and the European Union may consider views or recommendations submitted by its respective Domestic Consultative Group.

3. In order to promote public awareness about the Domestic Consultative Groups, Chile and the European Union shall each publish the list of organisations participating in its respective Group, as well as its contact point.

4. Chile and the European Union shall promote the interaction between their respective Domestic Consultative Groups, through the means they consider appropriate.

ARTICLE 33.7

Civil Society Forum

1. Chile and the European Union shall promote the regular organisation of a Civil Society Forum to conduct a dialogue on the implementation of this agreement. It shall be convoked by mutual agreement.

2. When convening a meeting of the Civil Society Forum, Chile and the European Union shall each invite independent civil society organisations established in the territories of the Parties, including members of the Domestic Consultative Groups referred to in Article 33.6. Chile and the European Union shall each 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 Forum.

3. Representatives of Chile and of the European Union participating in the Trade Council, or in the Trade Committee, shall be convened to the meetings of the Civil Society Forum, in order to engage in a dialogue with the latter. The Parties shall, jointly or individually, publish any formal statements made at the Forum.

SECTION B FINAL PROVISIONS

ARTICLE 33.8 Territorial Application

1. This Agreement shall apply:
 - a) With respect to the Union, to the territories in which the *Treaty on European Union* and the *Treaty on the Functioning of the European Union* are applicable, 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 law³ and its domestic law⁴.

References to “territory” in this Agreement shall be understood in this sense, except as otherwise expressly provided.

³ For greater certainty, international law includes, in particular, the United Nations Convention on the Law of the Sea of 10 December 1982.

⁴ For greater certainty, in case of an inconsistency between domestic law and international law, the latter shall prevail.

2. As regards those provisions concerning the tariff treatment of goods, including rules of origin and the temporary suspension of this treatment, this Agreement shall also apply with respect to the Union to those areas, not covered by subparagraph 1(a), of the customs territory of the Union, as defined by Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code, or any amendments thereof.

ARTICLE 33.9

Amendments

1. The Parties may agree, in writing, to amend this Agreement. Such amendments shall enter into force in accordance with the provisions of Article 33.10 [Entry into force].

2. The Trade Council or the Trade Committee, as appropriate, may adopt decisions to amend the Agreement in the cases referred to under Article 33.1 [Trade Council], Article 33.2 [The Trade Committee] and paragraph 5 of Article 33.13 [Accession of new Member States of the European Union] of this Chapter.

ARTICLE 33.10

Entry into Force

1. The Parties shall notify each other of the completion of their respective internal procedures required for the entry into force of this treaty.

2. This Agreement shall enter into force on the first day of the second month following the date on which the Parties have notified each other of the completion of their respective internal procedures for that purpose.

3. Notifications made in accordance with this Article shall be sent, in the case of the European Union, to the General Secretariat of the Council of the European Union or its successor, and in the case of Chile, to the Chilean Ministry of Foreign Affairs.

ARTICLE 33.11

Other Agreements

1. Part IV of the Agreement establishing an Association between the European Community and its Member States, of the one part, and Chile, of the other part, signed in Brussels on 18 November 2002, shall cease to have effect upon the entry into force of this Agreement.

2. This Agreement replaces Part IV of the aforementioned Agreement. References to the aforementioned Agreement in all other agreements between the Parties shall be construed as referring to this Agreement.

3. Existing agreements falling within the scope of this Agreement shall be listed in this Agreement. The effect of this Agreement on such existing agreements shall be defined in this Agreement.

4. By way of exception from Article 33.16 (Duration) and unless otherwise agreed by the Parties, decisions and recommendations adopted by the bodies established under Articles 33.1, 33.2 and 33.4 of this Agreement shall remain in force and continue to produce effects under the Advanced Framework Agreement. Upon the entry into force of the Advanced Framework Agreement, the decisions and recommendations of the Trade Council shall be considered to be decisions and recommendations of the Joint Council established under Article 53 of Part IV of the Advanced Framework Agreement and decisions and recommendations of the Trade Committee shall be considered to be decisions and recommendations of the Joint Committee established under Article 54 of Part IV of the Advanced Framework Agreement.

5. Notwithstanding Article 33.16 (Duration):

(a) temporary measures adopted pursuant to Article 20.5 of this Agreement (Temporary Safeguard Measures), which are in place on the date of entry into force of

the Advanced Framework Agreement, shall remain applicable until their natural expiration;

(b) bilateral safeguard measures adopted pursuant to Section C of Chapter 5 of this Agreement which are in place on the date of entry into force of the Advanced Framework Agreement, shall remain applicable until their natural expiration;

(c) dispute settlement procedures already initiated pursuant to Article 30.6 of this Agreement shall, as from the date of entry into force of the Advanced Framework Agreement, be deemed to be a dispute under the Advanced Framework Agreement and shall continue until their completion; and

(d) the binding outcome of any dispute settlement procedure initiated pursuant to Article 31.4 of this Agreement shall remain binding on the Parties after the date of entry into force of the Advanced Framework Agreement.

6. The Parties to this Agreement shall not be able to bring dispute settlement proceedings under the Advanced Framework Agreement on matters that have been the subject of a final panel report under Chapter 31 of this Agreement.

7. Transitional periods already completely or partially elapsed under this Agreement shall be taken into account when calculating transitional periods provided for in equivalent provisions under the Advanced Framework Agreement. Such transitional periods under the Advanced Framework Agreement shall be calculated starting from the date of entry into force of this Agreement.

ARTICLE 33.12

Annexes, Appendices, Protocols and Notes, Footnotes and Joint Declarations

The [tbc: Annexes, Appendices, Protocols and Notes, Footnotes and Joint Declarations] to this Agreement constitute integral parts thereof.

ARTICLE 33.13

Accession of New Member States to the European Union

1. The European Union will inform Chile of any request for accession of a third country to the European Union.
2. The European Union shall notify Chile of the signature of any Treaty concerning the accession of a third country to the European Union ("Accession Treaty").
3. This Agreement shall apply in respect of the new Member State of the European Union from the date of accession of that new Member State to the European Union.
4. In order to facilitate the implementation of paragraph 4, as from the date of signature of the Accession Treaty, the Trade Committee shall examine any effects of the accession on this Agreement. The Trade Committee shall decide on any necessary amendments to Annexes [X, XX, XXX] to this Agreement, and on any other necessary adjustments or transitional measures. Any decision of the Trade Committee shall take effect on the date of accession of the 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 those created between the Parties under public international law, nor as permitting this Agreement to be directly invoked in the domestic legal systems of the Parties.
1. A Party shall not provide for a right of action under its domestic law against the other Party on the ground that a measure of the other Party is inconsistent with this Agreement.

ARTICLE 33.15

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.

ARTICLE 33.16

Duration

This Agreement shall remain in force until the entry into force of the Advanced Framework Agreement.

ARTICLE 33.17

Termination

Either Party may notify in writing the other Party of this Agreement of its intention to terminate this Agreement. The termination shall take effect six months after the date of the notification.