



EUROPEAN FREE TRADE ASSOCIATION

MODERNISATION OF THE EFTA–CHILE FREE TRADE AGREEMENT

CONCLUSION OF NEGOTIATIONS

Note by the EFTA Secretariat

On 19 January 2024, Member States of the European Free Trade Association (Iceland, Liechtenstein, Norway and Switzerland) and Chile concluded negotiations on the modernisation of the existing EFTA–Chile Free Trade Agreement (FTA).

Summary

The EFTA States signed an FTA with Chile in Kristiansand, Norway, on 26 June 2003. The Agreement entered into force on 1 December 2004. With the modernisation, the FTA is upgraded to an ambitious and broad-based Agreement, updating trade in goods, trade in services including financial services, intellectual property rights (IPR) and government procurement. The modernised FTA will further include new chapters on trade and sustainable development and digital trade and, for the first time, a chapter on small and medium-sized enterprises (SMEs).

Bilateral EFTA–Chile merchandise trade reached almost EUR 847 million in 2022. EFTA's main exports to Chile were pharmaceutical products, machinery and mechanical appliances, ships, boats and floating structures, precision instruments (optical, medical, surgical) and watches. For the same year, imports from Chile consisted mainly of chemicals, fruits and nuts, fats and oils, beverages and spirits, and animal feed.

Content of the Modernised FTA

The modernised FTA integrates new areas such as digital trade and provisions on small and medium-sized enterprises, and a state-of-the-art trade and sustainable development chapter, while also advancing EFTA's traditional trade interests. The areas of modernisation are the following:

- Preamble
- Trade in Goods: non-agricultural products including fish and marine products, and agricultural products
- Rules of Origin, Trade Facilitation and Customs Cooperation
- Sanitary and Phytosanitary Measures and Technical Barriers to Trade
- Global Safeguard Measures
- Trade in Services (including Financial Services)
- Digital Trade
- Intellectual Property Rights
- Government Procurement
- Small and Medium-Sized Enterprises
- Trade and Sustainable Development

Preamble

The Preamble to the EFTA–Chile FTA sets out the framework for trade relations between the EFTA States and Chile by reflecting common principles such as their commitment to democracy, the rule of law, human rights and fundamental freedoms. The updates pertain mainly to the new chapter on trade and sustainable development, and include environmental protection, the combat against corruption, good corporate governance and corporate social responsibility, and the Parties' rights and obligations under multilateral environmental agreements.

Trade in Goods

I. Industrial Products

With the entry into force of the modernised Agreement, the EFTA States will continue to eliminate all customs duties on imports of industrial products, including fish and other marine products, originating in Chile as per the existing FTA. In the modernised Agreement, Chile will reciprocally eliminate the remaining customs duties on industrial products originating in an EFTA State. The modernised Agreement will thus lead to the elimination of duties on all industrial goods, including goods currently exported to Chile by EFTA companies, such as machines, precision instruments, chemical products and vaccines for veterinary use.

II. Agricultural Products

For agricultural products, the individual EFTA States (Switzerland and Liechtenstein together through their customs union) and Chile provide improved market access based on specific trade interests and respective sensitivities related to domestic production. The modernised Agreement provides for meaningful tariff concessions on both basic and processed agricultural products: it will provide duty-free access to 99% of existing agricultural imports into Chile from the EFTA States and cover 95% of Chilean imports into the EFTA States.

Among the EFTA States' agricultural exports that will newly benefit from the Agreement through tariff elimination are dairy products including cheese, feeding stuffs, chocolate, sweets and confectionery, cigarettes, horses and non-alcoholic beverages. Regarding wine, Switzerland will provide Chile with a bilateral duty-free quota of 15 000 hectolitres for red wine, while Norway and Iceland will continue to provide duty-free access.

Rules of Origin

The updated Agreement provides for modern and liberal rules of origin based on the EFTA model. The Parties simplified the product-specific rules and liberalised proof of origin by allowing for self-declaration of origin for everyone; both approved and non-approved exporters. Modern value chains are covered in the outward processing concept and through forward-looking accumulation possibilities, which allows for accumulation with mutual FTA

partners for all product categories through the so-called extended accumulation concept, in addition to bilateral accumulation between the Parties.

Trade Facilitation

The EFTA States and Chile aim to further facilitate trade between them by providing for expedited procedures and transparent rules for trade in goods and related services. The modernised Agreement incorporates and builds on the World Trade Organization (WTO) Agreement on Trade Facilitation and includes provisions that are in line with relevant international standards and agreements.

Sanitary and Phytosanitary Measures and Technical Barriers to Trade

The EFTA States and Chile agreed to reduce technical and sanitary hurdles for goods traded between them, building on the WTO Agreements on Sanitary and Phytosanitary (SPS) Measures and Technical Barriers to Trade (TBT). The SPS and TBT provisions in the modernised Agreement reaffirm the EFTA States' and Chile's WTO obligations, and ensure a low threshold for consultation mechanisms through the use of modern technological means. The provisions establish stronger consultation mechanisms including the exchange of contact points, reinforced transparency requirements and information exchange. The modernised Agreement also contains provisions allowing for possible harmonisation with future agreements between the European Union and Chile in these fields.

Global Safeguard Measures

In the updated article on global safeguard measures, the EFTA States and Chile agreed on transparency requirements regarding the notification and exchange of information, and further added a consultation clause to the existing FTA. The clause foresees that a Party initiating a safeguard investigation has to inform the other affected Parties and allow adequate opportunity for consultations.

Trade in Services / Financial Services

The EFTA States and Chile added a section on financial services with sector-specific rules and obligations. By means of illustration, this includes disciplines on regulatory transparency and application procedures, as well as provisions on information transfers and non-discriminatory

access to payment and clearing systems. The Parties also undertook market access commitments for financial services and, in respect of the other service sectors, improved their commitments beyond those in the existing FTA, building on recent agreements with third countries. The schedules of commitments cover all four modes of service supply, and are aligned with the approach of the WTO General Agreement on Trade in Services (GATS).

Digital Trade

This new chapter seeks to improve the framework conditions for trade enabled by electronic means, complementing the provisions on trade in goods and trade in services found elsewhere in the FTA. The articles in the chapter pertain among others to the recognition of electronic signatures and contracts, the banning of customs duties on electronic transmissions, paperless trade administration, the fostering of online consumer trust and the development of efficient, safe and secure systems for cross-border electronic payments. More fundamental preconditions for digital trade are covered in the provision on open internet access and the prohibition to condition business by electronic means on the disclosure of source code. The chapter also contains strong commitments on free cross-border data flows while ensuring the protection of personal data and privacy.

Intellectual Property Rights

The modernised Agreement includes a chapter and annex on IPR that extend comprehensively beyond existing WTO rules. In the chapter on IPR, the EFTA States and Chile include the principles of national treatment and most favoured nation (MFN). The IPR provisions contained in the annex cover copyrights, trademarks, patents, undisclosed information, industrial designs, geographical indications, country names, indications of source, state emblems and flags, cooperation and enforcement of IPR, including border measures. Substantive obligations in key international IPR instruments are referenced, notably the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The Parties further undertake to make best efforts to ratify or accede to other specified key IPR agreements. The annex on IPR further includes an appendix on the mutual recognition and protection of geographical indications of Liechtenstein, Switzerland and Chile.

Government Procurement

The updated chapter on Government Procurement and the corresponding annex mainly constitute an update of the legal provisions and market access coverage set out in the existing FTA. The modernised Agreement facilitates access for the Parties' suppliers to government procurement markets, and the regulations are based on the revised WTO Government Procurement Agreement (GPA) of 2012. The Agreement also includes an article facilitating the participation of SMEs in procurement. In terms of market access commitments, the EFTA States provide the same level of coverage as provided to GPA partners, while Chile provides the same level of coverage as provided to other FTA partners, including the EU. Finally, the EFTA States and Chile continue to provide market access for public work concessions in the modernised Agreement.

Small and Medium-Sized Enterprises

The dedicated SME chapter, the first of its kind for the EFTA States, provides a basis for information sharing and cooperation between the Parties to enhance the ability of SMEs to benefit from the FTA. These commitments come on top of other beneficial provisions for SMEs across the FTA. The obligation on information sharing ensures that the Parties publish a wide set of trade and other business-relevant information for SMEs on publicly and freely accessible websites, to a large extent in English. This commitment is complemented by an article on cooperation, which is to be channelled through dedicated SME contact points. Taking into account SMEs' specific needs in the implementation of the FTA, the Parties shall seek to cooperate among others on policy experiences, as well as on any matter brought to their attention by their SMEs in their trade and investment activities.

Trade and Sustainable Development

To ensure that preferential trade relations contribute to sustainable development, the EFTA States and Chile confirm their existing obligations under relevant international environmental agreements and labour instruments in a new dedicated chapter. The Parties recognise that economic development, social development and environmental protection are interdependent. Furthermore, they reaffirm their commitment to multilateral agreements and principles regarding environmental and labour standards. They also commit to uphold

levels of protection while recognising the right of each Party to establish its own level of environmental and labour protection.

In the field of environmental protection, the Parties confirm their commitment to effectively implement the multilateral environmental agreements to which they are a Party. The chapter includes further dedicated provisions on the sustainable management of forest and marine resources, trade and biodiversity, sustainable agriculture and food systems, and trade and climate change, including a commitment to effectively implement the Paris Agreement on climate change.

In the area of labour standards, the EFTA States and Chile confirm the obligations deriving from membership of the International Labour Organization (ILO) to respect, promote and realise the ILO fundamental principles and rights at work, to effectively implement the ILO Conventions that they have ratified, and to make continued and sustained effort to ratify other ILO Conventions. Furthermore, the provisions foresee specific commitments regarding the implementation of domestic measures for social protection and decent working conditions for all, the promotion of social dialogue and tripartism, and the establishment of a well-functioning labour inspection system.

The chapter also acknowledges the importance of incorporating gender equality and non-discrimination to achieve sustainable economic growth. In this regard, EFTA and Chile commit to uphold their obligations under the applicable international agreements pertaining to gender equality and non-discrimination, and to work towards eliminating gender wage gaps in their respective economies.

Finally, the chapter includes provisions on dispute settlement, including the possibility to establish a panel of experts for matters that cannot be resolved through the dedicated consultation mechanisms foreseen under the chapter.