

## CHAPTER 26

### TRADE AND SUSTAINABLE DEVELOPMENT

#### Section 1 Common provisions

##### Article 26.1 Objectives

1. The Parties recall the Agenda 21 on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the ILO Declaration on Social Justice for a Fair Globalisation of 2008, the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want" and the UN 2030 Agenda for Sustainable Development of 2015 and its Sustainable Development Goals.
2. The Parties recognise that sustainable development encompasses economic development, social development and environmental protection, all three being inter-dependent and mutually reinforcing, for the welfare of present and future generations.
3. In light of the above, the objective of this Chapter is to enhance the development of the Parties' trade and investment relationship in a way that contributes to sustainable development, notably its labour<sup>1</sup> and environmental dimensions—relevant to trade and investment.
4. The Parties agree that this Chapter embodies a cooperative approach based on common values and interests.

##### Article 26.2 Right to Regulate and Levels of Protection

1. The Parties recognise the right of each party to determine its sustainable development policies and priorities, to establish its own levels of domestic labour and environmental protection and its own labour and environmental priorities, and to adopt or modify its law related to labour and environment and policies accordingly.
2. Such levels, law and policies, referred to in paragraph 1, shall be consistent with each Party's commitment to the multilateral environmental agreements and multilateral labour standards and agreements, to which a Party is a party, referred to in this Chapter.
3. Each Party shall strive to ensure that its environmental and labour laws and policies provide for and encourage a high level of environmental and labour protection and shall

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<sup>1</sup> For the purposes of this chapter, the term "labour" means the strategic objectives of the ILO under the Decent Work Agenda, which is expressed in the ILO 2008 Declaration on Social Justice for a Fair Globalisation.

strive to continue improving its respective levels of environmental and labour protection provided in their laws and policies.

4. A Party shall not weaken or reduce the levels of protection afforded in their respective domestic environmental and labour laws in order to encourage trade or investment.

5. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental and labour laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment.

6. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environment and labour laws in a manner affecting trade or investment.

7. Each Party retains the right to exercise reasonable discretion and to make bona fide decisions with regard to the allocation of enforcement resources in accordance with priorities for enforcement of its environmental and labour laws.

8. A Party shall not apply its environmental and labour laws and regulations in a manner which would constitute a disguised restriction on trade or investment.

### Article 26.3

#### Trade and Responsible Business Conduct and Supply Chain Management

1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct or corporate social responsibility practices and the role of trade in pursuing this objective.

2. Pursuant to para 1, each Party shall:

(a) promote responsible business conduct or corporate social responsibility by encouraging the uptake of relevant practices by businesses that are consistent with internationally recognized principles, standards and guidelines, including sectorial guidelines of due diligence, that have been endorsed or are supported by that Party.

(b) support the dissemination and use of relevant international instruments, that have been endorsed or are supported by that Party, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.

3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility / responsible business conduct and shall promote joint work in this regard. The Parties shall also implement measures to promote the uptake of OECD Due Diligence Guidelines.

4. The Parties recognise the importance to promote trade in goods contributing to enhanced social conditions and environmentally sound practices, such as environmental goods and services contributing to a resource-efficient, low-carbon economy, goods whose production is not linked to deforestation, or goods that are the subject of voluntary sustainability assurance schemes and mechanisms.

5. The Parties shall exchange information as well as best practices and, as appropriate, cooperate bilaterally, regionally and in international fora on issues covered by this article.

#### Article 26.4

##### Scientific and technical information

1. When establishing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, each Party shall take into account available scientific and technical evidence, [preferably / in first instance] from recognized technical and scientific bodies, as well as relevant international standards, guidelines or recommendations, where they exist.

2. In cases when scientific evidence or information is insufficient or inconclusive and there is a risk of serious environmental degradation or to occupational health and safety in its territory, a Party may adopt measures based on the precautionary principle. Such measures shall be subject to review when new or additional scientific information becomes available.

3. When a measure adopted in accordance with the above paragraph has an impact on trade or investment between the Parties, a Party may request to the Party adopting the measure to provide information indicating that the measure adopted is consistent with its own level of protection, and may request discussion of the matter in the TSD Sub-Committee.

4. Such measures shall not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

#### Article 26.5

##### Transparency and Good Regulatory Practices

The Parties recognize the importance of application of the rules on transparency and good regulatory practices in accordance with Chapters 28 [Transparency] and 29 [Good Regulatory Practices], in particular the opportunities for interested persons and stakeholders to submit views, to:

a) measures aimed at protecting the environment and labour conditions that may affect trade or investment, and

b) trade or investment measures that may affect the protection of the environment or labour conditions.

## Article 26.6

### Public Awareness, Information, Participation and Procedural Guarantees

1. Each Party shall promote public awareness of its labour and environmental laws, including by ensuring that its labour and environmental laws and enforcement and compliance procedures are publicly available.
2. Each Party shall seek to accommodate requests for information regarding the Party's implementation of this Chapter.
3. Each Party shall make use of consultative mechanisms referred to in [*Title 1. Institutional Framework, Article X Participation of civil society, Article X bis Domestic Consultative Groups and Article X ter Civil Society Forum*], to seek views on matters related to the implementation of this Chapter.
4. Each Party shall provide for the receipt and give due consideration to communications and opinions by written submissions from a person of that Party on matters related to the implementation of this Chapter in accordance with domestic procedures. Each Party shall respond in a timely manner to such submissions in writing. It may inform the civil society mechanism established under article XX of this Agreement of such communications as well as the Contact Point of the other Party.
5. Pursuant to Article 26.2 *Right to Regulate and Levels of Protection*, each Party shall, in accordance with its domestic law, ensure that administrative or judicial proceedings are available to persons with a legally recognised interest in a particular matter or who maintain that a right is infringed under its law, in order to permit action against infringements of its environmental or labour laws, including appropriate remedies for violations of such law.
6. Each Party shall, in accordance with its domestic law, ensure that the proceedings referred to in paragraph 5 comply with due process, are not prohibitively costly, do not entail unreasonable time limits or unwarranted delays, provide injunctive relief if appropriate, and are fair, equitable and transparent.

## Article 26.7

### Cooperation Activities

1. The Parties recognise the importance of cooperation activities on trade-related aspects of environmental and labour policies in order to achieve the objectives of this Agreement and implement this Chapter.
2. Cooperation activities can be developed and implemented with the participation of international and regional organisations as well as with third countries, businesses, employers' and workers' organizations, education and research organizations, other non-governmental organizations, as appropriate.
3. Cooperation activities shall be carried out on issues and topics agreed upon by the Parties to address the matters of common interest.
4. The Parties may cooperate on issues as specified throughout this chapter as well as, *inter alia*:
  - (a) labour and environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the UN High-level Political Forum for Sustainable Development, UN Environment, the ILO and MEAs;

- (b) the impact of labour and environmental law and standards on trade and investment;
  - (c) the impact of trade and investment law on labour and the environment;  
and trade-related aspects of:
  - (d) initiatives on sustainable consumption and production, including those aimed at promoting a circular economy and green growth and pollution abatement
  - (e) initiatives to promote environmental goods and services, including by addressing related non-tariff barriers
5. The priorities for cooperation activities will be decided jointly by the Parties based on areas of mutual interest and available resources.
  6. The Parties may carry out activities in the cooperation areas set out in this Chapter in person or by any technological means available to the Parties.

## Section 2 Environment and Trade

### Article 26.8 Objectives

1. The Parties aim to promote mutually supportive trade and environmental policies; promote high levels of environmental protection in line with multilateral environmental agreements to which they are a Party respectively and effective enforcement of their respective environmental laws; and enhance their capacities to address trade-related environmental issues, including through cooperation.
2. The Parties recognise that enhanced cooperation to protect and conserve the environment and sustainably manage their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance and complement the objectives of this Agreement.

The Parties recognize the importance of mutually supportive trade and environmental policies and practices to improve environmental protection in the furtherance of sustainable development.

### Article 26.9 Multilateral Environmental Governance and Agreements

1. The Parties recognise the importance of the United Nations Environment Assembly (UNEA) of the United Nations Environment Programme (UNEP). The Parties recognise the critical role of multilateral environmental agreements in addressing global, regional, and domestic environmental challenges. The Parties further recognise the need to enhance the mutual supportiveness between trade and environmental policies. Accordingly, each Party

shall effectively implement the multilateral environmental agreements (MEAs) and protocols to which it is a party.

2. The Parties recognize the right of each Party to adopt or maintain measures to further the objectives of MEAs to which it is a party.

3. The Parties shall engage in dialogue and cooperate, as appropriate, on trade and environmental issues of mutual interest, particularly with respect to multilateral environmental agreements. This will include regular exchanges of information on each Party's initiatives regarding the ratifications of MEAs, including their protocols and amendments.

#### Article 26.10 Trade and Climate Change

1. The Parties recognise the importance of multilateral environmental agreements in the area of climate change, in particular the need to achieve the objective of the United Nations Framework Convention on Climate Change (UNFCCC) and the purpose and goals of the Paris Agreement adopted by the Conference of the Parties to the UNFCCC at its 21st session, in order to address the urgent threat of climate change. Accordingly, the Parties recognise the role of trade to achieve the goal of sustainable development and to address climate change, as well as the importance of individual and collective efforts to address climate change impacts through mitigation and adaptation actions.

2. Pursuant to paragraph 1, each Party shall:

(a) effectively implement the UNFCCC and the Paris Agreement adopted thereunder including its commitments with regard to its Nationally Determined Contribution.

(b) promote the positive contribution of trade to the transition to a low greenhouse gas emission and circular economy and to climate-resilient development, including actions on climate change mitigation and adaptation.

(c) facilitate and promote trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, for sustainable renewable energy, and for energy efficiency, in a manner consistent with other provisions of this Agreement.

3. Consistent with Article 26.7 [Cooperation Activities], the Parties shall cooperate as appropriate on trade-related aspects of climate change, bilaterally, regionally and in international fora, including in the UNFCCC, the WTO and the Montreal Protocol on Substances that Deplete the Ozone Layer. Furthermore, the Parties may cooperate as appropriate on these issues also in the International Maritime Organization.

4. Pursuant to paragraph 1, the Parties shall cooperate in areas such as:

(a) exchanging knowledge and experience regarding the implementation of the Paris Agreement, as well as on initiatives to promote climate resilience, renewable energy, low emission technologies, energy efficiency, carbon pricing, sustainable transport, sustainable and climate-resilient infrastructure development, emissions monitoring, and nature-based solutions; as well as explore options to cooperate in areas such as short-life climate pollutants and soil carbon sequestration.

(b) exchanging knowledge and experience regarding an ambitious phase-out of ozone depleting substances (ODS) and the phase-down of hydrofluorocarbons (HFCs) under the Montreal Protocol through measures to control their production, consumption and trade, the introduction of environmentally friendly alternatives to them, updating of safety and other relevant standards, combating the illegal trade of substances regulated by the Protocol, as appropriate.

Article 26.11  
Trade and forests

1. The Parties recognise the importance of sustainable forest management and the role of trade in pursuing this objective.

2. Pursuant to paragraph 1, each Party shall:

(a) implement measures to combat illegal logging and related trade, including through cooperation activities with third countries as appropriate;

(b) encourage the conservation and sustainable management of forests;

(c) promote trade and consumption of timber and timber products, which are legally obtained from sustainably managed forests;

(d) exchange information and, as appropriate, cooperate with the other Party on trade-related initiatives on combatting illegal logging, sustainable forest management, deforestation and forest degradation, forest governance and/or on the conservation of forest cover to maximise the impact and mutual supportiveness of their respective policies of common interest.

3. Recognising that forests and their sustainable management have a key role in combatting climate change and maintaining biodiversity, each Party shall promote initiatives addressing deforestation, including through deforestation-free supply chains. Additionally, the Parties shall cooperate, as appropriate and consistent with Article 26.7 [Cooperation Activities], bilaterally, regionally and in relevant international fora, to minimise deforestation and forest degradation worldwide.

Article 26.12  
Trade and Wild Flora and Fauna

1. The Parties recognize the importance of ensuring international trade of wild fauna and flora does not threaten their survival, as set out in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

2. Pursuant to paragraph 1, each Party shall:

(a) implement effective measures to combat illegal trade in wild flora and fauna, including through cooperation activities with third countries as appropriate;

(b) promote the long-term conservation and sustainable use of CITES listed species, including by cooperating in the relevant CITES bodies to keep the Appendices to the CITES up to date and promoting the inclusion of species considered at risk because of international trade and other criteria established under CITES.

3. Consistent with Article 26.7 [Cooperation Activities], the Parties may, as appropriate, cooperate or exchange information bilaterally, regionally and in international fora on issues of mutual interest related to tackling illegal trade in wild flora and fauna, including through raising awareness to reduce demand for illegal wildlife products and initiatives to enhance cooperation on information sharing and enforcement.

#### Article 26.13 Trade and Biological Diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity and the role of trade in pursuing these objectives, consistent with the Convention on Biological Diversity (CBD), other relevant multilateral environmental agreements to which they are a party, and the decisions adopted thereunder.

2. Pursuant to paragraph 1, each Party shall take measures to conserve biological diversity when it is subject to pressures linked to trade and investment, including through the exchange of information and experience, and measures to prevent the spread of invasive alien species, recognizing that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health;

3. The Parties recognise the importance of respecting, preserving and maintaining knowledge and practices of indigenous and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity, and the role of international trade therein.

4. The Parties recognise the importance of facilitating access to genetic resources and of promoting the fair and equitable sharing of benefits arising from the use of genetic resources, consistent with their respective domestic measures and each Party's international obligations.

5. The Parties also recognise the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures concerning the conservation and sustainable use of biological diversity.

6. Consistent with Article 26.7 [Cooperation Activities], the Parties may, as appropriate, promote, cooperate or exchange information bilaterally, regionally and in international fora on trade-related aspects of biological diversity policies and measures of mutual interest, such as:

(a) initiatives and good practices concerning trade in natural resource-based products obtained through a sustainable use of biological resources and contributing to the conservation of biodiversity;

(b) the conservation and sustainable use of biological diversity, the protection, restoration and valuation of ecosystems and their services and related economic instruments;

(c) access to genetic resources and the fair and equitable sharing of benefits from their utilisation.



## Article 26.14

### Trade and Sustainable Management of Fisheries and Aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems, and the role of trade in pursuing these objectives.
2. While developing and implementing conservation and management measures, the Parties shall take into consideration social, trade, developmental and environmental concerns and the importance of artisanal or small scale fisheries to the livelihoods of local fishing communities.
3. The Parties acknowledge that illegal, unreported and unregulated (IUU) fishing<sup>2</sup> can have significant negative impacts on fishery stocks, sustainability of trade in fisheries products, development and the environment and confirm the need for action to address the problems of overfishing and unsustainable utilization of fisheries resources.
4. Pursuant to paragraphs 1 to 3, each Party shall:
  - 4.1 implement and act consistent with the principles of the UN Convention on the Law of the Sea, the UN Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, the FAO Code of Conduct for Responsible Fisheries, the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) fishing;
  - 4.2 participate in the FAO's initiative on the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels;
  - 4.3 seek to operate a fisheries management system that shall be based on the best scientific evidence available and on internationally recognized best practices for fisheries management and conservation as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species<sup>3</sup> and that is designed, inter alia, to:
    - (a) prevent overfishing and overcapacity;
    - (b) reduce bycatch of non-target species; and
    - (c) promote the recovery of overfished stocks for all marine fisheries;

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<sup>2</sup> The term "illegal, unreported and unregulated fishing" is to be understood to have the same meaning as paragraph 3 of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (2001 IUU Fishing Plan of Action) of the UN Food and Agricultural Organisation (FAO), adopted in Rome, 2001.

<sup>3</sup> These instruments include, among others, and as they may apply, UNCLOS, the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, done at New York, December 4, 1995 (UN Fish Stocks Agreement), the FAO Code of Conduct for Responsible Fisheries, the 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, (Compliance Agreement) done at Rome, November 24, 1993, the 2001 IUU Fishing Plan of Action, and the 2009 FAO Agreement on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing, done at Rome, November 22, 2009.

(d) promote fisheries management with an ecosystem approach, including through cooperation among the Parties.

4.4 in support of efforts to combat illegal, unreported and unregulated (IUU) fishing practices and to help deter trade in products from species harvested from those practices:

(a) implement effective measures to combat IUU fishing.

(b) ensure the use of monitoring, control, surveillance, compliance and enforcement systems, to:

(i) prevent and deter vessels that are flying its flag and its nationals from engaging in IUU fishing activities according to its international obligations and its law; and

(ii) address the transshipment at sea of fish or fish products to deter and avoid IUU fishing activities;

(c) implement port State measures;

(d) implement measures to prevent that IUU fish and fish products from entering in each Party's supply chains and to cooperate to this end, including by facilitating the exchange of information;

4.5 Participate actively in the work of the Regional Fisheries Management Organisations (RFMOs) to which they are members, observers, or cooperating non-contracting parties, with the aim of achieving good fisheries governance and sustainable fisheries, such as through the promotion of scientific research and the adoption of conservation measures based on best scientific evidence available the strengthening of compliance mechanisms, the undertaking of periodical performance reviews and the adoption of effective control, monitoring and enforcement of the RFMOs' management measures and, where applicable, the adoption and implementation of Catch Documentation or Certification Schemes and port state measures;

4.6 Strive to act consistently with relevant conservation and management measures adopted by Regional Fisheries Management Organizations of which it is not a member so as not to undermine those measures and endeavour not to undermine catch or trade documentation schemes operated by Regional Fisheries Management Organizations or Arrangements of which it is not a member;

4.7 Promote the development of sustainable and responsible aquaculture, taking into account its economic, social and environmental aspects, according to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries.

5. The Parties shall cooperate, as appropriate and consistent with Article 26.7 [Cooperation Activities], bilaterally and within RFMOs with the aim of promoting sustainable fishing practices and trade in fish products from sustainably managed fisheries. Additionally, the Parties may cooperate to exchange knowledge and good practices to support the implementation of this Article.

Section 3  
Labour and Trade

Article 26.15  
Labour Provisions Objectives

1. The Parties recognise that trade and investment provides opportunities for job creation and decent work, including for young people, with terms and conditions of employment that adhere to the principles in International Labor Organization Declaration of Fundamental Principles and Rights at Work and its Follow-Up (1998) and the ILO Declaration on Social Justice for a Fair Globalization of 2008;
2. The Parties aim to ensure high levels of labour protection in line with international labour standards they adhere to and to promote mutually supportive trade and labour policies with a view to improve the working conditions and quality of work life amongst employees. They will strive to improve the development and management of human capital for enhanced employability, business excellence, and greater productivity for the benefit of both the workers and enterprise. Accordingly, the Parties endeavor to provide opportunities for young people to develop skills to successfully access and remain in the labour market.
3. The Parties aim to cooperate on trade-related labour issues of mutual interest in order to strengthen the broader relationship between the Parties.

Article 26.16  
Multilateral Labour Standards and Agreements

1. The Parties affirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, in particular women, young people and persons with disabilities, in line with their respective obligations under the ILO, including those stated in ILO Declarations of 1998 and 2008.
2. Recalling the ILO Declaration on Social Justice for a Fair Globalisation of 2008, the Parties note that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes.
3. Each Party shall effectively implement the ILO Conventions ratified by Chile and the Member States of the European Union respectively.
4. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, each Party shall respect, promote and effectively implement the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are:
  - a) freedom of association and the effective recognition of the right to collective bargaining;

- b) the elimination of all forms of forced or compulsory labour;
- c) the effective abolition of child labour and a prohibition on the worst forms of child labour; and
- d) the elimination of discrimination in respect of employment and occupation.

5. The Parties shall regularly exchange information on their respective progress with regard to the ratification of ILO Conventions or protocols that are classified as up-to-date by the ILO and to which they are not yet party.

6. Each Party shall promote the Decent Work Agenda as set out in the Declaration on Social Justice for a Fair Globalization of 2008 adopted by the International Labour Conference at its 97th Session, in particular with regard to:

a) decent working conditions for all, with regard to, *inter alia*, wages and earnings, working hours, other conditions of work and social protection;

b) social dialogue on labour matters among workers and employers and their respective organizations, and with relevant government authorities.

7. Consistent with its commitments under the ILO, each Party shall:

a) adopt and implement measures and policies regarding occupational health and safety;

b) maintain labour inspection system, in accordance with the relevant ILO standards on labour inspection.

#### Article 26.17

##### Forced or Compulsory Labour

1. Recalling that among the objectives of the Agenda 2030 is the elimination of forced labour, the Parties underline the importance of ratification and the effective implementation of the 2014 Protocol to the Forced Labour Convention.

2. The Parties recognize the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour.

3. Consequently, the Parties agree to identify opportunities for cooperation sharing information, experiences and good practices related to this matter.

#### Article 26.18

##### Cooperation on trade and labour issues

1. Consistent with Article 26.7 [Cooperation Activities], the Parties shall consult and cooperate, as appropriate, bilaterally and in the context of the ILO, on trade-related labour issues of mutual interest, including, but not limited to:

- (a) job creation and the promotion of productive, quality employment, including policies to generate job-rich growth and promote sustainable enterprises and entrepreneurship;
- (b) promotion of improvements in business and labour productivity, particularly in respect of SMEs;
- (c) human capital development, access to labour market and the enhancement of employability, in particular of young people, including through lifelong learning and vocational training, continuous education, training and the development and upgrading of skills, including in emerging and environmental industries;
- (d) work-life balance and innovative workplace practices to enhance workers' well-being;
- (e) promotion of the awareness of the ILO Decent Work Agenda, including on the inter-linkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue and gender equality;
- (f) promotion of decent quality jobs through trade, including the safety and health at work of pregnant workers and workers who have recently given birth;
- (g) occupational safety and health and labour inspection, for example, improving compliance and enforcement mechanisms;
- (h) addressing the challenges and opportunities of a diverse, multigenerational workforce, including:
  - (i) promotion of equality and elimination of discrimination in respect of employment and occupation;
  - (ii) protection of vulnerable workers;
- (i) improving labour relations, for example, best practice in alternative dispute resolution and tripartite consultation;
- (j) the implementation of fundamental, priority and other up-to-date ILO Conventions, as well as the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policies, and the United Nation Guiding Principles on Business and Human Rights;
- (k) labour statistics.

#### Section 4 Institutional arrangements

##### Article 26.19

#### Sub-Committee on Trade and Sustainable Development and Contact Points

1. The Sub-Committee on Trade and Sustainable Development established by Article X.4 (Sub-Committees of part III of this Agreement) shall meet within a year of the date of entry into force of this Agreement, unless otherwise agreed by the Parties, and thereafter as

necessary in accordance with Article X.X (Sub-Committees and Other Bodies) of this Agreement. Meetings may be conducted in person or by any technological means available to the Parties.

For Chile, the Sub-Committee shall comprise senior officials or other level from the institutions responsible for trade, labour, environment and gender issues.

2. The Sub-Committee shall have specific sessions for environment and labour matters<sup>4</sup>, respectively, as well as cross-cutting issues related to trade and sustainable development.

3. The functions of the Sub-Committee are to:

- (a) facilitate, monitor and review the implementation of this Chapter;
- (b) determine, organize, oversee and assess the cooperation activities of this Chapter, including exchange of information and experience on areas of mutual interest;
- (c) report and make recommendations to the Trade Committee on any matter related to this Chapter, including with regard to topics for discussion with ... [*the civil society mechanisms*] referred to in Article ... of Chapter ... ;
- (d) carry out the tasks referred to in Articles 26.21 [Consultations] and 26.22 [Panel of Experts];
- (e) coordinate with other Sub-Committees established under this Agreement as appropriate, including the efforts referred to in Article 27.4, paragraph 8 of the chapter on Trade and Gender Equality;
- (f) carry out any other functions as the Parties may agree.

4. The Sub-Committee, as mutually agreed, may consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.

All recommendations of the Sub-Committee shall be adopted by consensus.

5. The Sub-Committee shall publish a report, made by consensus, on its meeting after each of its meetings.

6. Each Party shall designate a contact point within its administration to facilitate communication and coordination between the Parties on any matter relating to the implementation of this Chapter. In the case of Chile, specific contact points for labour, environmental [and gender] matters shall be within its Undersecretariat of International Economic Relations of the Ministry of Foreign Affairs or its successor. Each Party shall promptly notify the other Party its contact point (s) and provide their contact information.

7. The contact point(s) shall:

- (a) facilitate regular communication and coordination between the Parties,
- (b) assist the Sub-Committee;
- (c) communicate with its domestic civil society, as appropriate;
- (d) work together, including with other appropriate bodies of their administrations, to develop and implement cooperative activities.

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<sup>4</sup> It could be done through consecutive sessions within the Trade and Sustainable Development Sub-Committee or as an isolated session.

Article 26.20  
Dispute resolution

1. The Parties shall make all possible efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement between the Parties regarding the interpretation or application of this Chapter.
2. In case of a disagreement between the Parties regarding the interpretation or application of this Chapter, the Parties shall have recourse exclusively to the dispute resolution procedures established under Articles 26.21 [Consultations] and 26.22 [Panel of Experts]. [The provisions of this Chapter shall not be subject to the dispute resolution procedures under Chapter [Dispute Settlement]].

Article 26.21  
Consultations

1. A Party (requesting Party) may, at any time, request consultations with the other Party (responding Party) regarding any matter arising in regard to the interpretation or application of this Chapter by delivering a written request to the responding Party's contact point. The request shall set out the reasons for requesting consultations, including a sufficiently specific description of the matter at issue and its relation to the provisions of this Chapter.
2. The responding Party shall, unless agreed otherwise with the requesting Party, reply in writing no later than ten days after the date of its receipt.
3. The Parties shall begin, unless they agree otherwise, consultations no later than 30 days after the date of receipt by the responding Party of the request.
4. The consultations may be held in person or by any technological means available to the Parties. If consultations are held in person, they shall be held in the territory of the responding Party, unless the Parties agree otherwise.
5. In the consultations:
  - a. the Parties shall provide sufficient information to enable a full examination of the matter; and
  - b. the Parties shall treat any information exchanged in the course of the consultations confidentially.
6. The Parties shall enter into consultations with the aim of reaching a mutually satisfactory resolution of the matter, taking into account opportunities for cooperation related to the matter. In matters related to the multilateral agreements referred to in this Chapter, the Parties shall consider information from the ILO or relevant bodies established under those agreements. Where relevant, the Parties may agree to seek advice from such organisations or bodies, or any other expert or body they deem appropriate to assist them in the consultations.
7. If the Parties are unable to resolve the matter in accordance with paragraphs 3 to 6 within 60 days from the request for consultations pursuant to paragraph 1, each Party may, by delivering a written request to the contact point of the other Party, request that the Sub-Committee on Trade and Sustainable Development be convened to consider the matter. The

Sub-Committee on Trade and Sustainable Development shall convene promptly and endeavour to agree on a resolution of the matter.

8. Each Party or the Sub-Committee on Trade and Sustainable Development seized pursuant to Article 22.7 may, if appropriate, seek the views of the ... [*domestic civil society bodies set up under the Agreement*] referred to in Article ... of Chapter ... or other expert advice.

9. If the Parties are able to resolve the matter, they shall document any outcome including, if appropriate, specific steps and timelines agreed upon. The Parties shall make the outcome available to the public, unless they agree otherwise.

#### Article 26.22 Panel of Experts

1. If, within 60 days of the delivery of a written request under Article 26.21 paragraph 7 for consideration of a matter by the Sub-Committee on Trade and Sustainable Development or, if no such request is made, within 120 days of the delivery of a written request for consultations under Article 26.21 paragraph 1, no mutually satisfactory resolution has been reached, a Party may request the establishment of a Panel of Experts to examine the matter.

Any such request shall be made in writing to the contact point of the other Party established in accordance with Article 26.19 paragraph 7. The request shall identify the reasons for requesting the establishment of a Panel of Experts, including a description of the matter at issue, and explain how that matter constitutes a breach of the covered provision(s) of this Chapter that it considers applicable.

2. Except as otherwise provided for in this Article, Articles X.5 [*Establishment of a panel*], X.8 [*Functions of the Panel*], paragraph 6 of X.11 [*Interim and Panel Report*], paragraph 1 of X.13 [*Compliance Measures*], X.14 [*Reasonable Period of Time*], X.18 [*Replacement of Panellists*], paragraph 2 of X.19 [*Rules of Procedure*], X.20 [*Suspension and Termination*], [X.21 [*Receipt of information*],] X.23 [*Reports and Decisions of the Panel*], X.32 [*Mutually Agreed Solution*], X.33 [*Time Periods*], X.34 [*Costs*], X.35 [*Annexes*] of Chapter X [*Dispute Settlement*],—as well as the Rules of Procedure in Annex ... and the Code of Conduct in Annex ... to Chapter ... [*Dispute Settlement*], shall apply *mutatis mutandis*.

3. The TSD Sub-Committee shall, at its first meeting after the entry into force of this Agreement, recommend to the Trade Committee the establishment of at least 15 individuals who are willing and able to serve on the Panel of Experts. The list shall be composed of three sub-lists: one sub-list for each Party and one sub-list of individuals that are not nationals of either Party and who may serve as chairperson to the Panel of Experts. Each Party shall propose at least five individuals for its sub-list. The Parties shall also select at least five individuals for the list of chairpersons. The TSD Sub-Committee shall ensure that the list is kept up to date and that the number of experts is maintained at least at 15 individuals.

4. The individuals referred to in paragraph 3 shall have specialised knowledge of or expertise in labour or environmental law, issues addressed in this Chapter, or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to issues related to the disagreement, or be affiliated with the government of any Party, and shall comply with Annex ... [*Code of Conduct*] to Chapter ... [*Dispute Settlement*].

5. If the Panel of Experts is composed according to the procedures set out in paragraphs 3 and



4 of Article X.5 [*composition of arbitration panel*] of Chapter ... [*Dispute Settlement*], the experts shall be selected from the relevant individuals on the sub-lists referred to in paragraph 3 of this Article.

6. Unless the Parties agree otherwise within [five] days from the date of establishment of the Panel of Experts, as defined in paragraph 5 of Article X.5 [*establishment of the arbitration panel*] [*Dispute Settlement*], the terms of reference shall be:

"to examine, in the light of the relevant provisions of the Trade and Sustainable Development Chapter of the EU-Chile Association Agreement, the matter referred to in the request for the establishment of the Panel of Experts, and to issue a report, in accordance with Article 22 [*Panel of Experts*] of Chapter 26 [*Trade and Sustainable Development*], with its findings and recommendations for the resolution of the matter".

7. With regard to matters related to multilateral agreements referred to in this Chapter, the panel of experts should seek information from the ILO or relevant bodies established under those agreements, including any pertinent available interpretative guidance, findings or decisions adopted by the ILO and those bodies. Any such information shall be provided to both Parties for their comments.

8. The Panel of Experts shall interpret the provisions of this Chapter in accordance with the customary rules of interpretation of public international law, including those codified in the 1969 Vienna Convention on the Law of Treaties.

9. The panel of experts shall issue to the Parties an interim report and a final report setting out the findings of facts, the applicability of the relevant provisions and the rationale behind any findings, conclusions and the recommendations it makes.

10. The panel of experts shall deliver to the Parties the interim report within 100 days after the date of establishment of the panel of experts. When the panel of experts considers that this deadline cannot be met, the chairperson of the panel of experts shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its interim report. The time limits set out in this paragraph may be extended by mutual agreement of the Parties.

11. Each Party may deliver to the panel of experts a reasoned request to review particular aspects of the interim report within 25 days of its delivery. A Party may comment on the other Party's request within 15 days of the delivery of the request.

12. After considering those comments, the panel of experts shall prepare the final report. If no request to review particular aspects of the interim report is delivered within the time period referred to in paragraph 11, the interim report shall become the final report of the panel of experts.

13. The panel of experts shall deliver its final report to the Parties within 175 days of the date of establishment of the panel of experts. When the panel of experts considers that this time limit cannot be met, its chairperson shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel of experts plans to deliver its final report. The time limits set out in this paragraph may be extended by mutual agreement of the Parties.

14. The final report shall include a discussion of any written request by the Parties on the interim report and clearly address the comments of the Parties.

15. The Parties shall make the final report available to the public within 15 days of its delivery by the panel of experts.

16. If the Panel of Experts finds in the final report that a Party has not conformed with its obligations under this Chapter, the Parties shall discuss appropriate measures to be implemented taking into account the report and recommendations of the Panel of Experts. The responding Party shall inform its ... [*domestic civil society mechanism set up under the Agreement*] referred to in Article ... of Chapter ... and the other Party of its decisions on any actions or measures to be implemented no later than three months after the report has been made publicly available.

17. The TSD Sub-Committee shall monitor the follow-up to the report of the Panel of Experts and its recommendations. The ... [*civil society mechanisms set up under the Agreement*] referred to in Article(s) ... of Chapter ... may submit observations to the [*body*] in this regard.

#### Article 26.23

##### Review

1. For the purpose of enhancing the achievement of the objectives of this Chapter, the Parties shall discuss through the meetings of the Trade and Sustainable Development Sub-Committee its effective implementation, taking into account, inter alia, major policy developments in each Party and developments in international agreements.

2. Taking into account the outcome of such discussions, any Party may request the review of the provisions of this Chapter at any time after the date of entry into force of this Agreement. For this purpose, the Trade and Sustainable Development Sub-Committee may recommend to the Parties modifications to the relevant provisions of this Chapter, in accordance with the amendment procedure established in Article X [Amendments].