

## **Annex 10-C**

### **Special Dispute Settlement Provisions**

#### **Chile**

1. Where a claimant submits a claim alleging that Chile has breached an obligation under Section A, other than Article 10.3, that arises from its imposition of restrictive measures with regard to payments and transfers, Section B shall apply except as modified below:

(a) A claimant may submit any such claim only after one year has elapsed since the events giving rise to the claim;

(b) If the claim is submitted under Article 10.15(1)(b), the claimant may, on behalf of the enterprise, only seek damages with respect to the shares of the enterprise for which the claimant has a beneficial interest;

(c) Loss or damages arising from restrictive measures on capital inflows shall be limited to the reduction in value of the transfers and shall exclude loss of profits or business and any similar consequential or incidental damages;

(d) Paragraph 1(a) shall not apply to claims that arise from restrictions on:

(i) transfers of proceeds of foreign direct investment by investors of the United States, excluding external debt financing covered in subparagraph (d)

(ii), and excluding investments designed with the purpose of gaining direct or indirect access to the financial market; or (ii) payments pursuant to a loan or bond issued in a foreign market, including inter- and intra-company debt financing between affiliated enterprises made exclusively for the conduct, operation, management, or expansion of such affiliated enterprises, provided that these payments are made in accordance with the maturity date agreed on in the loan or bond agreement;

(e) Excluding restrictive measures referred to in paragraph 1(d), Chile shall incur no liability, and shall not be subject to claims, for damages arising from its imposition of restrictive measures with regard to payments and transfers that were incurred within one year from the date on which the restrictions were imposed, provided that such restrictive measures do not substantially impede transfers;

(f) A restrictive measure of Chile with regard to payments and transfers that is consistent with this Annex shall be deemed not to contravene Article 10.2 provided that, as required under existing Chilean law, it does not discriminate among investors that enter into transactions of the same nature; and

(g) Claims arising from Chile's imposition of restrictive measures with regard to payments and transfers shall not be subject to Article 10.24 unless Chile consents.

2. The United States may not request the establishment of an arbitral panel under Chapter Twenty-Two (Dispute Settlement) relating to Chile's imposition of restrictive measures with regard to payments and transfers until one year has elapsed since the events giving rise to the dispute.

3. Restrictive measures on payments and transfers related to claims under this Annex shall otherwise be subject to applicable domestic law.