CHAPTER 3

TRADE IN GOODS

Article 3.1: Definitions

For the purposes of this Chapter:

(a) **agricultural goods** means those goods referred to in Article 2 of the WTO Agreement on Agriculture;

(b) **commercial samples of negligible value** means commercial samples having a value, individually or in the aggregate as shipped, or so marked, torn, perforated or otherwise treated that they are unsuitable for sale or for use except as commercial samples[1];

(c) **consular transactions** means requirements that goods of a Party intended for export to the territory of the other Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party for the purpose of obtaining consular invoices or consular visas for commercial invoices, certificates of origin, manifests, shippers' export declarations or any other customs documentation required on or in connection with importation;

(d) **duty-free** means free of customs duty;

(e) **goods of a Party** means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of that Party. A good of a Party may include materials of other countries, complying with the provisions of Chapter 4 (Rules of Origin);

(f) **printed advertising materials** means those goods classified in Chapter 49 of the Harmonised System (HS), including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, trade and tourist promotional materials and posters, that are used to promote, publicise or advertise a good or service, are essentially intended to advertise a good or service, and/or are supplied free of charge.

[1] For greater certainty, the term "Commercial Samples" include "Trade Samples". In the case of Malaysia, the term is used in the Customs Duties Order 2007 [*P.U.(A) 441/2007*].

Article 3.2: Scope and Coverage

Except as otherwise provided, this Chapter applies to trade in goods between the Parties.

Article 3.3: National Treatment

1. Each Party shall accord national treatment to the goods of the other Party in accordance with Article III of GATT 1994, including its interpretative notes, and to this end, Article III of GATT 1994 and its interpretative notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

2. Paragraph 1 shall also apply to a regional level of government.

Article 3.4: Reduction and/or Elimination of Customs Duties

1. Customs duties which are levied at zero percent or nil on the date of signing of this Agreement shall be kept at zero percent or nil by the Parties.

2. Except as otherwise provided in this Agreement, neither Party may increase any existing customs duty or adopt any customs duty on a good of the other Party covered by this Agreement.

3. Except as otherwise provided in this Agreement, each Party shall progressively reduce and/or eliminate its customs duties on originating goods in accordance with its schedule in Annex 3.

4. If a Party reduces its applied most-favoured nation customs duties rate after the entry into force of this Agreement and before the end of the tariff reduction and/or elimination period, the tariff reduction and/or elimination schedule established in Annex 3 shall apply with respect to the new most-favoured nation customs duties rate.

5. On the request of either Party, the Parties shall consult to consider accelerating the reduction and/or elimination of customs duties set out in their schedules in Annex 3. An agreement between the Parties to accelerate the reduction and/or elimination of a customs duty on a good, shall supersede any duty rate determined pursuant to their schedules in Annex 3 for such good when approved by each Party in accordance with their applicable domestic legal procedures.

Article 3.5: Classification of Goods

For the purposes of this Agreement, the classification of goods in trade between the Parties shall be in conformity with the Harmonised System (HS).

Article 3.6: Customs Valuation

For the purposes of determining the customs value of goods traded between the Parties, Part I of the Agreement on Customs Valuation, as may be amended, shall be incorporated into and made part of this Agreement, *mutatis mutandis*.

Article 3.7: Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Materials

Each Party shall grant duty-free entry to commercial samples of negligible value and to printed advertising materials imported from the territory of the other Party regardless of their origin, but may require that such samples or advertising materials be imported solely for the solicitation of orders for goods or services provided from the territory of the other Party or a non-Party.

Article 3.8: Administrative Fees and Formalities.

1. Each Party shall ensure, in accordance with Article VIII:1 of GATT 1994 and its interpretative notes, that all fees and charges of whatever character (other than customs duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III:2 of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with importation or exportation are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation of imports or exports for fiscal purposes.

2. Neither Party may require consular transactions, including related fees and charges, in connection with the importation of any good of the other Party.

3. Each Party shall make available through the internet or a comparable computer-based telecommunications network, a current list of the fees and charges it imposes in connection with importation or exportation.

Article 3.9: Price Band System

Chile may maintain its price band system as established under its Law Nº 18.525 or succeeding system for the products covered by that law[2], provided it is applied consistent with Chile's rights and obligations under the WTO Agreement.

[2] For greater certainty, Chile shall not incorporate new products in the Price Band System. The only products covered by the price band system are HS 1001.9000, 1101.0000, 1701.1100, 1701.1200, 1701. 9100, 1701.9920 and 1701. 9990.

Article 3.10: Agricultural Export Subsidies

The Parties share the objective of the multilateral elimination of export subsidies for agricultural goods and shall work together towards an agreement in the WTO to eliminate those subsidies and prevent their reintroduction in any form.

Article 3.11: Non-Tariff Measures

1. Except as otherwise provided in this Agreement, neither Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party, except in accordance with Article XI of GATT 1994 and its interpretative notes, and to this end, Article XI of GATT 1994 and its interpretative notes are incorporated into and made a part of this Agreement, *mutatis mutandis*.

2. Each Party shall ensure the transparency of its non-tariff measures permitted under paragraph 1 and that they are not constituted, adopted or applied with a view to or with the effect of creating unnecessary restrictions to trade between the Parties.

3. Paragraphs 1 and 2 shall not apply with respect to Chile, to measures concerning the importation of used vehicles, as provided in Law Nº 18.483 or its successor.

Article 3.12: Committee on Trade in Goods

1. The Parties hereby establish a Committee on Trade in Goods, comprising of representatives of each Party.

2. For the purposes of the effective implementation and operation of this Chapter, the functions of the Committee on Trade in Goods shall be:

(a) reviewing and monitoring the implementation and operation of this Chapter;

(b) discussing any issues related to this Chapter;

(c) reporting the findings and the outcome of discussions to the Joint Committee;

(d) carrying out other functions as may be delegated by the Joint Committee in accordance with subparagraph 4(e) of Article 11.1;

(e) promoting trade in goods between the Parties, including through consultations on accelerating tariff elimination under this Agreement and other issues as appropriate; and

(f) addressing barriers to trade in goods between the Parties, especially those related to the application of non-tariff measures, and, if appropriate, referring such matters to the Joint Committee for its consideration.

3. The Committee on Trade in Goods shall meet at such venue and time as may be agreed by the Parties.

Article 3.13: Wine and Spirits

1. Malaysia recognises, in accordance with its domestic legislation, the geographical indication CHILEAN PISCO, that falls within the scope of protection established in Article 22 of the TRIPS Agreement.

2. This shall in no way prejudice the rights that Malaysia may recognise, in addition to Chile, to the geographical indication PISCO, exclusively for Peru, that falls within the scope of protection established in Article 22 of the TRIPS Agreement[3].

3. Chilean geographical indications for wines are established by Decree 464 of the Ministry of Agriculture of December 14, 1994, and its amendments, and by the Law 18.455.

[3] For the purposes of paragraph 1 and 2, this Article does not affect the competence of the Court and legal authority established under the Malaysian Geographical Indication Act 2000.