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Proposal for a

COUNCIL DECISION

**on the conclusion, on behalf of the European Union, of the Interim Agreement on Trade
between the European Union and the Republic of Chile**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The attached proposal constitutes the legal instrument for authorising the conclusion of the Interim Agreement on Trade between the European Union and the Republic of Chile (hereinafter referred to as 'the ITA').

In accordance with Council Decision No [XX]¹, the ITA was signed on [XX XXX 2023], subject to its conclusion.

Relations between the European Union ('EU') and the Republic of Chile ('Chile') are currently based on the Association Agreement (hereinafter 'the AA') between the European Community and its Member States, of the one part, and Chile, of the other part, which was signed on 18 November 2002 and entered into force on 1 March 2005 (with provisional application as from 1 February 2003)².

Many changes occurred since the entry into force of the Association Agreement. In 2006, the European Commission adopted a 'Global Europe' strategy, modernising its agenda for EU trade policy and seeking deeper trade Agreements. The EU has concluded Agreements with other countries in the region (Trade Agreement with Colombia, Ecuador and Peru, Association Agreement with Central America) and beyond, inter alia with Canada, Japan, New Zealand, Singapore and Vietnam.

Chile has signed 26 FTA with 64 Countries, including with the US (2004), China (2006) and Japan (2007). Chile also joined the Pacific Alliance and the Trans-Pacific Partnership (now Comprehensive and Progressive Agreement for Trans-Pacific Partnership).

These Agreements and negotiations go well beyond the ambition and scope of the existing EU-Chile AA in most areas. As a result, both Parties expressed interest in the modernisation of the AA to further improve their trade ties and to contribute to deepening political and economic relations.

During a meeting in the margins of the EU-CELAC Summit held in Santiago on 26-27 January 2013, leaders from the EU and Chile agreed to explore options to modernise the AA, 10 years after its entry into force. In April 2015, the 6th EU-Chile Association Council endorsed the establishment of the joint working group ('the Group') on the modernisation of the AA. The aim of the Group was to conduct a scoping exercise by assessing the level of ambition of the perspective negotiations to modernise the AA in all areas. The Group created two subgroups, one responsible for political and cooperation issues and the other for trade. The subgroups concluded their work on the occasion of the 14th EU-Chile Association Committee that was held on 31 January 2017.

On 13 November 2017, the Council adopted a Decision authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations for a modernised agreement with Chile to replace the AA.

The negotiations were formally launched on 16 November 2017. The negotiations were conducted in consultation with the Council Working Party on Latin America and the

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² *OJ L 26, 31.1.2003.*

Caribbean. The Trade Policy Committee was consulted on the trade-related parts of the Agreement.

The EU and Chile reached the political conclusion of the negotiations on 9 December 2022 in Brussels.

The modernisation of the existing EU-Chile Association Agreement revolves around two legal instruments:

1. an Advanced Framework Agreement ('AFA'), that will include a) the Political and Cooperation pillar and b) the Trade and Investment pillar (inclusive of investment protection provisions); and
2. an Interim Agreement on Trade (ITA) covering trade and investment liberalisation. The ITA will expire when the Advanced Framework Agreement enters into force.

The ITA was proposed for signature and conclusion at the same time as the AFA. To enter into force, the ITA will have to be ratified by both sides. On the EU side it will require the consent of the European Parliament, followed by the adoption of the Council decision on conclusion. The ITA, once ratified and entered into force, will remain in force until the AFA is fully ratified and entered into force.

- **Consistency with existing policy provisions in the policy area**

The ITA provides a modernised comprehensive legal framework for EU-Chile trade and investment relations. Upon entry into force of the ITA, Part IV of the AA, including any subsequent decision by its institutional bodies, will cease to have effects and will be replaced by the ITA.

The Agreement on Trade in Wines and the Agreement on Trade in Spirits and Aromatised Drinks (hereinafter 'the Wines and Spirits Agreements'), previously annexed to the AA³, are going to be incorporated in the ITA.

The ITA is fully in line with the "Trade for All" strategy of October 2015 by anchoring trade and investment policy in European and universal standards and values alongside core economic interests, putting a greater emphasis on sustainable development, human rights, consumer protection, and responsible and fair trade.

- **Consistency with other Union policies**

The ITA is fully consistent with European Union policies and will not require the EU to amend its rules, regulations or standards in any regulated area, e.g. technical rules and product standards, sanitary or phytosanitary rules, regulations on food and safety, health and safety standards, rules on GMOs, environmental protection or consumer protection.

The ITA also includes a chapter on Trade and Sustainable Development, which links the Agreement to the EU's overall objectives of sustainable development and specific objectives in the areas of labour, environment, and climate change. This will help the EU to reach its Green Deal targets of inclusive green and digital transitions, including contributing to the roll out of the Global Gateway strategy. Furthermore, a Joint Statement by the European Union and the Republic of Chile on the Provisions on Trade and Sustainable Development contained in the Interim Agreement on Trade between the European Union and the Republic of Chile ('the Joint Statement') is attached to the Agreement. The Joint Statement foresees that the Parties will, upon the entry into force of the ITA, initiate a formal review process of its trade and sustainable development aspects in order to consider the incorporation, as appropriate, of

³ The Agreements were amended in 2005, 2006, 2009 and lastly in 2022 (OJ C287/19 of 28 July 2022).

additional provisions that may be deemed relevant by either Party at that time, including in the context of their respective domestic policy developments and their recent international treaty practice. Such additional provisions may relate, in particular, to further enhancing the enforcement mechanism of the Trade and Sustainable Development chapter, including the possibility to apply a compliance phase, and adequate countermeasures as a last resort. Without prejudice to the outcome of the review, the Parties will also consider the possibility of including the Paris Agreement on Climate Change as an essential element of the Agreements.

Furthermore, the ITA fully safeguards public services and ensures that governments' right to regulate in the public interest is preserved by the Agreement and constitutes a basic underlying principle thereof.

Cooperation in Research and Innovation is in accordance with the Agreement for scientific and technological cooperation between the European Community and the Republic of Chile, signed in September 2002 and entered into force in January 2007.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

In accordance with the Treaties and the case law of the European Court of Justice, in particular its Opinion 2/15 on the EU-Singapore FTA of 16 May 2017, all the areas covered by the ITA would fall within the exclusive external competence of the EU and, more particularly, within the scope of Articles 91, 100(2) and 207 TFEU.

As a result, the ITA is to be concluded by the Union pursuant to a decision of the Council based on Article 218(6) TFEU, following the European Parliament's consent.

• Subsidiarity (for non-exclusive competence)

The ITA as presented to the Council does not cover any matters that fall outside the EU's exclusive external competence.

• Proportionality

Trade agreements are the appropriate means to govern market access and the related areas of comprehensive economic relations with a third country outside the EU. No alternative means exist to render such commitments and liberalisation efforts legally binding.

This initiative pursues directly objectives of the Union in external action and contributes to the political priority of 'EU as a stronger global actor'. It is in line with the EU Global Strategy's orientations to engage with other Countries and to revamp its external partnerships in a responsible way, in order to attain the EU's external priorities. It contributes to the EU's trade and development objectives.

Negotiations for the ITA with Chile were carried out in accordance with the negotiating directives set out by the Council. The outcome of negotiations does not go beyond what is necessary to achieve the policy objectives set out in the negotiating directives.

• Choice of the instrument

This proposal is in accordance with Article 218(6) TFEU, which envisages the adoption by the Council of decisions on the conclusion of international agreements. No other legal

instrument exists that could be used in order to achieve the objective expressed in this proposal.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

An “Evaluation of the Economic Impact of the Trade Pillar of the EU-Chile Association Agreement” was commissioned by the Commission and completed in March 2012. An “Ex ante Study of a Possible Modernisation of the EU-Chile Association Agreement” looking at options for modernisation was commissioned by the Commission and completed in February 2017.

These assessments demonstrated that, while the coverage of the existing trade pillar was comprehensive at the time, there was scope for further improvements of the rules and achieving further market access. It also concluded that it was necessary to update the Association Agreement to the evolution of the global trade landscape.

Furthermore, a “Sustainability Impact Assessment in Support of the Negotiations for the Modernisation of the Trade Part of the Association Agreement with Chile” was commissioned by the Commission and completed in May 2019.

- **Stakeholder consultations**

The contractors for the external studies undertaken organised numerous consultation and outreach activities, including: dedicated websites for documents and activities linked to the studies; online surveys of stakeholders; and individual interviews.

In the context of the Impact Assessment, DG Trade consulted interested stakeholders, including businesses, civil society stakeholders, NGOs, trade unions as well as trade associations, chambers of commerce and other private interests, on the modernisation. These consultations with stakeholders involved different consultation activities including open public on-line consultation.

These external studies, and the consultations held in the context of their preparation, provided the Commission with input that has been of great value in the negotiations of the ITA.

During the negotiations, meetings to debrief civil society organisations on the status of the negotiations and to exchange views on the modernisation were also organised.

Negotiations were carried out in consultation with the Council's Working Party on Latin America and the Caribbean on the political and cooperation aspects of this Agreement, and in consultation with the Trade Policy Committee on the trade aspects of this Agreement, as the special committee designated by the Council in accordance with Article 218(4) TFEU. The European Parliament and the European Economic and Social committee were also regularly informed through the Committee on International Trade (INTA), notably its Monitoring Group on Chile, and the Committee on Foreign Affairs. The texts progressively resulting from the negotiations were circulated throughout the process to both institutions.

- **Collection and use of expertise**

The “*Ex-post evaluation of the implementation of the EU-Chile Free Trade Agreement*” was carried out by the external contractor “ITAQA SARL”.

The “*Ex ante Study of a Possible Modernisation of the EU-Chile Association Agreement*” was carried out by the external contractor “Ecorys-Case”

The “*Sustainability Impact Assessment (SIA) in support of the negotiations for the modernisation of the trade pillar of the Association Agreement with Chile*” was carried out by the external contractor “BKP Development Research & Consulting”⁴.

- **Impact assessment**

The proposal was supported by an Impact Assessment published in May 2017⁵ which received a positive opinion (SWD/2017/0173 final).

The Impact Assessment concluded that a comprehensive negotiation would deliver positive benefits for both the EU and Chile. Such benefits included increases in GDP, welfare and exports, employment, wages (for both less skilled and more skilled employees), competitiveness and an improved position for both the EU and Chile in respect of other global competitors. The inclusion of provisions on sustainable development would also have a positive impact on the promotion and respect of human rights as well as the effective implementation of International Labour Organisation (ILO) core labour standards.

Furthermore, the Sustainability Impact Assessment (SIA) carried out during the negotiation provides a comprehensive assessment of the potential economic, social and environmental impacts of increased trade liberalisation under the ITA in the EU and Chile. The SIA also analyses the potential impacts of the modernisation on Human Rights and on the manufacturing, agriculture and services sectors.

The EU and Chile have reached an ambitious agreement in line with most recent trade agreements such as CETA, Japan and New Zealand. The Agreement will open new opportunities for trade and investment in both markets and support jobs in the EU.

The ITA will *inter alia* remove most of the customs duties, extend access to public contracts, open up services' market, offer predictable conditions for investors and, help prevent illegal copying of EU innovations and traditional products. The ITA also contains all the guarantees to make sure that the economic gains do not come at the expense of fundamental rights, social standards, governments' right to regulate, environment protection or consumers' health and safety.

- **Regulatory fitness and simplification**

The ITA is not subject to REFIT procedures. Its nevertheless contains a framework for simplified trade and investment procedures, reduced export and investment related costs and will therefore increase trade and investment opportunities for small and medium-sized enterprises. Among the expected benefits are increased transparency, less burdensome technical rules, compliance requirements, customs procedures and rules of origin, enhanced protection of intellectual property rights and geographical indications, better access to procurement tender procedures, as well as a special chapter to enable SMEs to maximize the benefits from the Agreement.

⁴ https://policy.trade.ec.europa.eu/analysis-and-assessment/sustainability-impact-assessments_en#chile

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017SC0173>

- **Fundamental rights**

The proposal does not affect the protection of fundamental rights in the Union.

4. BUDGETARY IMPLICATIONS

The ITA will have a limited negative impact on the EU budget in the form of elimination of customs duties due to tariff liberalisation. Indirect positive impacts are expected in terms of increases in resources linked to value added tax and gross national income.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The ITA includes institutional provisions that lay down an implementing bodies' structure to continuously monitor its implementation, operation and impact.

The institutional provisions of the ITA establish the specific functions and tasks of the Trade Council and Trade Committee which will continuously monitor the implementation and application of the ITA.

The Trade Committee will assist the Trade Council in the performance of its function and supervise the work of all Sub-Committees and other bodies established under the ITA. The Trade Committee comprised of representatives of the EU and Chile with responsibility for trade-related matters who will meet every year or at the request of either side.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The ITA broadens the scope of the current bilateral trade framework and adjusts it to the new political and economic global challenges, to the new reality of the EU-Chile partnership and to the level of ambition of recently concluded trade agreements and negotiations conducted by the EU and Chile.

The ITA creates a coherent, comprehensive, up-to-date legally binding framework for the EU's relations with Chile. It will foster trade and investment by contributing to the expansion and diversification of economic and trade relations.

The ITA also includes a civil society consultation mechanism extended to the whole Agreement to allow the civil society on both sides to be heard on all the provisions in the Agreement.

In line with the objectives set by the negotiating directives, the ITA will bring about:

Improved market access for agricultural and fisheries exports and improved rules

Under the current Association Agreement, all industrial goods and a considerable part of agricultural and fisheries products had already been liberalised. With the modernisation, the Trade in Goods chapter results in full liberalisation for more than 99% of all tariff lines.

At the same time, the ITA takes EU agricultural sensitivities fully into account. The EU will not fully liberalise its markets for highly sensitive products, such as poultry, beef, pork and olive oil. These products imported from Chile will only have a limited and controlled access

to the EU market through carefully calibrated tariff quotas that take into account concerns of European farmers and consumer preferences.

Moreover, the Trade in Goods text contains additional and more extensive rules that will facilitate trade between the EU and Chile. This includes provisions on fees and formalities, import and export licensing, prohibition of export duties, and binding of tariffs for which full duty elimination is not foreseen (standstill). It also contains new generation provisions on export competition, remanufacturing, goods entered after repair and provisions to facilitate the temporary admission of goods.

Simplified Rules of Origin

The Rules of Origin (RoO) have been reviewed and in some cases simplified to take into consideration the need of industry, for example, for key industrial products such as cars or pharmaceuticals.

Modernised and simplified border procedures

The ITA contains an ambitious Chapter on Customs and Trade Facilitation based on the provisions of the WTO Agreement on Trade Facilitation (TFA) and going even further in certain areas. The EU and Chile undertake to apply simplified, modern and where possible automated procedures for the efficient and expedited release of goods through streamlined requirements on data and documentation, pre-arrival processing of customs documentation and information as well as effective and non-discriminatory risk management.

Ensuring fair trade and business conditions

In order to be able to deal efficiently and effectively with unfair trading practices, improved disciplines regarding trade remedies have been agreed. In addition, the ITA contains provisions to protect domestic industries in the event that increased imports of a product arising from the Agreement is causing, or risks causing, serious injury to that industry. The ITA also contains a subsidy chapter which helps to level the playing field between EU and Chilean companies through increased transparency for subsidies to both goods and services, consultations if subsidies risk having a negative effect on trade, and rules on the most harmful subsidies (restructuring aid without restructuring plan and unlimited guarantees).

The ITA also ensures that companies respect the basic competition principles: no abuse of a dominant position, no agreements between enterprises that restrict competition, and scrutiny of the competitive effects of a merger. At the same time, the ITA will ensure the level playing field between public and private enterprises on the market. State-owned enterprises, enterprises granted special rights or privileges and designated monopolies must act in a non-discriminatory manner and according to commercial considerations when buying and selling goods and services on the market.

Ensuring sustainability

The ITA contains a fully-fledged ambitious Trade and Sustainable Development chapter, to enhance the integration of sustainable development in the Parties' trade and investment relationship through legally binding commitments on environmental protection, climate change and labour rights, provisions on cooperation and dialogue including with civil society, as well as dispute settlement procedures.

Moreover, the ITA is the first trade agreement concluded by the EU to include a dedicated Chapter on Trade and Gender Equality. This Chapter incorporates a gender perspective into the promotion of inclusive economic growth. In this Chapter, the EU and Chile reaffirm their commitment to effectively implement their obligations under the Convention on the

Elimination of all Forms of Discrimination Against Women as well as under other multilateral agreements addressing gender equality or women's rights. In a non-regression clause, EU and Chile commit not to weaken or reduce the levels of protection granted under their respective laws aimed at ensuring gender equality or equal opportunities for women and men, nor to waive or otherwise derogate from such laws, in order to encourage trade or investment.

Finally, a Joint Statement by the European Union and the Republic of Chile on the Provisions on Trade and Sustainable Development is attached to the ITA, in which EU and Chile expressed their joint intent to initiate a review of the Trade and Sustainable chapter upon entry into force of the ITA, in order to consider the incorporation, as appropriate, of additional provisions that may be deemed relevant by either Party at that time. In that review, the EU will be guided by the Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, entitled "The power of trade partnerships: together for green and just economic growth" (COM(2022) 409 final), in particular with regard to further enhancing the enforcement mechanism. Without prejudice to the outcome of the review, the EU and Chile will also consider the possibility of including the Paris Agreement on Climate Change as an essential element of the Agreements.

Focusing on the needs of smaller businesses

The ITA requires the EU and Chile to set up a website for Small and Medium Enterprises (SMEs) which will make it easier for SMEs to access information and therefore benefit from all provisions of the Agreement. Contact points in the EU and Chile will work together to take into account the specific needs of SMEs and identify ways in which they can take advantage of new opportunities in each market.

Opportunities for service suppliers and rules for digital trade

The ITA contains comprehensive disciplines covering market access for services and investment in all sectors of the economy, and specific disciplines covering digital trade. It aims to establish a level playing field notably for EU service suppliers involved in sectors such as telecommunications and financial services, as well as in areas such as delivery services and maritime services. The ITA also provides a framework for the Parties to recognise each other's qualifications in regulated professions such as architects, accountants, lawyers and engineers. In digital trade, the agreement establishes horizontal disciplines including for areas such as online trade in goods or services, and that are indispensable for the good functioning of online trade.

Encouraging investment

The ITA contains provisions liberalising investment following the same approach as the most ambitious EU trade agreements concluded so far. In particular, all substantive disciplines under this Chapter will apply identically to both services and non-services sectors. In particular, investors and their investments will be able to benefit from the commitment to provide non-discriminatory treatment in comparison to domestic or 3rd country investors, as well as from the ambitious disciplines for non-discriminatory market access barriers, in the form of non-discriminatory quantitative restrictions such as monopolies and exclusive rights, quotas, and economic needs tests.

Performance requirements, such as requirements to achieve a certain level of local content or to transfer technology, as a condition attached to the establishment or operation of any enterprise, will be prohibited while taking due account of Parties' sensitivities, thus enhancing the existing disciplines under the WTO TRIMS agreement.

One specific feature of the Investment Chapter negotiated with Chile is that it provides for national treatment of locally established enterprises with respect to purchase of goods and services through public procurement, a commitment which is normally found in the Public Procurement Chapter in other EU agreements.

The Parties' liberalisation commitments are subject to narrowly defined exclusions (such as for the audiovisual sector), and specific reservations that either limit the Parties' respective degree of openness, or define the desired future policy space for sectors considered particularly sensitive. The reservations are scheduled through a 'hybrid list' approach, i.e. a 'positive list' for market access obligations (based on a list of specific sectors which are committed), and a 'negative list' (all sectors committed with the exception of specific reservations for certain sectors) for all other substantive obligations. The Parties' specific commitments reflect a high level of liberalisation, corresponding to their most ambitious agreements concluded so far, including comprehensive market access commitments for non-service sectors).

Access to Chilean public tenders

The ITA provides for more opportunities for bidders to access public procurement contracts. Chile has opened up its government tenders to EU companies to a greater extent than with any of its other trading partners. EU companies will be able to bid to provide goods and services not only at central but also at sub-central level. EU and Chile also undertake to subject their public procurement procedures to a modern set of rules, applying high standards of transparency, non-discrimination and equal treatment.

Setting better protection for innovation and creative works

The ITA establishes a level playing field by ensuring that Chile and the EU also follow a common approach on Intellectual Property Rights (IPRs) enforcement and that both sides take action to fight against counterfeiting and piracy and uncompetitive practices. It ensures a high level of protection of IPRs and their enforcement. It also includes the reciprocal protection of a selected list of EU and Chilean Geographical Indications (GIs). In the case of the EU, 216 EU GIs will be protected. This is in addition to the existing Agreements on wines and spirits, which protect 1745 GI for wines and 257 GIs for spirits and 5 for aromatised wines from the EU in Chile. Those GIs lists have also been updated in a parallel process.

Ensuring safe and sustainable trade in agri-food products

The ITA includes a chapter on Sanitary and Phytosanitary matters (SPS) providing many specific trade facilitation measures. This should enable faster yet safe trade. Both the EU and Chile keep their right to establish the level of protection they consider appropriate.

Furthermore, the ITA includes a Sustainable Food System chapter foreseeing cooperation on specific aspects of sustainable food systems, such as the sustainability of the food chain and reduction of food loss and waste, the fight against food fraud along the food chain, animal welfare, the fight against antimicrobial resistance and reducing the use and risk of fertilizers as well as chemical pesticides, which imply unacceptable risks for health or the environment as shown in relevant assessments. Among the cooperation activities to fight against the antimicrobial resistance, the EU and Chile have agreed to phase out the use of antibiotics as growth promoters.

Ensuring that technical regulations, standards, and conformity assessment procedures are non-discriminatory and do not create unnecessary obstacles to trade

To increase regulatory convergence between Chile and the EU based on international standardisation, the Parties agreed on a closed list of international standardisation organisations and reiterated their commitment to base their technical regulations and conformity assessment procedures on relevant international standards developed by these organisations. The ITA highlights the importance of impact assessments in the preparation of technical regulations and conformity assessments. It promotes a risk-based approach to conformity assessment, including consideration of supplier's declaration of conformity, and the use of accreditation to qualify conformity assessment bodies, including the mechanisms of the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF). In addition to general provisions on regulatory cooperation that will enable Chile and the EU to cooperate on future regulatory issues of mutual interest, the ITA also establishes a specific cooperation on market surveillance and product safety that provides for the exchange of information on non-compliant or dangerous products on the respective markets. The Parties also agreed on an annex on motor vehicles, which will facilitate the approval of new motor vehicles and acceptance of type-approval certificates.

Transparency and Good Regulatory Practices

The ITA includes a Transparency Chapter with ambitious provisions on the publication, administration, and review and appeal of measures of general application related to trade matters and a Chapter that establishes a set of Good Regulatory Practices that EU and Chile will use when developing regulations.

Modern Procedures on Dispute settlement

The ITA includes provisions on State-to-State Dispute Settlement establishing effective and transparent modern procedures grounded in due process to prevent and solve any disputes between Chile and the EU.

Institutional Structure

Finally, the institutional structure of the ITA is composed of a Trade Council, a Trade Committee and a number of Sub-Committees. The Trade Council oversees the fulfilment of the objectives of ITA and supervises its implementation. In the performance of its duties, it is assisted by the Trade Committee, responsible for the general implementation of the ITA, including the definition and supervision of the sectoral dialogues.

The Trade Council and the Trade Committee may establish additional Sub-Committees and other bodies to assist in the exercise of their functions and to address specific tasks or subject matters.

The Parties shall promote the participation of civil society in the implementation of the ITA, in particular through interaction with the Civil Society Forum referred to in Articles 33.7, and with their respective Domestic Consultative Group, referred to in Article 33.6.

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Union, of the Interim Agreement on Trade between the European Union and the Republic of Chile

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1), Article 100(2), and the first subparagraph of Article 207(4), in conjunction with point (a)(v) of Article 218(6), and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament⁶,

Whereas:

- (1) On 13 November 2017, the Council authorised the Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations for a modernised agreement with Chile to replace the Association Agreement.
- (2) On 9 December 2022, the negotiations between the the European Union and Chile were successfully concluded.
- (3) The modernisation of the existing EU-Chile Association Agreement foresees two parallel legal instruments:
 - the Advanced Framework Agreement between the European Union and its Member States, of the one part, and the Republic of Chile, of the other part, which includes a) the Political and Cooperation pillar and b) the Trade and Investment pillar (inclusive of investment protection provisions);
 - and the Interim Agreement on Trade between the European Union and Republic of Chile ('the Agreement'), covering trade and investment liberalisation, which will cease to have effect and be replaced by the Advanced Framework Agreement upon entry into force of the latter.
- (4) A Joint Statement by the European Union and the Republic of Chile on the Provisions on Trade and Sustainable Development contained in the Interim Agreement on Trade between the European Union and the Republic of Chile ('the Joint Statement') is attached to the Agreement.
- (5) In accordance with Council Decision No [XX]⁷, the Agreement was signed on [XX XXX 2023], subject to its subsequent conclusion. The European Union and Republic of Chile also endorsed the Joint Statement on the same day.

⁶ OJ C , , p. .

⁷ [Reference to be inserted]

- (6) Pursuant to Article 218(7) of the Treaty on the Functioning of the European Union, it is appropriate to authorise the Commission to approve on the Union's behalf the position to be taken on certain modifications to the Agreement that are to be adopted by a simplified procedure pursuant to Articles 21.20 and 33.11(6) of the Agreement, and by a body set up by the Agreement pursuant to Article 25.34 and subparagraph (a) (x) of Article 33.1(6) of the Agreement.
- (7) The Agreement and the Joint Statement attached to the Agreement should be approved on behalf of the Union.
- (8) The Agreement, in accordance with its Article 33.14, does not, within the Union, confer rights or impose obligations on persons, other than those created between the Parties under public international law,

HAS ADOPTED THIS DECISION:

Article 1

The Agreement and the Joint Statement are hereby approved on behalf of the Union. The texts of the Agreement and of the Joint Statement are attached to this Decision.

Article 2

For the purposes of Article 21.20 of the Agreement, modifications or rectifications as regards Annex 21-A to the Agreement shall be approved by the Commission on behalf of the Union.

Article 3

For the purposes of Article 25.34 and subparagraph (a)(x) of Article 33.1(6) of the Agreement, amendments of Annex 25-C of the Agreement shall be approved by the Commission on behalf of the Union.

Article 4

For the purposes of Article 33.11(6) of the Agreement, amendments of the appendices to the Agreement on Trade in Wines in Annex V to the Association Agreement signed by the European Communities and its Member States, of the one part, and the Republic of Chile, of the other part, on 18 November 2002 (the 'Association Agreement'), as incorporated into the Agreement, shall be approved by the Commission on behalf of the Union.

For the purposes of Article 33.11(6) of the Agreement, amendments of the appendices to the Agreement on Spirit Drinks and Aromatised Drinks in Annex VI to the Association Agreement, as incorporated into the Agreement, shall be approved by the Commission on behalf of the Union.

Article 5

The Commission is hereby authorised to designate the person empowered to proceed, on behalf of the Union, to the notification provided for in Article 33.10 of the Agreement, in order to express the consent of the Union to be bound by the Agreement.

Article 6

This Decision shall enter into force on the day of its adoption⁸.

Done at Brussels,

*For the Council
The President*

⁸ The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.