

# Modernisation of the trade pillar of the EU-Chile Association Agreement

## OVERVIEW

On 9 December 2022, 20 years after the signature of EU-Chile Association Agreement in 2002, the EU and Chile reached an agreement in principle on a new EU-Chile Advanced Framework Agreement, which comprises modernised trade and political and cooperation pillars. Negotiations were launched to modernise the 2002 Association Agreement, including its trade pillar in November 2017, based on a Council negotiating mandate, which was the first-ever to have been published to enhance transparency and inclusiveness prior to the start of negotiations.

Although the trade pillar had operated smoothly and led to a significant expansion of bilateral trade in goods and services and investment, Chile and the EU agreed to broaden and deepen it to unlock untapped potential, break new ground and keep pace with new trade and investment patterns in a global competitive environment that has fundamentally changed with the growing global footprint of countries like China.

The agreed text of the EU-Chile Advanced Framework Agreement will first undergo legal revision and be translated into the EU's official languages before it can be formally signed and ratified. Since the agreement comprises provisions falling under the EU's exclusive competence and shared competence with EU Member States, an EU-Chile interim free trade agreement will be extracted from the comprehensive agreement and undergo an EU-only ratification process, while the EU-Chile Advanced Framework Agreement as a whole will also have to be ratified by all EU Member States in accordance with their constitutional requirements. The former will expire, once the latter has entered into force.



## Modernisation of the trade pillar of the EU-Chile Association Agreement

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## Unlocking untapped potential and breaking new ground

Currently, EU-Chile relations are governed by the 2002 [EU-Chile Association Agreement](#) (AA), which consists of three pillars: political dialogue, cooperation and trade.<sup>1</sup> The trade pillar has the form of a comprehensive free trade agreement (FTA). It entered into force (provisionally) in 2003, with the other parts following suit in 2005. The trade pillar was state-of-the-art when it was negotiated, and its smooth application has contributed to a dynamic EU-Chile trade relationship. However, after 15 years of the FTA's operation, by 2017 global trade and investment patterns and the competitive environment had fundamentally changed with the emergence of big players in global trade such as China.

Both partners have increasingly turned to growth markets in the Asia Pacific and have progressively integrated into global value chains. To this end, they have entered into a series of more ambitious FTAs with other partners, granting trade preferences that extend beyond those contained in the AA's trade pillar. The EU negotiated FTAs inter alia with Canada, Japan, New Zealand, Singapore and Vietnam, and [Chile](#) with Colombia, Mexico and Peru to form the [Pacific Alliance](#) and with ten Asia Pacific countries in the framework of the [Comprehensive and Progressive Agreement for Trans-Pacific Partnership](#) (CPTPP or TPP-11). Chile's FTAs with third countries have had a 'crowding-out effect' on the EU market share in Chile. While the EU was Chile's topmost trade partner from 2003 to 2009, it is now third, after China and the USA following the drop in EU demand during the economic crises in the EU in 2008 and 2012 (see Figure 2), a trend that applies to EU trade with almost all [Latin America](#).

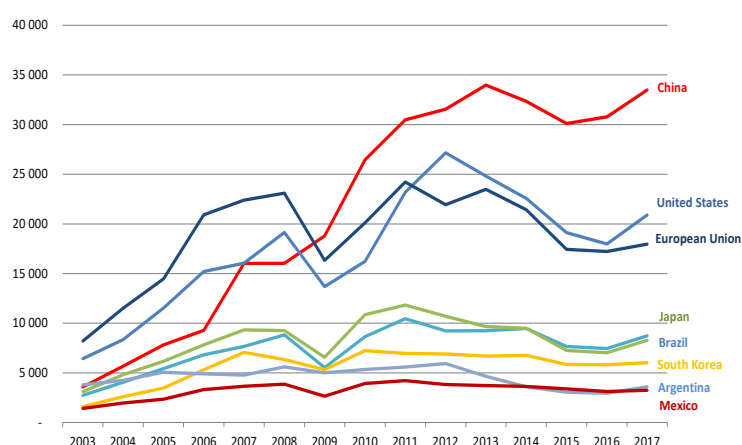
The two partners therefore [launched](#) negotiations in 2017, to broaden and deepen the provisions of the AA's trade pillar to unlock untapped potential and to counter the trend of bilateral [trade erosion](#) in relative terms to the advantage of third parties. In addition to deepening bilateral trade liberalisation, the EU and Chile have sought to incorporate new ambitious disciplines into the modernised trade pillar, such as strong social and environmental standards to boost sustainable trade, gender equality and anti-corruption provisions as well as ambitious investment liberalisation and protection provisions reflecting new developments in trade and investment policy. Moreover, against the background of rising geopolitical tensions, disruptions to trade flows and protectionism, persistent [trade and investment barriers](#) in some emerging markets, including China, Chile and the [EU](#) have been eager to flag their [commitment](#) to multilateralism and to keeping their [economies open](#) to trade and investment.<sup>2</sup>

Figure 1 – Map of Chile



Source: EPRS.

Figure 2 – Chile's main trade partners (in million US\$)



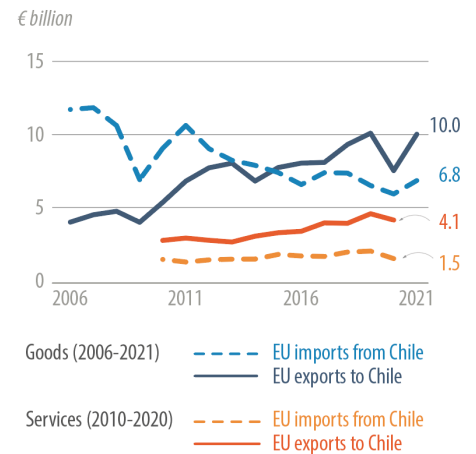
Source: [European Commission](#) based on Chile's [Central Bank](#) data.

## A glimpse at EU-Chile trade and investment relations

In 2021, the EU was Chile's [third](#) trade partner accounting for 10.4 % of Chile's trade in goods after China (34.5 %) and the USA (16.7 %), while Chile was the EU's [37th](#) trade partner, accounting for 0.4 % of the EU's external trade. During the FTA's implementation EU exports to Chile have overall remained on an upward path, while Chile's exports to the EU have gradually lost ground over time (see Figure 3). The different evolution of **trade in goods** is due to various factors, such as the difference in market size, different tariff liberalisation schedules, alternative trading opportunities, remaining NTBs, and [price volatility](#) of commodities such as [copper](#), a major Chilean export item.

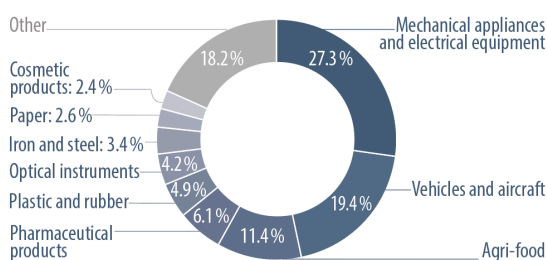
In 2021, total EU-Chile trade in goods was worth over [€16.8 billion](#) – this represents more than a two-fold increase from €7.7 billion in 2003 – with a trade surplus of €3.2 billion for the EU. EU goods exports [consist](#) mostly of industrial goods, such as machinery and transport equipment and manufactured products, among others chemical products (see Figure 4). Chilean exports to the EU are chiefly made up of [agri-food](#) (such as fruit, tropical fruit and wine), copper and other metals, and chemicals. In 2017, [copper](#) still [accounted for](#) 45.5 % of Chilean exports to the EU, but by 2021 Chile's export basket has become somewhat more diversified (see Figure 5). Since 2012, the share of fruit, wine, cellulose in Chilean exports has expanded and exports of beverages, fruit and seafood has grown by double-digits. Chilean exporters tend to make more use of the FTA's trade preferences than their EU counterparts. The preference utilisation rate (PUR) on EU imports from Chile in 2019 was 96 %, the PUR on EU exports to Chile was 85 %, up from [73.9 %](#) in 2016.<sup>3</sup>

Figure 3 – EU trade in goods and services with Chile



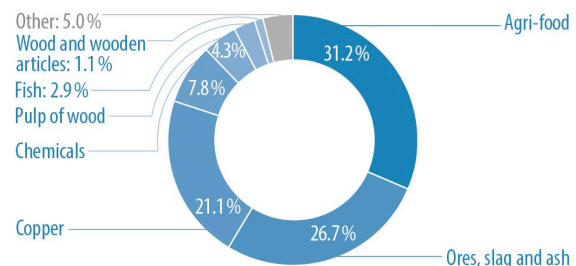
Source: [EPRS](#) based on [ComExt](#), [Eurostat](#) (2021).

Figure 4 – EU exports of goods to Chile (2021)



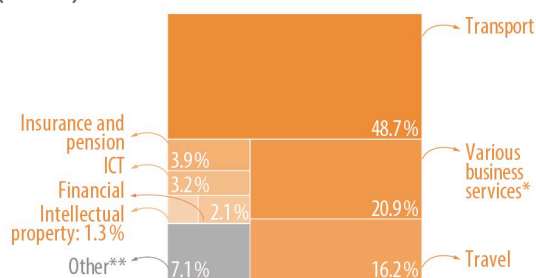
Source: [EPRS](#) based on [ComExt](#), [Eurostat](#) (2021).

Figure 5 – EU imports of goods from Chile (2021)



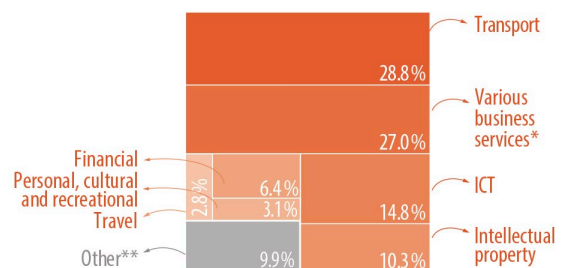
Source: [EPRS](#) based on [ComExt](#), [Eurostat](#) (2021).

Figure 6 – EU imports of services from Chile (2020)



Source: [EPRS](#) based on [bop\\_its6\\_det](#), Eurostat (2020).

Figure 7 – EU exports of services to Chile (2020)



Source: [EPRS](#) based on [bop\\_its6\\_det](#), Eurostat (2020).

EU-Chile **trade in services** was worth [€5.6 billion](#) in 2020, with the EU running a surplus of €2.6 billion. In 2020, transport services accounted for the biggest share in EU exports to Chile, followed by various business services and telecommunications services. In 2019, the EU [ranked](#) as Chile's third destination of exports of services after the Pacific Alliance and the USA. As for Chilean exports to the EU, in 2020, transport services represented the largest share, followed by various business and travel services (see Figures 6 and 7). Some [48 %](#) of Chilean service exporters to the EU in 2019 were SMEs, accounting for 22 % of the export value, compared to the 40 % which were large companies representing 70 % of the export value.

As for **EU-Chile investment** relations, the EU has remained Chile's first FDI provider, [responsible for](#) 33 % of FDI stock in 2017. In 2017, Spain, Italy, France and the Netherlands [accounted](#) for 72 % of EU FDI stock in Chile, targeting chiefly utilities, mining and financial services. EU FDI in Chile has played a key role in the diversification of the Chilean economy, particularly the energy sector, and in reducing CO2 emissions. Chile attracted [36 %](#) of the roughly [US\\$58.8 billion](#) the EU invested in renewables in Latin America by 2017. In 2020, Chilean FDI in 20 EU Member States reached [US\\$6.4 billion](#), or 4.7 % of its overall FDI stock in the world. Germany, France, Spain, Croatia and Belgium received the lion's share of Chilean FDI, which was concentrated on services ([62.1 %](#)) and industry (32.8 %). Eurostat data indicate that in 2020, Chile's FDI stock in the EU amounted to €5.3 billion, while the EU's FDI stock in Chile was worth [€52.8 billion](#). According to the 2021 UNCTAD World Investment [Report](#), Chile's commitment to a green transition has been crucial to attract FDI to green energy industries. More than [40 %](#) of announced greenfield FDI concerned the renewable energy industry, notably in solar electric power. Chile's [2021 Energy Efficiency Law](#) and its national energy [policy](#) for 2050 could further enhance favourable conditions for FDI in the sector. FDI announcements included six projects from [Enel](#) and three from [OPDEnergy](#). The 2022 UNCTAD [report](#) notes [US\\$3 billion](#) greenfield FDI from AustriaEnergy and Ökowind for the construction of an ammonia plant with onshore wind farm, electrolyzers, and a port facility in the south of Chile.

## The current legal framework and its shortcomings

The current legal framework for EU-Chile trade relations consists of the 2002 AA's trade pillar and the 2017 EU-Chile trade agreement on organic goods (see box):

The trade pillar covers the following areas:

- Free movement of goods
  - elimination of customs duties
  - non-tariff measures
  - exceptions
- Trade in services and establishment
  - services
  - financial services
  - establishment (non-service sectors)
- Government procurement
- Current payments and capital movement
- Intellectual property rights
- Competition
- Dispute settlement
- Transparency

### EU-Chile trade agreement on organic products

In April 2017, the EU and Chile [signed](#) a [trade agreement on organic products](#) for a period of three years. It entered into force in January 2018 and is renewable. The two partners mutually recognise the equivalence of their respective organic production standards and control systems and [allow](#) imports into each other's territory of certain organic products accompanied by certificates of inspection issued by their national authorities. The agreement provides for a system of co-operation, exchange of information and dispute settlement in organic trade.

The trade pillar contains three specific agreements on sanitary and phytosanitary (SPS) issues and certain geographic indications (GIs) in its annexes:

- Agreement on Sanitary and Phytosanitary Measures Applicable to Trade in Animals and Animal Products, Plants, Plant Products and Other Goods and Animal Welfare
- Agreement on Trade in Wines

### ➤ Agreement on Trade in Spirits Drinks and Aromatised Drinks.

The inclusion of animal welfare into the trade pillar, for instance, has given strong momentum to [institutionalisation](#) processes under the Agriculture and Livestock Service (Servicio Agrícola y Ganadero, [SAG](#)) in Chile, and [is said to](#) have markedly improved the country's slaughter standards.

## The trade pillar's limited thematic coverage

The 2017 European Commission [impact assessment](#) identifies the following shortcomings in the scope of the trade pillar:

- lack of modern investment protection standards for all EU investors;
- lack of comprehensive investment liberalisation disciplines;
- lack of trade and sustainable development (TSD) provisions;
- lack of a dedicated and binding bilateral mechanism to facilitate trade and investment for small and medium-sized enterprises (SMEs).

Since the trade pillar predates the 2009 Treaty of Lisbon, whose [Article 207](#) conveys the exclusive competence for regulating foreign direct investment (FDI) – except for portfolio investment and investment protection – to the EU level, it does not contain an investment chapter with comprehensive market-access or investment-protection rules. [Investment relations](#) between Chile and individual EU Member States currently are governed by the bilateral investment treaties ([BITs](#)) in force between 16 EU Member States and Chile (the BITs Chile signed with Hungary and the Netherlands are not yet in force). These [differ](#) in their level of ambition as regards post-establishment investment protection, creating possible inconsistencies and hindering the creation of a level playing field among EU investors. Replacing them by a unified homogeneous legal framework would expand the scope of investment protection to EU Member States currently not covered, and add pre-establishment market access provisions. Existing investment barriers are concentrated in the audio-visual, communications, culture, and transport sub-sectors.

Although the trade pillar of the EU-Chile AA was the first EU FTA to contain a reference to labour standards, it is included in the chapter on social cooperation within the part on cooperation. This [provision](#) is neither legally binding nor enforceable, reflecting an early stage of the European Commission's embrace of a [consultative approach](#) to the implementation of social standards in FTAs that is slowly [shifting](#) towards the consideration of applying trade sanctions as a last resort, a practice that [Canada](#) and the United States have used in more recent FTAs. The Commission's [new approach](#) to trade and sustainable development (TSD) chapters of June 2022 will be applied for the first time to the EU-New Zealand FTA, on which [agreement in principle](#) was reached in June 2022.

## The limited depth of the trade pillar's disciplines

The 2017 Commission [FTA implementation report](#) identifies several weaknesses of the trade pillar:

- limited liberalisation of trade in agriculture and food products;
- outdated rules of origin and customs and trade facilitation provisions;
- lack of sufficient disciplines to address remaining non-tariff barriers (NTBs) for industrial and agri-food products;
- market access limitations for key EU service sectors;
- government-procurement market access does not cover all entities (e.g. state-owned enterprises), and procurement rules are outdated;
- limited provisions on intellectual property rights (IPRs);
- no protection of GIs on foodstuffs (except for wine and spirits).

For example, EU-Chile [trade in agricultural and food products](#) has not yet reached its full potential. The progressive liberalisation of trade in goods over a period of 10 years came to a close in 2013, by which time all manufactured goods but not all agricultural goods or fisheries entered the EU free of duties. However, according to a 2017 [ex-ante study](#), there are about 500 tariff lines (or 21 % of all tariff lines) that are excluded from the gradual import liberalisation to the EU. Chile has further



export potential under a progressive or complete liberalisation scheme for beef, pork and poultry meats, olive oil, fruit juices and some specific dairy and fishery products. Moreover, Chile has not (completely) utilised its [tariff quotas](#) for pork and beef meats, poultry products and garlic and other agri-food items mainly as a result of alternative export opportunities and of the export risks owing to the EU tariff quotas' [small size](#). As regards EU agri-food exports to Chile, despite Chile's low import tariffs, market access for some EU products such as beef, [processed meat products containing starch](#), fresh fruits and vegetables has been denied due to SPS issues and other specific requirements. As regards government procurement, Chilean and EU firms have only [very modestly](#) benefited from the present stage of liberalisation in terms of tenders awarded, as [specific](#) market access, regulatory, language and information barriers to public procurement still exist.

## EU negotiation objectives

The 2015 Commission communication [Trade for All](#) refers to the modernisation of the EU-Chile FTA as one among a number of specific initiatives for bilateral negotiations. In line with this trade policy, the Commission's 2017 [impact assessment](#) spells out more general negotiating objectives, including:

- promoting smart, sustainable and inclusive growth through the expansion of trade, investment and relevant rules;
- creating job and labour opportunities and welfare gains;
- increasing consumer benefits (e.g. in terms of choice, availability, and price) and maintaining high standards;
- improving the EU's competitiveness in global markets; and
- reinforcing cooperation on trade-related issues with a like-minded partner

It also sets out specific objectives, such as:

- unlocking untapped market potential in trade in goods and services, investment and government procurement by eliminating and reducing trade barriers;
- ensuring a single, effective investment protection framework for all EU investments, enforced through an [investment court system](#) (ICS);
- ensuring a high level of IPR protection;
- reinforcing dialogue and cooperation on regulatory frameworks (including technical regulations and conformity assessment procedures) and administrative practices to improve regulatory coherence;
- increasing opportunities for SMEs through specific mechanisms and simplified procedures; and
- contributing to the shared objective of promoting sustainable development and EU values such as human rights, inter alia by including trade-related provisions on labour, environment and gender.

Against the background of the EU's green and digital transition and the EU's interest in [tackling](#) its current [strategic dependencies](#), including its [dependence](#) on a small number of [critical raw materials](#) suppliers, creating transparent rules for EU access to a like-minded country's large [reserves](#) of lithium, a key input for battery production, has become an additional vital EU negotiating objective.

## Counterpart's position

The Chilean counterparts have [taken the view](#) that modernising the AA would help conclude a state-of-the-art trade agreement that reflects shared values and interests, such as sustainable development, support for SMEs, anti-corruption measures and [trade and gender](#). Keen on facilitating women's participation in trade, Chile has [promoted](#) such participation in its agreements with [Argentina](#), [Canada](#), [Uruguay](#) and within the [Pacific Alliance](#); for the EU, this is [new ground](#). As some tariff lines are not yet liberalised, there is scope for increasing Chilean exports of high-quality agricultural goods, such as dairy, cereals, rice and olive oil. Moreover, Chile has sought to increase

its export quotas of meat and dairy products. It has aspired to raise the value of goods and services linked to minerals from US\$450 million to US\$4 billion and to double its exports of innovative healthy foods. Chile has [aimed at](#) improving export conditions for olive oil, meat, canned fruit and juices. It has also sought to achieve improvements in the field of technical barriers to trade.

## Parliament's position

On 14 September 2017, the European Parliament adopted a [resolution](#) on the negotiation of a modernised trade pillar based on a [report](#) (2017/2057(INI)) by the then INTA standing rapporteur for Chile Inmaculada Rodríguez-Piñero Fernández (S&D, Spain). The resolution contains a broad range of recommendations, such as:

- to seek ambitious improvements in market access across tariff lines for trade in goods, while respecting sensitive products;
- to further open public procurement, including at sub-central level;
- to further liberalise service sectors, but emphasise the need to preserve the right of governments to regulate public services in the public interest;
- to put shared social, environmental and political values at the core of the modernisation process;
- to insert a horizontal human-rights clause covering the entire AA;
- to include inter alia separate chapters on micro-enterprises and SMEs, investment, trade and sustainable development (TSD), containing binding and enforceable provisions and possible sanctions for non-compliance, trade and gender equality, with clear and measurable targets, energy, good tax governance, and tackling corruption;
- to replace the investor-state-dispute-settlement (ISDS) with a public [investment court system](#) (ICS) and [work](#) towards establishment of a [multilateral investment court](#) (MIC);
- to conclude two separate agreements [distinguishing](#) between a trade and investment deal under the EU's exclusive competence, and another one for issues where the EU and Member States have shared competences.

## Advisory committees

In February 2012, the European Economic and Social Committee (EESC) adopted an [opinion](#) on the role of Chilean civil society and the state of progress on the AA's Article 10 which provides for the establishment of an EESC-Chile civil society joint consultative committee (JCC). However, due to the lack of a counterpart institution in Chile at the time, a JCC was not set up. It was not until 14 years after the AA's conclusion, that the first EU-Chile JCC (18 members, 9 EESC, 9 Chile) [meeting](#) took place in Santiago on 4-5 October 2016. The JCC's second meeting, held in Brussels on 8 November 2017, [supported](#) the proposal to negotiate the modernisation of the EU-Chile AA in a 15-point declaration, noting the importance of consulting with civil society. A series of other meetings have been [held](#).

## Preparation of the agreement

Between 2006 and 2010, the EU and Chile [sought](#) to upgrade the trade pillar through the review clauses on agriculture and services. This sectoral approach, however, failed to produce a balanced outcome 'due to the asymmetry of interests' of the two partners. During the 5th EU-Chile summit in October 2012, the parties agreed to explore the options to upgrade the AA, 10 years after the start of its [implementation](#). The Chilean party handed over a non-paper on the AA's modernisation at the end of the [11th Association Committee](#) meeting in October 2013. [In the context of](#) the sixth Association Council meeting in April 2015, Chile and the EU [discussed](#) options to modernise the AA. Accordingly, an EU-Chile Working Group was set up and, in early 2016, the two partners [agreed](#) to a joint scoping exercise to identify their level of ambition of a future modernised AA. The exercise ended in January 2017 and translated into an EU-Chile joint scoping paper. Subsequently, the Commission conducted an [impact assessment](#) in [preparation](#) of a potential decision to propose the

start of negotiations to the Council. An [ex-ante study](#) on a possible modernisation of the EU-Chile AA was published in January 2017. An online [public consultation](#) with stakeholders, [carried out](#) from June to September 2016, provoked a modest response. The Commission reached out to EU businesses once again, posing them a set of technical questions to feed in their practical experience of working with Chilean counterparts into the negotiations.

## Negotiation process and outcome

The Foreign Affairs Council of 13 November 2017 [approved](#) the mandate for the Commission to negotiate a modernised EU-Chile AA set to enhance existing cooperation on political, security and trade matters. On 22 January 2018, the Council decided, for the first time ever, to [make public](#) the entire [negotiating guidelines](#) covering political dialogue, cooperation and trade aspects prior to the start of negotiations. A [first round of talks](#) was held in Brussels on 16 November 2017. The Commission commissioned an external sustainability impact assessment (SIA) considering economic, social and human rights implications: an [inception report](#) was published in June 2018 and an [interim report](#) in October 2018. In May 2019, the final SIA [report](#) was made public and in June 2020, the European Commission issued its [position](#) on the SIA report. On 29 May 2018, the Commission organised a [civil society dialogue](#) on the modernisation of the EU-Chile AA in Brussels; on 4 July 2018 it held a civil society dialogue [meeting](#), which discussed the SIA inception report. Another civil society dialogue on the draft interim SIA report [took place](#) on 12 November 2018.

By May 2021, the European Commission had held [10 negotiation rounds](#) with Chile, based on [text proposals](#) that were published on the Commission website and followed by reports on these rounds. In [November 2021](#), the negotiations were [concluded](#) at technical level. Owing to the arrival of a [new government](#) in Chile in March 2022 and the subsequent bilateral discussions on a number of sensitive issues, including energy and raw materials, investment and IPRs, a [summary](#) of the trade pillar's text and the text of its [chapters](#) were not published until [9 December 2022](#), when the EU and Chile formally announced agreement had been [reached](#) in principle on the EU-Chile Advanced Framework Agreement (AFA) (as opposed to the name of the 2002 EU-Chile Association Agreement. The trade pillar of the new EU-Chile agreement will consist of [36](#) chapters, 3 of which (investment protection, financial services and capital movements) are only included in the AFA, as they do not fall in the EU's exclusive competence. Table 1 shows how it compares with EU FTAs or investment protection agreements (IPAs) that have entered into force, have provisionally been applied or were agreed upon in principle.

### Quotas for selected agricultural goods

The EU will provide additional market access only in the form of duty-free quotas, thus eliminating existing annual increases and tariff rate quotas. The duty-free quota for Chilean **poultry** meat will be increased by 18 000 tonnes (phased-in in two equal steps), for **pork** by 9 000 tonnes, for **sheep** meat by 4 000 tonnes and for **beef** by 2 000 tonnes. The quota for Chilean **garlic** will be raised to a total amount of 2 000 tonnes and the new duty-free quota for **canned fish** will be set at 250 tonnes. New duty-free quotas will be opened for **fruit preparations** (10 000 tonnes), **olive oil** (11 000 tonnes), **apple juice** (2 000 tonnes), **eggs** (500 tonnes, shell egg equivalent), **starch and starch derivatives** (300 tonnes), **sugar-rich products** (1 000 tonnes), **sweetcorn** (800 tonnes), **ethanol** (2 000 tonnes) and **rum** (500 hectolitres).

As for market access in **trade in goods**, the trade pillar will liberalise [96 %](#) of the agricultural tariff lines not yet liberalised on Chile's side and 66 % on the EU side, including existing tariff rate quotas for EU cheese and for Chilean processed cereals, over seven years. As a result, more than 95 % of bilateral trade in agricultural goods will be duty free. Very sensitive agricultural products will continue to be subject to exclusions: for sugar on both sides and for bananas and rice on the EU side. The preferential treatment of Chilean fruit and vegetables under the [EU entry price system](#), which establishes a minimum price threshold for imported produce, will continue to apply. Trade in industrial goods was fully liberalised already under the AA's trade pillar by 2013.



Table 1 – Selected chapters of the new EU-Chile trade pillar compared to recent EU-FTAs

FTA	SOEs	Subsidies	Investment liberalisation (L) and protection (P)	TSD	Digital trade	SMEs	Energy and raw materials	Trade and gender equality	Sustainable food systems
<a href="#">EU-Chile</a> , text agreed in 2022	yes	yes	FTA: L and AFA: L and P	yes	yes	yes	yes	yes	yes
<a href="#">EU-Canada</a> , prov. applied since 2017	yes	yes	L and P	yes	yes	no <sup>4</sup>	dialogue	no <sup>5</sup>	no
<a href="#">EU-Japan</a> , in force since 2019	yes	yes	only L, <a href="#">no P</a>	yes	yes <sup>6</sup>	yes	no <sup>7</sup>	no	no
<a href="#">EU-Mercosur</a> , text agreed in 2019	<a href="#">yes</a>	<a href="#">yes</a>	<a href="#">only L</a> , <a href="#">no P</a>	<a href="#">yes</a>	<a href="#">yes</a>	<a href="#">yes</a>	no <sup>8</sup>	no	<a href="#">dialogue</a>
<a href="#">EU-Mexico</a> , text agreed in 2018	yes	yes	L and P	yes	yes	yes	yes	no	no
<a href="#">EU-New Zealand</a> , text agreed in 2022	yes	yes	only L, <a href="#">no P</a>	yes, trade sanctions	yes	yes	yes	yes	yes
<a href="#">EU-Singapore</a> , in force since 2019	yes	yes	split: <sup>9</sup> FTA: L, IPA: P	yes	yes <sup>10</sup>	no	yes, renewable energy	no	no
<a href="#">EU-South Korea</a> , in force since 2015	yes	yes	only L, <a href="#">no P</a>	yes	yes <sup>11</sup>	no	no	no	no
<a href="#">EU-Vietnam</a> , in force since 2020	yes	yes	split, FTA: L, IPA: P	yes	yes	no	yes, renewable energy	no	no

Source: Compiled by the author; C = chapter; SOE = state-owned enterprise; AFA = Advanced Framework Agreement, yes – in most instances refers to a dedicated chapter; chapters included in more recent FTAs are listed on the right.

Under the modernised agreement, IPRs will be strengthened and 216 **GIs** from the EU and 18 from Chile (more than under current arrangements) will be protected. Implementing the EU's [Farm to Fork strategy](#), the new agreement moreover incorporates a dedicated chapter on **sustainable food systems** which addresses animal health and envisages the phasing out of the use of antibiotics as growth promoters, for instance. As regards **trade in services** and the horizontal rules on cross-border trade in services, the temporary presence of natural persons for business purposes, domestic regulation including licensing procedures and mutual recognition of professional qualifications, seek to ensure transparency and equal treatment of service providers in Chile and in the EU, thus facilitating mutual market access. Sector-specific provisions for delivery telecommunications, international maritime transport and financial services are set out in individual chapters. The chapter on **energy and raw materials** prohibits export and import monopolies and dual pricing, while it allows Chile some policy space to facilitate the emergence of new industrial sectors by setting a lower domestic price within certain limits. As part of the **investment liberalisation** provisions, performance requirements (e.g. requiring a certain level of local content or technology transfer) will be prohibited. Comprehensive **investment protection** provisions will replace the current bilateral investment protection treaties that Chile had concluded with 16 EU Member States. Chile agreed to apply the EU's reformed approach to investment dispute resolution, thus replacing the traditional [ISDS](#) based on private arbitration with the EU's Investment Court System (ICS) model. Chile will open up its central and sub-central **procurement markets** at lower thresholds than at present. Locally

established EU companies will be granted national treatment for public procurement of goods and services in Chile. Unlike the EU's [FTA with New Zealand](#), the EU-Chile trade pillar's enforcement mechanism for key provisions of the **TSD** chapter does not include trade sanctions. However, the TSD chapter's review clause, in conjunction with a [Joint Statement](#) expressing the parties' intention to launch a review of the provisions upon the agreement's entry into force to enhance the enforcement mechanism, provide for the possibility to bring the latter in line with the Commission's [new approach](#). The trade pillar moreover contains a chapter on **SMEs, digital trade** and – for the first time in an EU FTA – on **trade and gender equality**.

## The changes the agreement would bring

The modernised trade pillar [is expected to](#) provide increased business opportunities for SMEs resulting from non-tariff barrier cost reduction, a simplification of customs procedures and rules of origin, increased regulatory cooperation as well as convergence towards international standards. In addition, it would include provisions to enhance SMEs' access to information and to improve transparency. As a consequence, it is likely to boost growth and employment, lower consumer prices, and enhance consumer welfare. Expanding trade would furthermore result in a greater choice of quality products for consumers in the EU and in Chile.

The [2017 external ex-ante study](#) estimates long-term [welfare gains](#) due to changes in consumer prices and labour income for the EU to amount to between €269 to 712 million and for Chile to between €369 to 529 million in a conservative and ambitious scenario respectively. Given Chile's small market size and the corresponding small size of its trade compared to the EU, most studies assume a modest impact of the modernised AA, i.e. a 0.1 % increase in EU trade. There is the assumption that Chile is likely to benefit more from investment liberalisation and protection provisions than the EU, as Chilean FDI flows to the EU could increase moderately by 2 to 3 %. Although there is a prediction that EU FDI to Chile could increase by 25 %, this scenario is tempered by Chile's small size and the fact that large Member States have already been linked to Chile via BITs.

As for the impact of a growth in trade on the environment, there is the expectation that an increase in international transport would lead to higher CO<sub>2</sub> emissions and that pressures on land and water and biodiversity could arise from the envisaged expansion of Chile's agricultural sector as a result of enhanced export opportunities. However, these effects could be compensated with strengthened EU-Chile technical and policy cooperation in crucial environmental matters, including stimulating the adoption of green technologies for sustainable production and consumption. The modernised agreement could contribute to expanding EU-Chile trade and investment more equally among EU Member States, since it is currently focused on the 'old' Member States.

## Stakeholders' views

Chilean [exporters](#) of those agricultural products that are still subject to EU import tariffs or quotas, have voiced their interest in gaining better access to the EU market through complete tariff liberalisation. Such improved access would be achieved through the simplification of EU import requirements that are considered as being too strict (including for beef and cheese), and through an expansion of (partly unused) quotas (for [pork and poultry](#) as well as for beef and cheese) to take into account Chile's increased export potential created since the AA's conclusion. Chile's wine producers have advocated expediting the procedure for updating the list of GIs in the agreement on wines annexed to the trade pillar and making use of an electronic notification for such an update. Chile's fruit exporters have been interested in the recognition of new types of fruit resilient to changing climate conditions and long-distance transport. As for trade and gender, they have sought creative ideas, such as establishing specific quotas for agricultural products made by women.

In the context of mainstreaming the UN's 2030 Agenda for Sustainable Development into the modernised AA, the Chilean NGO [Acción](#) has stressed that the AA must not impede reforms of laws and regulations that are clearly driven by prioritising the protection of private investment over the

common interest. With reference to text proposals for the EU's negotiations with Mexico and Mercosur in the field of IPR, the Chilean NGO [Derechos Digitales](#) has taken the view that in the context of the modernised AA, the rights of broadcasting organisations, among other things, must not be expanded beyond the existing level of protection under national provisions in Chile.

On the EU side, NGOs Eurogroup for Animals and Humane Society International/Europe has [stressed](#) the need to include a separate animal welfare chapter similar to the EU-Mexico AA and to make the modernised AA more ambitious in fields such as breeding, herding, handling and transporting of farm animals. They have suggested emulating the [CPTPP](#) agreement's rule book on wild life protection; carrying out case studies on salmon farming and their impact on biodiversity as well as on fisheries and [analysing](#) the modernised AA's impact on animal welfare as regards the use of antibiotics in salmon farming, dairy and meat production. They have also [called](#) for domestic advisory groups to be ready to operate upon the (provisional) entry into force of the trade pillar.

## Signature and ratification process

The agreed text of the new EU-Chile Advanced Framework Agreement will first undergo legal revision ('legal scrubbing') and be translated into the EU's official languages before its formal signature. The EU-Chile Advanced Framework Agreement will undergo a two-track ratification. Its trade pillar, the EU-Chile interim FTA, excluding provisions governed by the EU's shared competence with EU Member States, will undergo an EU-only ratification including European Parliament consent. The EU-Chile Advanced Framework Agreement as a whole will be submitted to a separate ratification process including ratification by all EU Member States in accordance with their constitutional requirements. Once the latter has entered into force, the EU-Chile interim FTA will cease to operate.<sup>12</sup>

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## ENDNOTES

- <sup>1</sup> The other two pillars have also been modernised in parallel, but are not the subject of this briefing.
- <sup>2</sup> According to the World Bank, in 2021 Chile's trade openness was [64 %](#) of GDP, up from 56 % [in 2017](#). This compares with 39 % for Brazil, 33 % for Argentina, 37 % for China, 61 % for France and 89 % for Germany in 2021.
- <sup>3</sup> Links to most recent PUR for 2019 can be found in footnotes 1 and 2 of the European Commission's [FAQs on preference utilisation rates \(PUR\)](#), 12 November 2020. In 2016, the average PUR for EU exports stood at 77.4 % with significant variations across country-pairs and products. The PUR for EU exports to Chile for instance compared with 85.1 % for exports to Mexico and 42.5 % for exports to Peru and referred to very different export shares eligible: €8.0 billion, €12.3 billion and €208 million for Chile, Mexico and Peru respectively. [EU exports, preference utilization and duty savings by Member State, sector and partner country](#), Chief Economist Note, DG Trade, European Commission, 2018.
- <sup>4</sup> Three non-binding Recommendations on [trade, climate action and the Paris Agreement](#); [Small and Medium-sized Enterprises \(SMEs\)](#); and [Trade and Gender](#), proposed by the Commission, were [submitted](#) to the Council for endorsement in July 2018 and were subsequently [signed](#) by the EU-Canada CETA Joint Committee in September 2018. The Recommendation on Trade and Gender suggests among, other things, creating Contact Points to facilitate cooperation and information exchange.
- <sup>5</sup> See footnote 3.
- <sup>6</sup> The EU and Japan [launched](#) the EU's first-ever [Digital Partnership](#) at the EU-Japan Summit in May 2022.
- <sup>7</sup> The [EU-Japan Strategic Partnership Agreement](#), Article 26, [concluded](#) on 25 April 2018, covers cooperation on energy.
- <sup>8</sup> Some elements of the EU text [proposal](#) on energy and raw materials were included in the trade in goods chapter.
- <sup>9</sup> Split means that investment provisions will be part of a separate agreement, [to take into account](#) the [opinion](#) of the Court of Justice of the European Union (CJEU) of 16 May 2017 on the EU's competence for the signing and conclusion of the EU-Singapore Free Trade Agreement (EUSFTA).
- <sup>10</sup> The EU and Singapore [reached an agreement](#) on Digital Trade Principles and a Digital Partnership in December 2022.
- <sup>11</sup> The EU and South Korea [signed](#) Digital Trade Principles and a [Digital Partnership](#) in November 2022.
- <sup>12</sup> Please also see the entry for the modernisation of the trade pillar of the EU-Chile Association Agreement in the [EPRS legislative train schedule](#), which is updated on a monthly basis, as regards the agreement's further development.

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