European Commission

INCEPTION IMPACT ASSESSMENT			
TITLE OF THE INITIATIVE	Modernisation of the trade part of the EU-Chile Association Agreement		
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	DG TRADE C3	**DATE OF ROADMAP**	07/04/2016
LIKELY TYPE OF INITIATIVE	Commission recommendation for Council Decision authorising the negotiation of an international agreement		
INDICATIVE PLANNING	*http://ec.europa.eu/atwork/pdf/planned_commission_initiatives_2016.pdf*		
ADDITIONAL INFORMATION	*http://ec.europa.eu/trade/policy/countries-and-regions/countries/chile/*		

A. Context, Subsidiarity Check and Objectives

Context

Chile was the first South American country to conclude an Association Agreement with the EU (hereinafter 'the Agreement'). The Agreement, which includes political, cooperation and trade provisions, entered into force (the trade part) in February 2003. Many trade policy developments have occurred since its entry into force.

In 2006, the European Commission adopted a 'Global Europe' strategy, modernising its agenda for EU trade policy and seeking deeper trade agreements covering much more than tariff dismantling (e.g. regulatory barriers in goods, services and investment, the protection of innovation (i.e. intellectual property rights), government procurement, sustainable development (i.e. decent work, labour standards and environmental protection) and other important issues). Successive EU trade negotiations with Chile's neighbours in the Americas reflect this ambition.

The Chilean economy depends on global trade and for the last two decades, Chile has been actively developing an extensive web of trade agreements. The scope and level of depth of the most recent trade agreements concluded separately by the EU and Chile go well beyond the level of the existing Agreement. An ambitious modernisation of the Agreement would therefore improve conditions for investors and trade operators.

During the EU CELAC Summit in January 2013, EU and Chilean leaders agreed to "explore the options for a modernisation of the Agreement". Since then, the EU and Chile have carried out exploratory discussions to assess whether there is a sufficiently large area of issues of common interest to allow the modernisation process to move forward.

On the occasion of the EU-Chile Association Council on 21 April 2015, a Joint Working Group including a subgroup on trade was created in order to continue this exploratory process with a view to identifying the scope and ambition of the possible modernisation. The conclusions of the EU-CELAC Summit held on 11 June 2015 welcomed this positive development by stressing that the sixth meeting of the Association Council had been "a propitious opportunity to highlight the excellent level of bilateral relations between Chile and the EU on all aspects, as well as to agree to move forward in the process towards the modernisation of the bilateral Association Agreement through the establishment of a Joint Working Group." The EU-Chile Association Committee in November 2015 took note of the first meetings of the sub-groups for the political-cooperation part and the trade part, which took place in October 2015 in Santiago and in January 2016 in Brussels. In the Joint Working Group, the EU and Chile reiterated their commitment to continue working towards an ambitious modernized Association Agreement.

An ex post evaluation was carried out in 2012 by ITAQA entitled *Evaluation of the economic impact of the trade pillar of the EU Chile Association Agreement*. The main findings were that, as regards trade in goods, it seems that the Agreement may have prevented the shares of the EU in the Chilean market from falling significantly, although the analysis of the evolution of EU exports to Chile does not allow drawing very definitive conclusions. However, if neither the EU nor Chile had agreed to grant any preferences, Chilean exports to the EU would have been substantially reduced (-13%) and the negative impact would have been far stronger on EU exports to Chile (-45%), with the EU losing market share to the benefit of other exporters. Moreover, the comparative analysis of bilateral trade flows showed that significant trade creation was likely to have occurred as Chilean export performances seem to be meaningfully related to tariff cuts. The elasticity of substitution between imports from Chile and from other providers is estimated such that a 1% tariff cut might result in a

10% increase in imports, relative to other providers. As regards trade in services, the increase in the EU's exports is significant, with European sales of services in Chile increasing fivefold between 2001 and 2007.

This initiative is not part of the REFIT agenda.

Issue

The existing Association Agreement was quite broad for an agreement of its kind when it entered into force in 2003. Since then, there have, however, been significant trade policy developments in both regions and both parties, which have concluded a number of Agreements with other trading partners.

Chile has, for example, joined the Pacific Alliance and is part of the recently concluded Trans-Pacific Partnership negotiations. The EU has concluded 'new generation' agreements with other countries in the Americas (Trade Agreement with Colombia and Peru, Association Agreement with Central America), it has concluded negotiations with Canada and it has been negotiating with the US (TTIP) since 2013.

These agreements or on-going negotiations go well beyond the existing content of the trade pillar of the EU-Chile Association Agreement and as a result, the preferential relationship between Chile and the EU now risks falling behind when compared to the relationships of each of those parties with their other trading partners.

Moreover, since the entry into force of the Lisbon Treaty in 2009, the EU exclusive competence now covers investment. It is worth noting that there are currently 19 Bilateral Investment Treaties between EU Member States and Chile (17 applied), differing in their level of ambition, creating possible inconsistencies and preventing a level playing field among EU investors.

The EU and Chile have already attempted in the past to improve the implementation of the existing Agreement/legislation through application of the revision clauses. Between 2006 and 2010, the sectoral talks on agriculture, on services and on investment did not make any progress because it was not possible to find a balanced outcome, essentially due to the asymmetry of interests of the Parties in these fields. In view of this experience, the EU and Chile agreed that it was necessary to broaden the scope and ambition of the discussions in order to be able to move forward and modernise their relations. The two Parties have therefore agreed, at the highest level at the 2013 EU-CELAC Summit in Santiago, to consider further developing the bilateral relationship on the basis of a comprehensive modernisation of the Association Agreement.

The EU's current trade and investment policy towards Chile has already delivered good results; but it has now reached its limits, unless new tools are considered.

Stakeholders in both Europe and Chile, including primary and secondary producers, service industries, traders and their workforces as well as consumers would forego potential additional benefits if no policy action is taken.

Subsidiarity check

The initiative falls under the exclusive competence of the EU according to Article 3 of the Treaty on the Functioning of the European Union (TFEU). Therefore, the subsidiarity principle does not apply.

Main policy objectives

The initiative aims to generate new economic opportunities, and thereby to create jobs and growth, while promoting the EU's model of social and environmental protection.

More specifically the policy objectives are to:

- Realise the untapped potential of enhanced trade and investment flows between the EU and Chile, by further reducing barriers to trade and investment; and to explore forward looking regulatory cooperation in select areas if/as appropriate.
- Level the playing field with other countries that already have better preferential treatment as compared to the EU due to their recent and more ambitious free trade agreements with Chile.
- Provide a new, up-to-date framework for the EU-Chile relationship by further developing the existing Association Agreement.
- Promote improved sustainable economic, social and environmental conditions for consumers, workers, citizens and businesses in the EU and Chile.

B. Option Mapping

Baseline scenario – no EU policy change

The baseline scenario is to continue to operate under the framework already in place for bilateral relations, and to continue to utilise the existing trade pillar of the EU-Chile Association Agreement.

Options of improving implementation and enforcement of existing legislation or doing less/simplifying

existing legislation

The second policy option would be to review the current Agreement on the basis of the sectoral review clauses provided in the Agreement. These evolution clauses cover the following sectors: agriculture (Article 74), services and investment (Article 100) and intellectual property (Article 171). However, attempts to implement this option have already been carried out without success, as the scope of possible new concessions was not sufficient enough to a reach a balanced outcome. Furthermore, narrowing negotiations to those sectors covered by these review clauses would bring limited benefits, even if negotiations were successful. As a consequence, this alternative option will not be analysed further in the Impact Assessment as it appears to be practically unrealistic.

Alternative policy approaches

This option would be to modernise the current Agreement in order to achieve a 'comprehensive and ambitious' agreement including a broad range of issues that both parties want to address, including increased market access for goods, trade in services, investment, technical barriers to trade, regulatory co-operation, sanitary and phytosanitary measures, intellectual property rights (including GIs), public procurement, trade facilitation, mediation, competition, raw materials, SMEs, anti-corruption and trade and sustainable development. All these are standard elements included in recent free trade agreements. This option could be further divided into different sub-options, depending on the level of ambition to be aimed at.

Alternative policy instruments

Alternative policy instruments, such as non-regulatory alternatives, self- or co-regulation, market-based solutions would not be able to address tariff and non-tariff barriers for goods, barriers to trade in services and investment, as these must be subject to international agreements in line with World Trade Organisation (WTO) rules.

Alternative/differentiated scope

The purpose of this initiative is to facilate trade relations by reducing barriers to trade. Ensuring a broad coverage should therefore increase its positive economical impacts. However, regarding the “think small principle”, the likely impact on SMEs will be further examined in the impact assessment stage (see below).

Options that take account of new technological developments

Digital economy is an emerging field and – along with other new technological developments – would be reflected as part of the different options to the extent applicable to trade and investment policy.

Preliminary proportionality check

The preparatory works (i.e. the Joint Working Group as well as the impact assessment) that will be carried out are aimed at assessing the added value of this initiative as well as at evaluating its proportionality.

C. Data Collection and Better Regulation Instruments

Data collection

The existing Agreement has already been evaluated. An *Ex post assessment of six EU Free Trade Agreements* (which included the agreement with Chile) was carried out by Copenhagen Economics in February 2011 as well as an *Evaluation of the economic impact of the trade pillar of the EU Chile Association Agreement* carried out by ITAQA in 2012. Although these reports will feed into the impact assessment of this initiative, additional data on trade and investment flows, production patterns and information on environmental, social and regulatory impacts are required.

Data available from Eurostat and further data possibly exchanged with Chile would be the basis for the economic analysis. Further information would be collected through stakeholder consultation, and via an external study which is planned in order to feed into the impact assessment analysis. As part of this external study, data and evidence will be gathered as regards the performance of the current FTAs to complement the 2012 evaluation where appropriate.

Consultation approach

An internet-based open public consultation will take place during the preparation of the initiative.

The possibility for additional targeted stakeholder consultation will be further considered, if appropriate, in the Consultation Strategy.

Will an Implementation plan be established?

☐ Yes ☒ No

No Implementation Plan is foreseen, as negotiations of international agreements are conducted according to Article 218 of the TFEU.

D. Information on the Impact Assessment Process

The Impact Assessment Steering Group has been set up in December 2015. It is planned to meet up to 5 times. DGs invited to take part are: EEAS, DEVCO, TAXUD, GROW, FISMA, SANTE, ENV, CLIMA, COMM, HOME, JUST, CNECT, DIGIT, ECFIN, AGRI, MARE, MOVE, INFSO, SG, EMPL, COMP, ESTAT, ENER, REGIO, BUDG, RTD, EAC, ECHO, ELARG, JRC and SJ.

E. Preliminary Assessment of Expected Impacts

Detailed assessment of expected impacts will be carried out during the IA work.

Likely economic impacts

The initiative should reduce barriers to trade and investment, increase protection of EU interests and enhance the legal security for economic operators. The reduction of trade barriers and the creation of a more stable and transparent trading and investment environment are expected to make it easier and cheaper for EU and Chilean companies to export their products and services and to invest in the other Party. An Agreement modernised in a comprehensive and ambitious manner is likely to have higher positive impacts on trade and investment flows and output gains between the EU and Chile.

The magnitude and the direction of the likely economic impacts linked to the various policy options under consideration will be analysed in the Impact Assessment.

Likely social impacts

The initiative, by facilitating trade and investment activity, aims to contribute to jobs and growth – and therefore a positive impact on job creation is expected that, in turn, would have a positive social impact both in Chile and in the EU. Appropriate provisions may deepen co-operation in this area and may improve the effective implementation by the Parties of international labour conventions. An agreement modernised in a comprehensive and ambitious manner is likely to have higher positive impacts on welfare benefits. The magnitude and the direction of potential social impacts linked to the various policy options under consideration will be analysed further in the Impact Assessment.

Likely environmental impacts

The expected increased economic activity may lead to some negative environmental consequences. However, the opportunities present in a fuller agreement to promote transfer of environmentally friendly technologies, techniques and know-how, for development of renewable energy and increased trade in environmental services could lead to positive environmental impacts. The level of environmental regulatory frameworks in the EU and Chile are of comparable level. In any event, lowering environmental standards will be out of the question. Appropriate provisions may deepen co-operation in this area.

The magnitude and the direction of potential environmental impacts linked to the various policy options under consideration will be analysed in the Impact Assessment.

Likely impacts on simplification and/or administrative burden

A modernised agreement could lead to a simplification of administrative requirements and administrative burden for economic operators. Indeed, the EU and Chile will explore the possibility to progress in many areas in order to simplify existing procedures in areas such as trade facilitation, better convergence of regulatory approaches (e.g. on the basis of international standards), or geographical indications registration. The magnitude and the direction of the likely impacts of the initiative on simplification and/or administrative burden will be analysed in the Impact Assessment.

Likely impacts on SMEs

SMEs are expected to benefit, since removing trade and investment barriers would provide further opportunities for SMEs' internationalisation, including access to new market opportunities and international networking, and it would also reduce administrative costs.

The likely impacts on SMEs will be analysed further within the impact assessment.

Likely impacts on competitiveness and innovation

The initiative would contribute to innovation by further strengthening business interactions and investment that would provide a further boost to existing innovation and research and technology cooperation. Moreover, by establishing a level playing field, this initiative will facilitate the access of innovative industries to new markets.

The likely impacts on competitiveness and innovation are expected to be positive, and they will be analysed further in the impact assessment (including in greater detail for particular sectors).

Likely impacts on public administrations

Additional administrative efforts would depend on the options and are expected to be in line with other similar initiatives.

The likely impacts will be analysed in the Impact Assessment.
Likely impacts on third countries, international trade or investment
Chile will be directly impacted. A modernised agreement should increase the preferential treatment enjoyed by both Parties from the other when compared to the relationships of each of those parties with other trading partners. As a result, a modernised Agreement could lead to some trade diversion for other third countries. However, this impact could be counterbalanced by overall expanding economic activity and associated increase of trade and investment opportunities for third countries. Removing some of the existing barriers to trade and investment could also benefit third countries. The likely impacts will be analysed in the Impact Assessment.