



REPORT ON THE 6TH ROUND OF NEGOTIATIONS BETWEEN THE EU AND CHILE FOR THE MODERNISATION OF THE TRADE PART OF THE EU CHILE ASSOCIATION AGREEMENT

25 – 29 November 2019

The sixth round of negotiations for the modernisation of the Trade part of the EU-Chile Association Agreement took place in Santiago from 25 to 29 November.

There was good progress in a significant number of chapters, including Rules of Origin, Services, Digital Trade, TBT, Good Regulatory Practices, Anticorruption, Trade and Gender, Public Procurement, Trade Defence, Competition, Trade and Sustainable Development, Institutional provisions, Transparency, and parts of the Investment and IPR provisions.

There were also constructive discussions in areas such as SPS, Trade in Goods, State Owned Enterprises or Financial Services.

On some issues, such as market access offers for goods, intellectual property rights, Energy and Raw Materials, parts of the Investment related issues (notably the Investment Court System) or Subsidies the parties continued to exchange views allowing them to understand better their respective positions.

The results in specific areas are as follows:

1. Trade in Goods

The parties continued to discuss their textual proposals and market access offers. Discussions were constructive but it is clear that further exchanges are necessary on remanufactured goods, origin marking and on the recently tabled EU text on the preference margin for the elimination of customs duties.

2. Rules of Origin

The parties continued to discuss Section A, where they achieved progress, but where the provisions on cumulation, duty drawback, tolerance and ownership criteria for vessels will require further discussions. On Section B, they continued to work on the text on Self-Certification. There were also good discussions on the Product Specific Rules (PSR) with agreement in several sectors.

3. Technical Barriers to Trade

The parties made good progress on several of the provisions of the chapter. There are, however, areas that will require further discussions, such as marking and labelling, conformity assessment and regulatory cooperation. The EU tabled a text proposal on market surveillance.

4. Sanitary and Phytosanitary Measures

The parties continued to discuss the text but more discussions will be necessary on the remaining open issues. This concerns in particular cooperation on animal welfare, antimicrobial resistance, multilateral fora and food science.

5. Investment

The Parties discussed issues related to the structure of the Investment Chapter and made some progress in the consolidation of the text in such areas as scope and definitions. The parties also continued to exchange views on their respective approaches to investor to state dispute settlement.

6. Trade in Services

There parties made good progress bringing the chapter close to conclusion in the areas of Cross-Border, Mode 4 and Postal services. There was also progress on financial services, where the Parties agreed on a way forward to discuss the substance of the provisions, pending an agreement on the architecture of the chapter.

7. Digital trade

The parties had productive discussions with good progress on most open issues, in particular on the scope, mandatory source code disclosure, no prior authorisation, spam and on the understanding on computer services. Further discussions will be needed on data flows and personal data protection, as well as on the non-discrimination of digital products.

8. Intellectual Property Rights

The parties continued discussing IPR issues covering copyright, patents, trade secrets and civil enforcement. The parties made progress on civil enforcement and copyright. Further discussions will be needed on patents and trade secrets.

On Geographical Indications, the parties continued to discuss the identified conflicts and the EU's text proposal; notably the issues of level of protection, coexistence with prior trademarks, administrative enforcement and the issue of direct protection through the Agreement.

9. Public Procurement

The parties discussed the initial market access offers that had been exchanged during the 5th round. The Parties carried out a review of the consolidated version of the text of the Chapter on Public Procurement, discussing how to incorporate the international public procurement standards in the text of the Chapter. The parties discussed in depth the issues of electronic procurement and transparency requirements in public procurement contracts and how to take into account environmental and social considerations in public procurement.

10. State Owned Enterprises

The parties had constructive discussions and made some progress during the round. Further discussions are necessary regarding the scope of the chapter and the exceptions from the non-discrimination principle and the obligation to act in accordance with commercial considerations.

11. Competition

The parties made progress and most parts of the text have now been agreed. Further discussions are needed on the issue of the mechanism for consultation on anti-trust and merger cases. The parties will continue to consult internally and exchange information before the next round.

12. Subsidies

The parties discussed all aspects of the text, allowing them to better understand each other's positions notably on their different views on services subsidies and agricultural subsidies. The Parties agreed to make internal consultations before the next round.

13. Trade Defence Instruments

The parties made progress on the text related to the use of the WTO trade defence instruments, i.e. anti-dumping, anti-subsidy and global safeguard. Discussions also progressed regarding the bilateral safeguard clause. Further discussions on certain elements of the bilateral safeguard clause (e.g. length of transition period, duration of measures) will be necessary as they are linked to the elements of the market access chapter.

14. Trade and Sustainable Development

The parties made good progress on Trade and Sustainable Development and agreed on the structure of the chapter. This provides a sound basis for further progress on substance in the next round.

15. Trade and Gender

The parties made good progress, agreeing on some parts of the text. A few areas and articles still need further discussion such as references to some labour market aspects, multilateral agreements, proper terminology, and specific commitments, cooperation activities contained as well as government consultations and panel of experts in the EU proposal.

16. Good Regulatory Practices

The parties made good progress, agreeing on the provisions on Impact Assessment, Transparency of the Regulatory Process and Mechanisms, and Internal Coordination of Regulatory Development. The provisions on Early Information, Public Consultations and Retrospective Evaluation will require further discussions.

17. Energy and Raw Materials

There were good discussions in this area. The parties discussed their respective proposals and Chile presented its proposals for dialogues on energy and raw materials. Further discussions will be required, notably on the objectives and scope of the chapter.

18. Transparency

The parties had very good exchanges and continued to discuss the text proposals, thereby achieving substantial progress in the text, which is close to conclusion.

19. Anticorruption

There were good discussions that translated into advances in the text. There are, however, open issues that will require further discussions, notably on external auditors and non-financial reporting, and on the UNCAC/FAFT related commitments.

20. Trade-specific horizontal provision

The parties continued to discuss the EU text proposal for the trade-specific horizontal provisions of the Association Agreement. Few divergences remain, but some provisions will need to be revisited as the negotiations advance.