CHAPTER 13

GENERAL EXCEPTIONS

Article 13.1: General Exceptions

1. For the purposes of Chapters 3 to 7 (Trade in Goods, Rules of Origin, Customs Administration, Sanitary and Phytosanitary Measures, and Technical Barriers to Trade), Article XX of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, mutatis mutandis.

2. Nothing in this Agreement shall be construed to prevent a Party from taking action authorised by the WTO Dispute Settlement Body. A Party taking such action shall inform the Joint Committee to the fullest extent possible of measures taken and of their termination.

Article 13.2: Security Exceptions

1. Nothing in this Agreement shall be construed:

   (a) to require a Party to furnish any information the disclosure of which it considers contrary to its essential security interests;

   (b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests:

      (i) relating to fissionable materials or the materials from which they are derived;

      (ii) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials, or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment; or

      (iii) taken in time of war or other emergency in international relations; or

   (c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

2. A Party taking action under subparagraphs 1(b) and (c) shall, to the extent possible, inform the Joint Committee of measures taken and of their termination.
Article 13.3: Taxation

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures.

2. This Agreement shall only grant rights or impose obligations with respect to taxation measures where corresponding rights or obligations are also granted or imposed under the WTO Agreement.

3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any taxation agreement in force between the Parties.

4. In the event of any inconsistency relating to a taxation measure between this Agreement and any taxation agreement, the latter shall prevail.

5. In the case of any consultations between the Parties about whether an inconsistency relates to a taxation measure, the competent authorities under the taxation agreement shall have sole responsibility for resolving the case.

6. For the purposes of this Article:

   (a) taxation measures do not include any “customs duties” as defined in Article 2.1 (c); and

   (b) taxation agreement means the Agreement between the Government of the Republic of Chile and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, including its Protocol, or other international taxation agreement or arrangement in force between the Parties.

Article 13.4: Balance-of-Payments Measures on Trade in Goods

1. The Parties shall endeavour to avoid the imposition of restrictive measures for balance-of-payments purposes.

2. Any measure taken for balance-of-payments purposes shall be in accordance with that Party’s rights and obligations under GATT 1994, including the Understanding on the Balance-of-Payments Provisions of the GATT 1994. When adopting such measures, the Party shall immediately consult with the other Party.

3. Nothing in this Chapter shall be regarded as altering the rights enjoyed and obligations undertaken by a Party as a party to the Articles of Agreement of the International Monetary Fund, as may be amended.
Article 13.5: Disclosure of Information

1. Each Party shall, in accordance with its laws and regulations, maintain the confidentiality of information provided in confidence by the other Party pursuant to this Agreement.

2. Nothing in this Agreement shall be construed as requiring a Party to furnish or allow access to confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or which would prejudice the legitimate commercial interests of particular enterprises, public or private.