TOWARDS CRISIS-SENSITIVE TRADE PROVISIONS: AN ANALYSIS OF THE PACIFIC ALLIANCE

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Executive Summary

More than 16 million people have been infected by COVID-19, and the entire world population affected. The pandemic has shaken social and economic structures around the world. The virus reached Continents with the rapid spread of the disease, causing people to be subjected to confinement and sanitary protection measures. With an estimated GDP contraction of 5.2%, millions of people have been affected for the reduction of their wages, their jobs losses and incurring in indebtedness to face the first consequences of the crisis. The impact that COVID-19 will have is still unknown since it not only involves the world economy, but as a humanitarian crisis is affecting all spheres of society. There is no doubt that people who were already in disadvantage or in vulnerability situations, will have even greater negative consequences because of the pandemic. This impact has been particularly disproportionate towards women, and those without access to digital platforms that have shown to be more resilient to this crisis.

In order to respond to this crisis through comprehensive trade policymaking, this report looked into the development of provisions that could be included in the Pacific Alliance Additional Protocol, which serve as model measures for regional and other trade and/or economic partnership agreements to guide national trade policymaking. The report focus on how trade agreements may respond to a crisis situation in the context of digital trade and gender provisions. These sectors were selected for both their relevance to promote an inclusive and sustainable economic recovery, and due to Chile’s participation in drafting these regulations. Following the executive summary, a three-step approach was used to analyze each sector. First, a diagnosis was conducted, identifying the impact the current pandemic has had on digital gaps and women’s economic empowerment. Second, as reference, the latest Chilean agreements addressing these issues were studied, specifically, the Digital Economy Partnership Agreement (DEPA) and Chilean trade and gender chapters in FTAs. Third, through the review of the Pacific Alliance Additional Protocol and comparison with the mentioned agreements, the report provides recommendations: on the one hand, a model Digital Trade Chapter, and on the other, the amendment of the Additional Protocol Preamble and the inclusion of a Trade and Gender Chapter. These proposals could foster the capabilities of the Pacific Alliance member economies to tackle the challenges derived from this kind of crises; and serve as a model for other international agreements.
# Table of Contents

Executive Summary ............................................................................................................. 2  
Digital economy .................................................................................................................. 4  
  1. Digital economy in the Pandemic............................................................................... 5  
  2. Inclusion of Digital Economy Provisions in Chilean Trade Agreements ............... 7  
  3. Analyzing digital economy related commitments in the Pacific Alliance........... 12  
  4. Recommendations ....................................................................................................... 21  
Gender .................................................................................................................................. 44  
  1. COVID-19 Impact on Women’s Economic Empowerment................................. 45  
  2. Inclusion of Gender in Chile’s Trade Agreements............................................... 49  
  3. Analyzing gender commitments in the Pacific Alliance...................................... 51  
  4. Recommendations and proposals............................................................................. 56  
Team Members....................................................................................................................... 92
Digital economy

Digital transformation led by the continuous development of information and communication technologies is changing consumption and production patterns worldwide. The number of commercial transactions made through electronic means grew, involving businesses, consumers and governments’ activities, giving shape to what we may describe as digital trade. There is no single recognized and accepted definition of digital trade, but there is a growing consensus that “it encompasses digitally enabled transactions in trade in goods and services which can be either digitally or physically delivered and which involve consumers, firms and governments”.

The rise of the digital economy, particularly in terms of international trade, presents both opportunities and challenges. The different actors: consumers, producers, investors, policymakers, academics, amongst others, need to adjust to this changing landscape, as their adapting capabilities will become critical to ensure that the benefits derived from these technologies are captured and evenly distributed amongst the population. Regarding the opportunities, on the one hand, digital platforms may increase cross-border trade of goods allowing companies (specially SMEs) to directly contact their consumers. On the other hand, the expansion of digitalization allows the remote supply of services, such as health care, education, consulting or professional services; and the growth of web based applications including online entertainment streaming platforms, video games, social media, amongst others.

Amongst the challenges, in order to secure the benefits of the digital economies, governments need to provide relevant infrastructure, skills and regulations; ensure international cooperation to address issues such as competition, consumer protection, data ownership and protection, privacy, taxation and trade; and prevent the evolving digital economy from exacerbating digital divides and income inequalities, particularly giving access to women. The development of frameworks that help govern digital transactions should aim to balance the promotion of businesses and economic development, securing privacy and consumers rights, and allowing an equitable access to the various groups within their territories.

These challenges have become of particular relevance during the ongoing COVID-19 pandemic as digital transactions have grown. Countries, economic sectors, companies or persons, who have shown more resilience to the economic crisis and its effects, are those better adapted to develop in digital platforms. Hence, both building normative infrastructure and ensuring that all population have minimum access to Internet (connections and devices) become preconditions so digital economy can support economies’ recovery from this kind of crisis.

This section is structured as follows. After this introduction, it reviews the effects of COVID-19 pandemic on digital trade. Later, it analyzes how digital issues have been covered in various trade agreements subscribed by Chile. For the development of the

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1 López, J. and M.A. Jouanjean (2017). Digital trade: developing a framework for analysis. OECD, OECD.
recommendations, a comparative analysis of existing provisions included in the Pacific Alliance and the Digital Economy Partnership Agreement (DEPA) is conducted. Finally, based on this analysis, it proposes amendments to the Pacific Alliance “Electronic Commerce” chapter, in order to include the latest issues in this matter, towards the establishment of a digital market within the region that may help boost sustainable development in a post-pandemic scenario.

1. Digital economy in the Pandemic

COVID-19 outbreak has caused deep disruptions to world trade, affecting both the supply and demand sides of the global economy. According to a recent WTO report regarding trade in services in the context of the COVID-19 pandemic, transportation, tourism, and distribution services have been heavily affected as result of both a sharp demand reduction and the imposition of various operation restrictions due to sanitary measures. This contraction has also a significant impact on supply chains for other services and merchandizes trade. Besides, the world has experienced an increase in the use of online services during the pandemic, for example digital trade, health, education, telecommunications, and audiovisual services. In addition, as most population has experienced quarantines and confinement measures, digital platforms have allowed personal communications and home entertainment activities.

While the advances of telecommunication and information technologies have pushed the digitalization of various personal, business and governmental activities during the past decades, the pandemic has accelerated this process. “Those companies able to use technology well to keep going and rethink their business model for the future by fast-tracking digital transformation will be the ones ahead of their competition”. Despite the global economic downturn, those economic activities that are able to adapt to digital environments have shown more resilience to the negative impact of the crisis, for example, working from home, or using digital platforms to provide services or offer their products.

A critical sector during this sanitary crisis has been healthcare, which may be used as an example of the relevance of digital platforms. Here, the Internet of Things (IoT) provides platforms through which public health authorities can access data to monitor COVID-19 pandemic. In addition, big data offers the opportunity to carry out studies on the modeling of viral activities and to guide health policymakers in every country. Finally, digital technology can improve public health education and communication. Another example are education activities, as over 1.2 billion students are out of the classrooms. Due to the

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closure of educational establishments, educational services worldwide have been forced to move into virtual academic platforms not to delay academic calendars. This unexpected change has evidenced the social gaps in access to this type of education, ranging from technology (equipment and connectivity), culture, and lack of methodology that ensure the educational process.

The pandemic has unveiled the existing gaps in terms of accessibility to the digital economy. According to ECLAC, over 67% of the region’s residents used the Internet, and broadband penetration increased significantly by 2019. Nevertheless, the intensive use of digital technologies during the pandemic, and in the post-pandemic economic recovery, can exacerbate inequalities between countries and within countries, with a negative impact on vulnerable population such as elderly, women or indigenous population. There are also significant inequalities in the connectivity rate between income segments, “while more than 80% of the population in Chile, Brazil, Costa Rica and Uruguay had a mobile Internet connection by 2017, this number dropped to 30% in Guatemala, Honduras, Haiti and Nicaragua”.

Technology, and its access, plays a relevant role in the region as governments take social distance measures to stop the spread of COVID-19 and companies develop solutions that reduce the impact on their businesses. There is a risk that the rapid application of technologies during the current emergency will widen the digital gap, therefore equitable access to digital infrastructure is particularly important. For example, “communities and households with limited access to the Internet will have little access to vital information related to health and the socio-economic opportunities generated”.

Another important aspect is how online services consumption during the pandemic has increased. This has shown governments the technology and connectivity disparities across the world, as neither online classes nor home office can function properly without computers or broadband for everyone. “In this context, suppliers are accelerating efforts to expand their online operations and consumers are adopting new habits that may contribute to a long-term shift towards online services”.

Regarding international trade, as the pandemic spreads, and despite the general downturn, the WTO highlights strong growth in commercial sales to consumers (B2C) and an increase in business-to-business e-commerce (B2B). The growth in online B2C sales relates to medical supplies, household items, and food products. Online services, which have increased for productive and leisure purposes, are at least partly possible due to cross-border services, as digital platforms allowing these interactions are most likely foreigners.

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12 Ibid. N 11.

At this time, countries around the world have discussed how to increase opportunities for digital services as the mobility restrictions and social distancing measures imposed for public health reasons continue. This has included improvements in connectivity; digital tools; assistance to micro, small and medium sized enterprises (MSMEs); access to data; digital payments; and infrastructure; although there are pressing concerns in terms of data privacy and security. However, the WEF has pointed ways to improve digital trade that could be included in subsequent conversations

1. Modern trade agreements that include digital trade: This means to modernize rules governing digital trade. As an example, the Digital Economy Partnership Agreement (DEPA) demonstrates the innovation in governments to modernize trade agreements about digital economy.
2. Promote greater interoperability: Even though trade rules exist, and to a lesser extent digital rules, it would be ideal to create global rules about topics like digital payments, licenses, and others.
3. Digital trade documentation: “the COVID-19 pandemic disrupted supply chains and exposed the fact that international trade is a paper-heavy system that relies too much on physical documentation” 15. In this case, it is important that countries advance to digitalization of the trade process to reduce costs and be more resilient to face crisis such as this pandemic. This includes electronic signature, transactions, and the implementation of digital platforms.
4. Close the digital gap: The differences between the developed and least developed countries about digitalization is evident. Countries must work together towards investment in digital infrastructure, connectivity, and technical education.
5. Build trusted technologies for all: This addresses the concerns about transparency and security in the digital world. Countries must focus on data privacy protection and secure platforms for all people, for example MSMEs.

Hence, the accelerated expansion of COVID-19 forces international organizations and local authorities to make hasty and complex decisions related to digital technologies, seeking to safeguard the freedom, privacy, security, inclusion and other aspects demanded by the population. In addition, in the post-pandemic phase, digital technologies will allow citizens and communities to return to their daily lives in a safe and orderly manner. In addition, the crisis caused by the pandemic has shown that e-commerce can be a viable solution to maintain supply chains and meet the needs of consumers. According to the WTO, e-commerce can also support small businesses and, increase the competitiveness of economies, being an engine of internal growth and international trade.

2. Inclusion of Digital Economy Provisions in Chilean Trade Agreements

Technological advances have expanded the possibilities of international trade, as they let goods and services to be traded globally in much efficient ways. Digitalization is a new chain in this development process, as it enables direct contact between producers and consumers through online platforms, expanding the potential markets for SMEs, and

16 Ibid. N 11.
increasing the number of services traded remotely. Nevertheless, this advances possesses challenges to global rule-making, as new interactions arise, mostly beyond existing regulatory frameworks. This section analyses how electronic commerce has been addressed in a series of multilateral and preferential forums in which Chile participates, in order to understand how governments have incorporated these issues into their trade policymaking.

**2.1 World Trade Organization**

As the result of the Uruguay Round that led to the establishment of the WTO in 1995 did not cover electronic commerce as such, at the Second WTO Ministerial Conference in May 1998, it was agreed, amongst other issues, to establish the Work Program on Electronic Commerce. Its operation was in charge of four WTO bodies: the Council for Trade in Services; the Council for Trade in Goods; the Council for TRIPS; and the Committee on Trade and Development.17

As a complement to this Program, the Ministerial Declaration of the same year instructed a moratorium on the application of customs duties for electronic transactions, a decision that has been continuously reinvigorated at each WTO Ministerial Conference and General Council. In this respect, WTO members, meeting in the General Council in December 2019 agreed –in accordance with tradition– to extend the “scope, definition and impact of the moratorium on customs duties on electronic transmissions”18, following the decision of the General Council on 25 September 1998. To date, there have been no new proposals or decisions that would make it possible to discern a change of direction in this matter.

As for the current binding legal instruments that are part of the multilateral acquis, WTO members subscribed the Trade Facilitation Agreement (TFA) in 2017.19 This agreement incorporates in its Article 7 on "Release and Clearance of Goods", electronic payment as a mean to simplify and harmonize “international trade procedures, including online submission and payment systems for customs documents”20.

In 2020, in the context of the World Economic Forum, 76 WTO members issued a Joint Statement regarding the need to start negotiations under the auspices of the WTO to achieve high standard multilateral rules on e-commerce. This has become particularly relevant as the Doha Round has been stalled for years, and members recognize the need to update trade rules to comply with the current digital trading environment. Commenting on the Joint Statement, WTO Director-General Roberto Azevêdo agreed with the concern to regulate the digital economy, since “unlike for goods and services, we have few international rules to facilitate cross-border electronic commerce and align regulations. The absence of such rules risks fragmentation and unilateral action”.21 Nevertheless,


18 Ibid. N 17.

19 As of July 2020, 152 WTO members had ratified the TFA.


despite the TFA and the continuum of the moratorium on custom duties to digital transmissions, the current state of WTO negotiations, including the failure of the Doha Round, has led member economies to address this issue on regional and preferential forums, leaving the multilateral system aside.

2.2 Asia Pacific Economic Cooperation (APEC)

APEC has become one of the main laboratories for trade policy formulation. Its non-binding characteristic, and like-minded group of economies looking towards trade liberalization allow participating economies to address emerging issues on the trade agenda from different perspectives, including working groups and cooperation. Amongst these working groups, Chile has participated in those related to the digital economy, which has been addressed on several occasions. In 2017, in the framework of the Concluding Senior Officials Meeting (CSOM), “APEC Leaders pledged to work together to realize the potential of the internet and digital economy”22, thus adopting the APEC Internet and Digital Economy Roadmap23 and the Electronic Commerce Steering Group.

In 2018, also under CSOM’s auspices, a “new governance mechanism”24 was created, the Digital Economy Steering Group (DESG), which “aims to facilitate the development of the internet and digital economy”25 and continues the functions of the Electronic Commerce Steering Group. The statements issued by the APEC Secretariat regarding Digital Economy have not been very specific, but have expressed general and medium-term definitions. As stated by the head of the DESG meetings during APEC Chile 2019 and APEC Malaysia 2020, Chile would contribute to the establishment of a regional digital agenda; it was necessary to reduce the entry barriers to digital trade and “democratize the participation of sectors that have traditionally been excluded from the global economy”26.

Amongst the subgroups established in this framework, it is possible to highlight Data Privacy Subgroup; APEC Cross-Border Privacy Rules (CBPR) System; APEC Privacy Recognition for Processors (PRP) System; and APEC Privacy Framework. As non-mandatory working groups, the participation in these initiatives depends on the political will of member economies. Nevertheless, the definitions and commitments derived from their work creates a roadmap for trade policymaking, not only within the APEC region, but worldwide, since these commitments are usually used as models in preferential trade agreements or other international instruments. Hence, the relevance of APEC for policymaking on digital economy is fundamental, as it sets definitions and establishes the pathway in which future negotiations will be headed.

2.3 Digital economy at the bilateral level

As it was mentioned, negotiations on the multilateral level at the WTO have been stalled for years. Most countries have moved into preferential agreements to both expand their market access and define new trade regulations, either by adapting and evolving existing rules (WTO+) or including new issues into their trade agreements (WTO-X). This has not been different with digital economy, a particularly rapid evolving matter in the last decade. This section presents how Chile has addressed these issues in some of its FTAs, establishing both the relevance of defining this topic and a regulatory framework that help boost this sector, while giving governments the possibility to regulate it.

In 2003, the Association Agreement between the European Union (EU) and Chile was established. In its chapter on services, the signatory parties explicitly recognized the importance of electronic means to increase opportunities for trade, as well as, agreed to promote the development of the electronic commerce and cooperation on regulatory issues. This was stated in its Article 104:

“The Parties, recognizing that the use of electronic means increases trade opportunities in many sectors, agree to promote the development of electronic commerce between them, in particular by cooperating on the market access and regulatory issues raised by electronic commerce.”

The following year, the Free Trade Agreement between United States and Chile, entered into force. This treaty included a specific chapter on electronic commerce (Chapter fifteen) and it was not limited to the recognition of the importance of the electronic commerce, but aimed at avoiding the unnecessary barriers to its use and development. The subjects covered by the agreement were “Electronic Supply of Services”, “Customs Duties on Digital Products”, “Non-Discrimination for Digital Products”, and “Cooperation”. The Chapter was understood as the need of working together to overcome obstacles encountered by small and medium enterprises in the use of e-commerce, and sharing information and experiences on regulations, laws, and programs in this sphere. For example, data privacy, consumer confidence, cyber-security, electronic signatures, intellectual property rights, and electronic government.

In 2005, the Trans-Pacific Economic Association Agreement (also known as “P4”) entered into force. This agreement includes an important point related to paperless commerce, in which the parties agree to strengthen e-commerce and follow international standards and discussions, as it can be seen in Article 5.10:

“I. The customs administrations shall each endeavor to provide an electronic environment that supports business transactions between it and its trading communities.

27 Free Trade Agreement EU-Chile (2003), Chapter I, Services, Article 104. February 2003. Retrieved from: https://eur-lex.europa.eu/resource.html?uri=cellar:f83a503c-fa20-4b3a-9535-f1074175ca0.0004.02/DOC_2&format=PDF
2. In implementing initiatives that provide for paperless trading, the customs administrations of the Parties shall take into account the methods developed in APEC and the World Customs Organization.”

In 2008, the Free Trade Agreement between Australia and Chile came into effect, to promote e-commerce between the Parties and its wider use globally, through a chapter in “electronic commerce”. This FTA addressed the same matters as the one negotiated with the United State of America, and introduced new provisions related to the Domestic Electronic Transactions Frameworks, Electronic Authentication, Online Consumer Protection, Online Personal Data Protection, Paperless Trading, and the possibility of consultations on the discussed issues.

Since 2018, while deepening its economic agreements with its neighbor countries, Chile has incorporated chapters on e-commerce in all of them, demonstrating the relevance of these topics. The FTAs signed with Uruguay, Argentina and Brazil, follow the provisions adopted in the previous agreements, as new provisions on the location of computer facilities and unsolicited electronic commercial communications are included. Furthermore, all these FTAs seek:

(a) Transparency and predictability of their national regulatory frameworks to facilitate the development of electronic commerce;
(b) Encourage self-regulation in the private sector to promote trust in electronic commerce, taking into account the interests of users, through initiatives such as industry guidelines, model contracts, codes of conduct and trust seals;
(c) Interoperability, competition and innovation to facilitate electronic commerce;
(d) Ensure that international and national electronic commerce policies take into account the interest of all users, including companies, consumers, non-governmental organizations and relevant public institutions;
(e) Facilitate access to electronic commerce by MSMEs, and;
(f) Guarantee the security of users of electronic commerce, as well as their right to the protection of personal data.

In addition, another example is the modernization of the FTA with China in 2019. In this case, an Electronic Commerce Chapter was also included. This Chapter incorporates the following topics: National Framework of Electronic Transactions; Authentication and Electronic Signature; Online Consumer Protection; Protection of Personal Data Online; Paperless Commerce Administration; Cooperation and the Non-Application of Dispute Resolution.

Many of these provisions already existed and were adapted to the needs of electronic commerce. In addition, the non-application of the dispute settlement mechanism is due to the experimental nature of these proposals and provisions. On the other hand, these

provisions can be interpreted as trade facilitation mechanisms in the digital age, and as the basis for the inclusion of the digital economy as a whole in the negotiations of the Digital Economy Partnership Agreement (DEPA).

Finally, the latest agreement subscribed regarding these issues is the DEPA, formed by Chile, New Zealand and Singapore. This agreement marked a milestone regarding digital economy as it only focuses on this issue. Therefore, it both expands existing definitions and incorporates new topics not addressed before by previous agreements. “The intention is that this agreement will complement the WTO negotiations on e-commerce and build on the digital economy work underway within APEC, the OECD and other international forums”.  

DEPA is structured into modules, as Parties “hope that this new agreement will generate new ideas and approaches that can be used by members in the WTO negotiations, and by other countries negotiating free trade agreements or engaging in international digital economy or digital trade work”.

The covered modules are: Business and Trade Facilitation; Treatment of Digital Products and Related Issues; Data Issues; Wider Trust Environment; Business and Consumer Trust; Digital Identities; Emerging Trends and Technologies; Innovation and the Digital Economy; Small and Medium Enterprises Cooperation; Digital Inclusion; Exceptions; Transparency; and Dispute Settlement.

Although DEPA negotiations begun in 2019, it is noteworthy the moment of its signature, during the outbreak of COVID-19 pandemic. As stated by the New Zealand government:

“COVID-19 demonstrates the value of our digital economy and digital trade, and the DEPA with Singapore and Chile will encourage further growth of digital aspects of our trading relationships. The digital economy is also an opportunity for New Zealand to continue diversifying exports which will improve our resilience to possible shocks in any one exporting sector.

The DEPA will assist New Zealand’s COVID-19 trade recovery strategy, by contributing to the revitalization of our trade architecture. New Zealand’s trade networks provide predictable rules and other mechanisms to facilitate New Zealand exports of goods and services to markets around the world.”

3. Analyzing digital economy related commitments in the Pacific Alliance

Currently, one of the most important regional integration processes in Latin America is the Pacific Alliance, in which Chile is founding member. In this framework, Chile has promoted the materialization of a Regional Digital Market within the Pacific Alliance, which would have a basis on the already existing provisions contained in the

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Telecommunications and Electronic Commerce Chapters of the Pacific Alliance Additional Protocol.36

The Alliance has previously addressed the establishment of a regional digital agenda in 2015, but no specific objectives have been achieved so far. In 2018, the "Strategic Vision of the Pacific Alliance to 2030"37 was published, in which general guidelines were expressed. Amongst them, participating “actively in the global discussions on the tax treatment of digital services led by the OECD and the Group of 20 (G20)”38, and –by 2030– have managed to configure a Regional Digital Market. This Market should “incorporate Information and Communication Technologies in the productive processes and achieve the closing of the digital gap, has world-class infrastructure that facilitates, encourages and protects investments and a human capital trained in the use of new technologies”39

The Alliance Additional Protocol, subscribed in 2014, which entered into force in 2016, establishes the regional trade market rules, including a Chapter for Electronic Commerce (Chapter 13), as well as dispositions for Cross-Border Trade in Services (Chapter 9), Investment (Chapter 10), and Financial Services (Chapter 11). Nevertheless, commitments incorporated into this Protocol for e-commerce are not sufficient to cover the specificities derived from the evolution of the digital economy. As shown in the previous section, new agreements have incorporated new definitions and commitments to reflect the complexity of digital transactions. As technology evolves, new challenges arise, hence, trade agreements need to be constantly modernized to catch-up with these advances.

Taking the need to update trade norms into consideration, and with the objective of establishing a digital economy market that may help cope the effects of the current pandemic and other economic and sanitary crisis, this report looks into the Pacific Alliance Additional Protocol and compare its provisions with those included in DEPA, which is used as a benchmark. The objective of this comparison was to establish which issues are covered under the current Pacific Alliance’s regulatory framework and which of them need amendments. The next section proposes these modifications. Following DEPA’s modular structure, Table 1 presents a summary of this comparison.

38 Ibid. N 37.
39 Ibid. N 37.
<table>
<thead>
<tr>
<th>Module 1</th>
<th>Initial provisions and general definitions</th>
<th>Pacific Alliance Additional Protocol (PAAP)</th>
<th>Digital Economy Partnership Agreement (DEPA)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>General definitions</td>
<td>It comprises general and specific definitions related to electronic commerce such as trade through electronic means, documents for trade administration, personal information, interoperability, unsolicited electronic commercial messages, and digital products.</td>
<td>General definitions</td>
</tr>
<tr>
<td></td>
<td>Scope</td>
<td>It defines the scope of the agreement (general liberalization), and regarding electronic transactions in Chapter 13, goods and services including digital products.</td>
<td>Scope</td>
</tr>
<tr>
<td></td>
<td>Relation with other agreements</td>
<td>It establishes its relation with WTO and other relevant agreements subscribed by the Parties, in particular the previous FTA signed between them.</td>
<td>Relation with other agreements</td>
</tr>
<tr>
<td></td>
<td>General dispositions</td>
<td>It recognizes the relevance of electronic commerce for economic growth and development, and the relevance of establishing predictable and transparent regulations. It also establishes the importance of concepts such as interoperability, auto-regulation, access to all kind of companies; and the need to avoid unnecessary barriers to electronic commerce.</td>
<td>General dispositions</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Module 2</th>
<th>Business and trade facilitation</th>
<th>Pacific Alliance Additional Protocol (PAAP)</th>
<th>Digital Economy Partnership Agreement (DEPA)</th>
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<tr>
<td></td>
<td>General definitions</td>
<td>It comprises general and specific definitions related to electronic commerce such as trade through electronic means, documents for trade administration, personal information, interoperability, unsolicited electronic commercial messages, and digital products.</td>
<td>General definitions</td>
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<td><strong>Paperless trading</strong></td>
<td><strong>Paperless trading</strong></td>
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<tr>
<td>It recognizes the relevance of making publicly available, including through a process prescribed by that Party, electronic versions of all existing publicly available trade administration documents.</td>
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<tr>
<th><strong>Domestic Electronic Transaction Framework</strong></th>
<th><strong>Domestic Electronic Transaction Framework</strong></th>
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<tr>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
<td>It recognizes that each Party shall maintain a legal framework governing electronic transactions consistent with the principles of: (a) the UNCITRAL Model Law on Electronic Commerce (1996); or (b) the United Nations Convention on the Use of Electronic Communications in International Contracts, done at New York, November 23, 2005; and shall endeavor to adopt the UNCITRAL Model Law on Electronic Transferable Records (2017).</td>
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<th><strong>Logistics</strong></th>
<th><strong>Logistics</strong></th>
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<tr>
<td>Covered by the Trade Facilitation Chapter.</td>
<td>Importance of efficient cross border logistics which help lower the cost and improve the speed and reliability of supply chains.</td>
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<tr>
<th><strong>Electronic invoicing</strong></th>
<th><strong>Electronic invoicing</strong></th>
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<tr>
<td>Issue not explicitly covered within the Pacific Alliance Additional Protocol, but could fall under Trade Facilitation Chapter.</td>
<td>It recognizes the importance of e-invoicing which increases the efficiency, accuracy and reliability of commercial transactions, giving details on how it could be implemented, stressing the relevance of cooperation.</td>
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<td>Module 3</td>
<td>Treatment of digital products and related issues</td>
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<td><strong>Express Shipments</strong></td>
<td>Covered by the Trade Facilitation Chapter.</td>
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<tr>
<td><strong>Electronic Payments</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol</td>
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<tr>
<td><strong>Express Shipments</strong></td>
<td>It specifies the relevance of express shipments for the development of the digital economy.</td>
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<td><strong>Electronic Payments</strong></td>
<td>It establishes the principles that should guide the establishment of electronic payment interoperability to develop the digital economy.</td>
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<tr>
<th>Module 4</th>
<th>Data issues</th>
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<tbody>
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<td><strong>Custom Duties</strong></td>
<td>It reaffirms moratorium on customs duties to digital products.</td>
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<tr>
<td><strong>Non-Discriminatory Treatment of Digital Products</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
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<td><strong>Information and Communication Technology Products that Use Cryptography</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
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<tr>
<td><strong>Custom Duties</strong></td>
<td>It reaffirms moratorium on customs duties to digital products.</td>
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<tr>
<td><strong>Non-Discriminatory Treatment of Digital Products</strong></td>
<td>It affirms their level of commitments relating to non-discriminatory treatment of digital products.</td>
</tr>
<tr>
<td><strong>Information and Communication Technology Products that Use Cryptography</strong></td>
<td>It affirms their level of commitments relating to Information and Communication Technology products that use cryptography, defining key concepts and procedures.</td>
</tr>
<tr>
<td><strong>Personal information protection</strong></td>
<td>It recognizes the economic and social benefits of protecting the personal information of participants in the digital economy.</td>
</tr>
<tr>
<td><strong>Cross-Border Transfer of Information by Electronic Means</strong></td>
<td>It affirms their level of commitments relating to cross-border transfer of information by electronic means.</td>
</tr>
<tr>
<td><strong>Location of Computing Facilities</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
<tr>
<td><strong>Personal information protection</strong></td>
<td>It expands the definition incorporated in the PAAP establishing principles underpinning a robust legal framework for the protection of personal information.</td>
</tr>
<tr>
<td><strong>Cross-Border Transfer of Information by Electronic Means</strong></td>
<td>It affirms their level of commitments relating to cross-border transfer of information by electronic means.</td>
</tr>
<tr>
<td><strong>Location of Computing Facilities</strong></td>
<td>It affirms their level of commitments relating to location of computing facilities.</td>
</tr>
<tr>
<td>MODULE 5</td>
<td>Wider trust environment</td>
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<tr>
<td><strong>Cybersecurity Cooperation</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
<tr>
<td><strong>Online Safety and Security</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
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<table>
<thead>
<tr>
<th>MODULE 6</th>
<th>Business and consumer trust</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Unsolicited Commercial Electronic Messages</strong></td>
<td>Parties shall adopt or maintain measures regarding unsolicited commercial electronic messages.</td>
</tr>
<tr>
<td><strong>Online Consumer Protection</strong></td>
<td>It recognizes the importance of transparent and effective measures to protect consumers from fraudulent, misleading or deceptive conduct when they engage in electronic commerce.</td>
</tr>
<tr>
<td><strong>Principles on Access to and Use of the Internet</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
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</tbody>
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<table>
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<tr>
<th>MODULE 7</th>
<th>Digital identities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Digital Identities</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
<tr>
<td><strong>Cybersecurity Cooperation</strong></td>
<td>It recognizes cooperation of the Parties on digital identities, and that each Party may have different implementations of, and legal approaches to, digital identities, Parties shall endeavor to promote the interoperability between their respective regimes for digital identities.</td>
</tr>
</tbody>
</table>
**MODULE 8**
Emerging trends and technologies

<table>
<thead>
<tr>
<th><strong>Financial Technology Cooperation</strong></th>
<th>Issue not covered within the Pacific Alliance Additional Protocol.</th>
</tr>
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<tbody>
<tr>
<td><strong>Artificial Intelligence</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
<tr>
<td><strong>Government Procurement</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
<tr>
<td><strong>Cooperation on Competition Policy</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
</tbody>
</table>

- **Financial Technology Cooperation**
  - It promotes cooperation between the financial technology.

- **Artificial Intelligence**
  - It endeavors to promote the adoption of ethical and governance frameworks that support the trusted, safe and responsible use of AI technologies (AI Governance Frameworks).

- **Government Procurement**
  - It promotes cooperation activities regarding government procurement.

- **Cooperation on Competition Policy**
  - It promotes the sharing of experiences in enforcing competition law and in developing and implementing competition policies to address the challenges that arise from the digital economy.

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**MODULE 9**
Innovation and the digital economy

<table>
<thead>
<tr>
<th><strong>Public Domain</strong></th>
<th>Issue not covered within the Pacific Alliance Additional Protocol.</th>
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<tbody>
<tr>
<td><strong>Data Innovation</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
<tr>
<td><strong>Open Government Data</strong></td>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
</tr>
</tbody>
</table>

- **Public Domain**
  - It recognizes the importance of a rich and accessible public domain.

- **Data Innovation**
  - It recognizes that cross-border data flows and data sharing enable data-driven innovation. And that data sharing mechanisms, such as trusted data sharing frameworks and open licensing agreements, facilitate data sharing and promote its use in the digital environment.

- **Open Government Data**
  - It recognizes that facilitating public access to and use of government information may foster economic and social development, competitiveness and innovation, and the need of cooperation in this area.
<table>
<thead>
<tr>
<th>MODULE 10</th>
<th>Small and medium enterprises cooperation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cooperation to Enhance Trade and Investment Opportunities for SMEs in the Digital Economy</strong></td>
<td></td>
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<tr>
<td>It recognizes the relevance of SMEs, but it is not exclusively to digital economy. This recognition includes partnerships with the private sector and cooperation.</td>
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<tr>
<td><strong>Information Sharing</strong></td>
<td></td>
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<tr>
<td>Issue not covered within the Pacific Alliance Additional Protocol, but similar to transparency commitments.</td>
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<tr>
<td><strong>Digital SME Dialogue</strong></td>
<td></td>
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<tr>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
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<tr>
<td><strong>Cooperation to Enhance Trade and Investment Opportunities for SMEs in the Digital Economy</strong></td>
<td></td>
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<tr>
<td>It recognizes the relevance of SMEs in the digital economy.</td>
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<tr>
<td><strong>Information Sharing</strong></td>
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<tr>
<td>It recognizes the relevance of information access and establishes a series of requirements for making this available to the public.</td>
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<tr>
<td><strong>Digital SME Dialogue</strong></td>
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<tr>
<td>It encourages parties to convene a Digital SME Dialogue.</td>
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<thead>
<tr>
<th>MODULE 11</th>
<th>Digital inclusion</th>
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<tbody>
<tr>
<td>Issue not covered within the Pacific Alliance Additional Protocol.</td>
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<tr>
<td>It recognizes the relevance of digital inclusion for participation and benefits of digital economy. Cooperation efforts towards digital inclusion.</td>
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</table>

<table>
<thead>
<tr>
<th>MODULE 12</th>
<th>Joint committee and contact points</th>
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<tbody>
<tr>
<td>It establishes a Free Trade Commission responsible for the administration of the Additional Protocol. There are general commitments with the establishment of working groups and sub-committees.</td>
<td></td>
</tr>
<tr>
<td>It establishes the will to work towards the objective of Electronic Commerce Chapter, but no specific institutional arrangement is given to this particular issue.</td>
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<tr>
<td>It establishes a joint committee towards the implementation of the Agreement, with its functions, decision-making process and rules of procedure.</td>
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</tbody>
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<thead>
<tr>
<th>MODULE 13</th>
<th>Transparency</th>
</tr>
</thead>
<tbody>
<tr>
<td>It establishes Parties obligation to publish their laws, normative, procedures and administrative decisions that may apply to electronic commerce.</td>
<td></td>
</tr>
<tr>
<td>It establishes Parties obligation to publish their laws, normative, procedures and administrative decisions that may apply to electronic commerce. It includes administrative procedures, revision and appeal.</td>
<td></td>
</tr>
<tr>
<td>MODULE 14 Dispute settlement</td>
<td>Objective</td>
</tr>
<tr>
<td></td>
<td>Scope</td>
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<td></td>
<td>Good Offices and Conciliation</td>
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<td>Choice of Forum</td>
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<td>Arbitration</td>
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<td>Choice of Forum</td>
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</table>
4. Recommendations

During the current COVID-19 pandemic, the digital economy has not only been more resilient to economic downturn, but it will increase its relevance both during the pandemic, and in the post pandemic economic recovery. Hence, this report proposes a series of amendments to the Pacific Alliance Additional Protocol “Electronic Commerce” Chapter, to address new issues referred to digital economy. This proposal will allow the Pacific Alliance to build the necessary legal infrastructure for the expansion of the digital economy, and set the necessary framework to govern digital economy and distribute its benefits amongst the entire population.

To draft the amendments, the report takes DEPA as a benchmark to establish a modern trade agreement which may promote interoperability, digitalization, and build trusted technologies for all users, with particular emphasis on privacy protection.\(^{40}\) Throughout the agreement, articles were amended and provisions added to incorporate new issues. The objective was to deepen the governance framework towards the establishment of a Regional Digital Market that may help member economies to cope with post-pandemic economic recovery, and serve in the case of possible future sanitary crisis, or others.

As the digital economy is an evolving issue, in which new technologies arise continuously, there is a need to update definitions and their conceptual range. For this purpose, Article 1, Definitions, is expanded incorporating new descriptions of issues instrumental for the current digital economy such as computing facilities, electronic authentication, e-invoicing, electronic payments, amongst others, which have been already discussed in new agreements. As the overall proposed modifications of the chapter have impact on its scope, Article 2 is amended to specify its limitations and relation with Chapters 9 (Cross-Border Trade in Services), 10 (Investment), and 11 (Financial Services). To finalize the general section of the agreement, and in order to recognize the relevance that the digital economy may have to cope with economic and sanitary crisis, the following disposition has been added:

\[
(g) \text{ electronic commerce as a resilient instrument to face economic and sanitary crises, the maintenance of supply chains, as well as for the subsequent recovery from them.}
\]

Regarding specific commitments and provisions, as shown in Table 1, issues such as “Customs Duties”, “Authentication and digital certificates” and “Dispute Settlement” were already addressed in the PAAP, hence, original texts are kept without modifications. Other topics including “Consumer Protection”; “Personal Information Protection”; and “Unsolicited Commercial Electronic Messages”; although included in the PAAP, were expanded in this proposal, as new definitions and more precise commitments are included in DEPA.

Regarding “Consumer Protection”, the adoption or maintenance of laws or regulations to proscribe fraudulent, misleading or deceptive conduct that causes harm, or is likely to cause harm, to consumers engaged in online commercial activities is added. It includes a definition of fraudulent, misleading or deceptive conduct: “making misrepresentations or false claims as to material qualities, price, suitability for purpose, quantity or origin of goods or services; advertising goods or services for supply without intention to supply; failing to deliver products or provide services to consumers after the consumers have been charged; or charging or debiting

consumers’ financial, telephone or other accounts without authorization”. Cooperation and transparency of these regulations are topics also addresses in the proposed article.

On “Personal Information Protection”, the main objective is to strengthen the current article. For this purpose, principles towards a legal framework for the protection of personal information are listed; transparency and cooperation is encouraged; and although different legal approaches may be undertaken, the development of mechanisms to promote compatibility and interoperability between their different regimes are expected. A relevant addition is that the modification encourages the Parties to adopt data protection trustmarks by businesses that would help verify conformance to personal data protection standards and best practices, and cooperation between parties to mutually recognize these trustmarks and exchange best practices and information.

In terms of “Unsolicited Commercial Electronic Messages”, the new article defines with more precision what would be understood as an unsolicited commercial electronic message and provide recourse against suppliers of this kind of messages that do not comply. It also reaffirms cooperation between parties to resolve this issue.

A particular case was “Paperless Trading”. Although this provision was included within the PAAP, this proposal re-writes the whole article in order to strengthen its mandatory commitments and adapt them to a fully digital market. In this sense, it reads as “each party shall make publicly available, including through a process prescribed by that Party, electronic versions of all existing publicly available trade administration documents, and shall provide such electronic versions in a machine-readable format”. Following the latest developments in this area, the new article cites WTO’s TFA and links its provisions with the PAAP single window provision. Finally, it encourages the exchange of information and cooperation activities towards the accomplishment of its objectives.

The PAAP is rather limited in the number of issues included regarding the digital economy. Therefore, following DEPA, new issues are proposed to create a regulatory framework that may aid its development, and ensure the protection of its users. For this purpose, articles on the following elements are incorporated: “Domestic Electronic Transactions Framework”; “Principles on Access to and Use of the Internet”; “Cross-Border Transfer of Information by Electronic Means”; “Location of Computing Facilities”; “Non-Discriminatory Treatment of Digital Products”; “Electronic Invoicing”; “Electronic Payments”; “Information and Communication Technology Products that Use Cryptography”; “Artificial Intelligence”; “Online Safety and Security”; “Source Code”; “Public Domain”; and “Data Innovation”.

Two particular cases are Cooperation and Transparency, both included in the PAAP. As digital economy is an evolving topic, in which each new technological advance has an important repercussion, there is a need for governments to keep a constant communication and exchange of information to address emerging issues. For instance, there is a number of topics that had not been resolved, such as Artificial Intelligence, in which it is only recognize the need of establishing governance frameworks, as its content is still a matter of discussion within domestic legislations. Hence, Cooperation and Transparency needed to be strengthen to allow Parties to collaborate towards the establishment of a common Digital Market. For this purpose, the Cooperation article presents the traditional activities and good will between economies. Besides, it defines a series of topics to be included, such as: “Financial Technology Cooperation”; “Competition Policy”; “Open Government Data”; “Digital Inclusion”; “Cybersecurity”; and “Small and Medium Enterprises” for which there is a need of specific and
tailor-made cooperation so that the benefits of the digital economy may reach the entire population. On Transparency, as information becomes critical to take advantage of the digital economy, the article stresses the need of a free, publicly accessible website containing information regarding this Chapter. It also includes both Review and Appeal, and Notification and Provision of Information processes so that every actor involved may access the information and have the instance to share its opinion and review existing or new norms to be implemented.

In summary, Annex 1 presents the proposed Digital Trade Chapter with the amendments incorporated.

5. References


Free Trade Agreement EU-Chile (2003), Chapter I, Services, Article 104. February 2003. Retrieved from: https://eur-lex.europa.eu/resource.html?uri=cellar:f83a503c-fa20-4b3a-9535-f1074175eaf0.0004.02/DOC_2&format=PDF


ANNEX 1: Proposed amendments to the Pacific Alliance Additional Protocol’s “Electronic Commerce” Chapter[41] - English version

CHAPTER 13: [DIGITAL TRADE]

ARTICLE 13.1 Definitions

For the purpose of this chapter:

[computing facilities means computer servers and storage devices for processing or storing information for commercial use;]

digital product means a computer programme, text, video, image, sound recording or other product that is digitally encoded, produced for commercial sale or distribution, and that can be transmitted electronically;

[electronic authentication means the process or act of verifying the identity of a party to an electronic communication or transaction and ensuring the integrity of an electronic communication;]

[electronic invoicing or e-invoicing means the automated creation, exchange and processing of request for payments between suppliers and buyers using a structured digital format;]

[electronic payments means the payer’s transfer of a monetary claim on a person that is acceptable to the payee and made through electronic means;]

[electronic record means a record generated, communicated, received or stored by electronic means in an information system or for transmission from one information system to another;]

[electronic transmission or transmitted electronically means a transmission made using any electromagnetic means, including by photonic means;]

interoperability means the capability of two or more systems or component to exchange information and to use the exchanged information;

[open data means digital data that is made available with the technical and legal characteristics necessary for it to be freely used, reused, and redistributed. This definition relates only to information held or processed by or on behalf of a Party;]

[open standard means a standard that is made available to the general public, developed or approved and maintained via a collaborative and consensus driven process, in order to facilitate interoperability and data exchange among different products or services and is intended for widespread adoption;]

personal information means any information of a natural person identified or identifiable;

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[41] This chapter proposal is based on the Digital Economy Partnership Agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership.
[single window means a facility that allows persons involved in a trade transaction to electronically lodge data and documents with a single entry point to fulfil all import, export and transit regulatory requirements;]

[trade administration documents means forms issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods;]

trade administration documents means forms issued or controlled by a Party that must be completed by or for an importer or exporter in connection with the import or export of goods;

trade by electronic procedures means trade performed through telecommunication by its own, or with other information and telecommunication technologies;

[UNCITRAL means the United Nations Commission on International Trade Law;]

and

unsolicited commercial electronic message means an electronic message which is sent for commercial or marketing purposes to an electronic address, without the consent of the recipient or despite the explicit rejection of the recipient, through an Internet access service supplier or, to the extent provided for under the laws and regulations of each Party, other telecommunications service.

ARTICLE 13.2: Scope

This Chapter shall apply to measures affecting electronic transactions of goods and services, included digital products, without prejudice of the dispositions regarding services and investment that shall be applicable under this Additional Protocol.

[This Chapter shall not apply:
(a) to a service supplied in the exercise of governmental authority;
(b) except for Article 13.16 (Electronic Payments), to financial services;
(c) except for Article 13.23.4 (Open Government Data), to information held or processed by or on behalf of a Party, or measures related to that information, including measures related to its collection.]

[For greater certainty, measures affecting the supply of a service delivered or performed electronically are subject to the obligations contained in the relevant provisions of Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Investment), and Chapter 11 (Financial Services), including any exceptions or non-conforming measures set out in this Agreement that are applicable to those obligations.]

[For greater certainty, the obligations contained in Article 13.14 (Non-Discriminatory Treatment of Digital Products), Article 13.11.1 (Cross-Border Transfer of Information by Electronic Means), Article 13.11.2 (Location of Computing Facilities) and Article 13.20 (Source Code) are:
(a) subject to the relevant provisions, exceptions and non-conforming measures of Chapter 9 (Cross-Border Trade in Services), Chapter 10 (Investment) and Chapter 11 (Financial Services); and
(b) to be read in conjunction with any other relevant provisions in this Agreement.]
ARTICLE 13.3: General Dispositions

1. The Parties recognize the economic growth and opportunities provided by electronic commerce.

2. Considering the potential of electronic commerce as an instrument of social and economic development, the Parties recognize the relevance of:

   (a) the clarity, transparency and predictability of their national regulatory frameworks to facilitate, to the possible extent, the development of electronic commerce;

   (b) encourage self-regulation in the private sector to promote trust in electronic commerce, taking into account the interests of users, through initiatives such as industry guidelines, model contracts, codes of conduct and seals of trust;

   (c) interoperability, innovation and competition to facilitate electronic commerce;

   (d) ensure that international and national electronic commerce policies take into account the interests of all users, including companies, consumers, non-governmental organizations and relevant public institutions;

   (e) facilitate the use of electronic commerce by micro, small and medium-sized companies;

   (f) require the security of users of electronic commerce, taking into consideration international data protection data; and

   [(g) electronic commerce as a resilient instrument to face economic and health crises, the maintenance of supply chains, as well as for the subsequent recovery from them.]

3. Each Party shall endeavor to take measures to facilitate electronic commerce by addressing issues related to the electronic environment.

4. The Parties recognize the importance of avoiding unnecessary barriers to electronic commerce. Taking into account its national policy objectives, each Party shall endeavor to avoid measures that:

   (a) hinder trade through electronic means, or

   (b) has the effect of treating commercial exchange carried out through electronic means in a more restrictive way than trade carried out by other means.

[5. The Parties affirm the importance of technological innovation, creativity, and the transfer and dissemination of technology, being for the mutual advantage of producers and users of knowledge, as a means to achieve social and economic welfare.]

[6. The Parties recognize the economic and social benefits of protecting the personal information of participants in the digital economy and the importance of such protection in enhancing confidence in the digital economy and development of trade.]
[7. The Parties recognize the fundamental role of SMEs in maintaining dynamism and enhancing competitiveness in the digital economy.]

ARTICLE 13.4: Customs Duties

1. No Party shall impose customs duties on electronic transmissions, including content transmitted electronically, between a person of one Party and a person of another Party.

2. For greater certainty, paragraph 1 shall not preclude a Party from imposing internal taxes, fees or other charges on content transmitted electronically, provided that such taxes, fees or charges are imposed in a manner consistent with the Additional Protocol.

[ARTICLE 13.5: Domestic Electronic Transactions Framework]

[1. Each Party shall maintain a legal framework governing electronic transactions consistent with the principles of:
   (a) the UNCITRAL Model Law on Electronic Commerce (1996); or
   (b) the United Nations Convention on the Use of Electronic Communications in International Contracts, done at New York, November 23, 2005.]

[2. Each Party shall endeavor to adopt the UNCITRAL Model Law on Electronic Transferable Records (2017).]

[3. Each Party shall:
   (a) avoid imposing any unnecessary regulatory burden on electronic transactions; and
   (b) facilitate input by interested persons in the development of its legal framework for electronic transactions.]

ARTICLE 13.6: Authentication and digital certificates

1. No Party may adopt or maintain legislation on electronic authentication, which prevents the parties to a transaction carried out by electronic means, from having the opportunity to prove before the corresponding judicial or administrative instances, that said electronic transaction complies with the authentication requirements established by its legislation.

2. The Parties shall establish approval mechanisms and criteria that promote the interoperability of electronic authentication between them in accordance with international standards. For this purpose, they may consider the recognition of advanced or digital electronic signature certificates as appropriate, issued by certification service providers, operating in the territory of any Party in accordance with the procedure determined by their legislation, in order to protect safety and integrity standards.

ARTICLE 13.7: Consumer Protection
1. The Parties recognize the importance of transparent and effective measures to protect consumers from fraudulent, misleading or deceptive conduct when they engage in electronic commerce.

2. For the purposes of paragraph 1, the Parties shall exchange information and experiences on national systems related to the protection of consumers who participate in electronic commerce.

3. The Parties will evaluate alternative mechanisms for the resolution of cross-border disputes that are developed through electronic means and related to consumer protection in electronic cross-border transactions.

4. The Parties recognize the importance of cooperation between their respective national consumer protection agencies or other relevant bodies on activities related to cross-border electronic commerce in order to enhance consumer welfare.

5. Each Party shall adopt or maintain laws or regulations to proscribe fraudulent, misleading or deceptive conduct that causes harm, or is likely to cause harm, to consumers engaged in online commercial activities. Such laws or regulations may include general contract or negligence law and may be civil or criminal in nature. “Fraudulent, misleading or deceptive conduct” includes:
   (a) making misrepresentations or false claims as to material qualities, price, suitability for purpose, quantity or origin of goods or services;
   (b) advertising goods or services for supply without intention to supply;
   (c) failing to deliver products or provide services to consumers after the consumers have been charged; or
   (d) charging or debiting consumers’ financial, telephone or other accounts without authorization.

6. Each Party shall adopt or maintain laws or regulations that:
   (a) require, at the time of delivery, goods and services provided to be of acceptable and satisfactory quality, consistent with the supplier’s claims regarding the quality of the goods and services; and
   (b) provide consumers with appropriate redress when they are not.

7. Each Party shall make publicly available and easily accessible its consumer protection laws and regulations.

8. The Parties recognize the importance of improving awareness of, and access to, policies and procedures related to consumer protection, including consumer redress mechanisms, including for consumers from one Party transacting with suppliers from another Party.

9. The Parties shall promote, as appropriate and subject to the respective laws and regulations of each Party, cooperation on matters of mutual interest related to misleading and deceptive conduct, including in the enforcement of their consumer protection laws, with respect to online commercial activities.

ARTICLE 13.8: Personal Information Protection
1. Parties shall adopt or maintain a legal framework, regulations or administrative measures that provides for the protection of the personal information of the users of electronic commerce and digital trade. In the development of its legal framework for the protection of personal information, each Party shall take into account principles and guidelines of relevant international bodies.

2. The Parties shall exchange information and experiences regarding their legislation towards personal information protection.

[3. The Parties recognize that the principles underpinning a robust legal framework for the protection of personal information should include:
   (a) collection limitation;
   (b) data quality;
   (c) purpose specification;
   (d) use limitation;
   (e) security safeguards;
   (f) transparency;
   (g) individual participation; and
   (h) accountability.]

[4. Each Party shall adopt non-discriminatory practices in protecting users of electronic commerce from personal information protection violations occurring within its jurisdiction.]

[5. Each Party shall publish information on the personal information protections it provides to users of electronic commerce, including how:
   (a) individuals can pursue remedies; and
   (b) businesses can comply with any legal requirements.]

[6. Recognizing that the Parties may take different legal approaches to protecting personal information, each Party shall pursue the development of mechanisms to promote compatibility and interoperability between their different regimes for protecting personal information. These mechanisms may include:
   (a) the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement;
   (b) broader international frameworks;
   (c) where practicable, appropriate recognition of comparable protection afforded by their respective legal frameworks’ national trustmark or certification frameworks; or
   (d) other avenues of transfer of personal information between the Parties.]

[7. The Parties shall exchange information on how the mechanisms in paragraph 6 are applied in their respective jurisdictions and explore ways to extend these or other suitable arrangements to promote compatibility and interoperability between them.]

[8. The Parties shall encourage adoption of data protection trustmarks by businesses that would help verify conformance to personal data protection standards and best practices.]

[9. The Parties shall exchange information on and share experiences on the use of data protection trustmarks.]
[10. The Parties shall endeavor to mutually recognize the other Parties’ data protection trustmarks as a valid mechanism to facilitate cross-border information transfers while protecting personal information.]

ARTICLE 13.9: Paperless Trading

[1. Each party shall make publicly available, including through a process prescribed by that Party, electronic versions of all existing publicly available trade administration documents, and shall provide such electronic versions in a machine-readable format.]

[2. Each Party shall accept electronic versions of trade administration documents as the legal equivalent of paper documents, except where:
   (a) there is a domestic or international legal requirement to the contrary; or
   (b) doing so would reduce the effectiveness of trade administration.]

[3. Noting the obligations in the WTO Trade Facilitation Agreement and article 5.9 of this Protocol, each Party shall establish or maintain a single window that enables persons to submit documentation or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies.]

[4. The Parties shall endeavor to establish or maintain a seamless, trusted, high availability and secure interconnection of their respective single windows to facilitate the exchange of data relating to trade administration documents, which may include:
   (a) sanitary and phytosanitary certificates;
   (b) import and export data; or
   (c) any other documents, as jointly determined by the Parties, and in doing so, the Parties shall provide public access to a list of such documents and make this list of documents available online.]

[6. The Parties recognize the importance of facilitating, where relevant in each jurisdiction, the exchange of electronic records used in commercial trading activities between the Parties’ businesses.]

[7. The Parties shall endeavor to develop systems to support the exchange of:
   (a) data relating to trade administration documents referred to in paragraph 5 between the competent authorities of each Party; and
   (b) electronic records used in commercial trading activities between the Parties’ businesses, where relevant in each jurisdiction.]

[8. The Parties recognize that the data exchange systems referred to in paragraph 7 should be compatible and interoperable with each other. To this end, the Parties recognize the role of internationally accepted and, if available, open standards in the development and governance of the data exchange systems.]

[9. The Parties shall cooperate and collaborate on new initiatives which promote and advance the use and adoption of the data exchange systems referred to in paragraph 7, including but not limited to, through:
   (a) sharing of information, experiences and best practices in the area of development and governance of the data exchange systems; and]
(b) collaboration on pilot projects in the development and governance of data exchange systems.]

[10. The Parties shall cooperate bilaterally and in international fora to enhance acceptance of electronic versions of trade administration documents and electronic records used in commercial trading activities between businesses.]

[11. In developing other initiatives which provide for the use of paperless trading, each Party shall endeavor to take into account the methods agreed by relevant international organizations.]

[Article 13.10: Principles on Access to and Use of the Internet]

[Subject to applicable policies, laws and regulations, the Parties recognize the benefits of their consumers having the ability to:
  (a) access and use services and applications of a consumer’s choice available on the Internet, subject to reasonable network management;
  (b) connect the end-user devices of a consumer’s choice to the Internet provided that such devices do not harm the network; and
  (c) access information on the network management practices of a consumer’s Internet access service provider.]

[ARTICLE 13.11: Cross-Border Transfer of Information by Electronic Means]

[1. The Parties affirm their level of commitments relating to cross-border transfer of information by electronic means, in particular, but not exclusively:]

[“1.1 The Parties recognize that each Party may have its own regulatory requirements concerning the transfer of information by electronic means.”]

[1.2. Each Party shall allow the cross-border transfer of information by electronic means, including personal information, when this activity is for the conduct of the business of a covered person.]

[1.3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 1.2 to achieve a legitimate public policy objective, provided that the measure:
  (a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and
  (b) does not impose restrictions on transfers of information greater than are required to achieve the objective.”]

[ARTICLE 13.12: Location of Computing Facilities]

[The Parties affirm their level of commitments relating to location of computing facilities, in particular, but not exclusively:]
[“1. The Parties recognize that each Party may have its own regulatory requirements regarding the use of computing facilities, including requirements that seek to ensure the security and confidentiality of communications.”]

[2.2. No Party shall require a covered person to use or locate computing facilities in that Party’s territory as a condition for conducting business in that territory.]

[2.3. Nothing in this Article shall prevent a Party from adopting or maintaining measures inconsistent with paragraph 2 to achieve a legitimate public policy objective, provided that the measure:
(a) is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on trade; and
(b) does not impose restrictions on the use or location of computing facilities greater than are required to achieve the objective.”]

ARTICLE 13.13: Unsolicited Commercial Electronic Messages

1. Each Party shall adopt or maintain measures to protect users, regarding unsolicited commercial electronic messages that:
[(a) require suppliers of unsolicited commercial electronic messages to facilitate the ability of recipients to prevent ongoing reception of those messages;
(b) require the consent, as specified according to the laws and regulations of each Party, of recipients to receive commercial electronic messages; or
(c) otherwise provide for the minimization of unsolicited commercial electronic messages.]

[2. Each Party shall provide recourse against suppliers of unsolicited commercial electronic messages that do not comply with the measures adopted or maintained pursuant to paragraph 1.]

[3. The Parties shall cooperate in appropriate cases of mutual concern regarding the regulation of unsolicited commercial electronic messages.]


The Parties affirm their level of commitments relating to non-discriminatory treatment of digital products, in particular, but not exclusively:

“1. No Party shall accord less favorable treatment to digital products created, produced, published, contracted for, commissioned or first made available on commercial terms in the territory of another Party, or to digital products of which the author, performer, producer, developer or owner is a person of another Party, than it accords to other like digital products.

2. Paragraph 1 shall not apply to the extent of any inconsistency with a Party’s rights and obligations concerning intellectual property contained in another international agreement a Party is party to.
3. *The Parties understand that this Article does not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees and insurance.*

4. *This Article shall not apply to broadcasting.*

[ARTICLE 13.15: Electronic Invoicing]

[1. The Parties recognize the importance of e-invoicing which increases the efficiency, accuracy and reliability of commercial transactions. The Parties also recognize the benefits of ensuring that the systems used for e-invoicing within their respective jurisdictions are interoperable with the systems used for e-invoicing in the other Parties’ jurisdictions.]

[2. Each Party shall ensure that the implementation of measures related to e-invoicing in its jurisdiction is designed to support cross-border interoperability. For that purpose, each Party shall base its measures related to e-invoicing on international standards, guidelines or recommendations, where they exist.]

[3. The Parties recognize the economic importance of promoting the global adoption of interoperable e-invoicing systems. To this end, the Parties shall share best practices and collaborate on promoting the adoption of interoperable systems for e-invoicing.]

[4. The Parties agree to cooperate and collaborate on initiatives which promote, encourage, support or facilitate the adoption of e-invoicing by businesses. To this end, the Parties shall:
   (a) promote the existence of underlying infrastructure to support e-invoicing; and
   (b) generate awareness of and build capacity for e-invoicing.]

[ARTICLE 13.16: Electronic Payments]

[1. Parties agree to support the development of efficient, safe and secure cross border electronic payments by fostering the adoption and use of internationally accepted standards, promoting interoperability and the interlinking of payment infrastructures, and encouraging useful innovation and competition in the payments ecosystem.]

[2. To this end, and in accordance with their respective laws and regulations, the Parties recognize the following principles:
   (a) The Parties shall endeavor to make their respective regulations on electronic payments, including those pertaining to regulatory approval, licensing requirements, procedures and technical standards, publicly available in a timely manner.
   (b) The Parties shall endeavor to take into account, for relevant payment systems, internationally accepted payment standards to enable greater interoperability between payment systems.
   (c) The Parties shall endeavor to promote the use of Application Programming Interface (API) and to encourage financial institutions and payment service providers to make available APIs of their financial products, services and transactions to third party players where possible to facilitate greater interoperability and innovation in the electronic-payments ecosystem.
   (d) The Parties shall endeavor to enable cross-border authentication and electronic know-your-customer of individuals and businesses using digital identities.
(e) The Parties recognize the importance of upholding safety, efficiency, trust and security in electronic payment systems through regulation. The implementation of regulation should, where appropriate, be proportionate to and commensurate with the risks posed by the provision of electronic payment systems.

(f) The Parties agree that policies should promote innovation and competition in a level playing field and recognize the importance of enabling the introduction of new financial and electronic payment products and services by incumbents and new entrants in a timely manner such as through adopting regulatory and industry sandboxes.

[Article 13.17: Information and Communication Technology Products that Use Cryptography]

[The Parties affirm their level of commitments relating to Information and Communication Technology products that use cryptography, in particular, but not exclusively:]

[“1. This section shall apply to information and communication technology (ICT) products that use cryptography.]
[4. Paragraph 3 shall not apply to:
   (a) Requirements that a Party adopts or maintains relating to access to networks that are owned or controlled by the government of that Party, including those of central banks; or
   (b) measures taken by a Party pursuant to supervisory, investigatory or examination authority relating to financial institutions or markets.]

[5. For greater certainty, this Section shall not be construed to prevent a Party’s law enforcement authorities from requiring service suppliers using encryption they control to provide, pursuant to that Party’s legal procedures, unencrypted communications.”]

[Article 13.18: Artificial Intelligence]

[1. The Parties recognize that the use and adoption of Artificial Intelligence (AI) technologies have grown increasingly widespread in the digital economy.]

[2. The Parties recognize the economic and social importance of developing ethical and governance frameworks for the trusted, safe and responsible development and use of AI technologies. In view of the cross-border nature of the digital economy, the Parties further acknowledge the benefits of developing mutual understanding and ultimately ensuring that such frameworks are internationally aligned, in order to facilitate, as far as possible, the adoption and use of AI technologies across the Parties’ respective jurisdictions.]

[3. The Parties shall promote the adoption of ethical and governance frameworks that support the trusted, safe and responsible development and use of AI technologies (AI Governance Frameworks).]

[4. In adopting AI Governance Frameworks, the Parties shall endeavor to take into consideration internationally recognized principles or guidelines, including explainability, transparency, fairness and human-centered values.]

[Article 13.19: Online Safety and Security]

[1. The Parties recognize that a safe and secure online environment supports the digital economy.]

[2. The Parties recognize the importance of taking a multi-stakeholder approach to addressing online safety and security issues.]

[3. The Parties shall endeavor to cooperate to advance collaborative solutions to global issues affecting online safety and security.]

[Article 13.20: Source Code]

[1. No Party shall require the transfer of, or access to, source code of software owned by a person of another Party, as a condition for the import, distribution, sale or use of such software, or of products containing such software, in its territory.]
[2. For the purposes of this Article, software subject to paragraph 1 is limited to mass-market software or products containing such software and does not include software used for critical infrastructure.]

[3. Nothing in this Article shall preclude:
   (a) the inclusion or implementation of terms and conditions related to the provision of source code in commercially negotiated contracts; or
   (b) a Party from requiring the modification of source code of software necessary for that software to comply with laws or regulations which are not inconsistent with this Agreement.]

[4. This Article shall not be construed to affect requirements that relate to patent applications or granted patents, including any orders made by a judicial authority in relation to patent disputes, subject to safeguards against unauthorized disclosure under the law or practice of a Party.]

[Article 13.21: Public Domain]

[1. The Parties recognize the importance of a rich and accessible public domain.]

[2. The Parties also acknowledge the importance of informational materials, such as publicly accessible databases of registered intellectual property rights that assist in the identification of subject matter that has fallen into the public domain.]

[Article 13.22: Data Innovation]

[1. The Parties recognize that cross-border data flows and data sharing enable data-driven innovation. The Parties further recognize that innovation may be enhanced within the context of regulatory data sandboxes where data, including personal information, is shared amongst businesses in accordance with the Parties’ respective laws and regulations.]

[2. The Parties also recognize that data sharing mechanisms, such as trusted data sharing frameworks and open licensing agreements, facilitate data sharing and promote its use in the digital environment to:
   (a) promote innovation and creativity;
   (b) facilitate the diffusion of information, knowledge, technology, culture and the arts; and
   (c) foster competition and open and efficient markets.]

[3. The Parties shall collaborate on data-sharing projects and mechanisms, and proof of concepts for new uses of data, including data sandboxes, to promote data-driven innovation.]

ARTICLE 13.23: Cooperation

1. Reconociendo la naturaleza global del comercio electrónico, las Partes afirman la importancia de:
(a) trabajar conjuntamente para facilitar el uso del comercio electrónico por las micro, pequeñas y medianas empresas;
(b) compartir información y experiencias sobre leyes, regulaciones, y programas en la esfera del comercio electrónico, incluyendo aquellos relacionados con protección de la información personal, protección del consumidor, seguridad en las comunicaciones electrónicas, autenticación, derechos de propiedad intelectual, y gobierno electrónico;
(c) trabajar para mantener los flujos transfronterizos de información como un elemento esencial en el fomento de un entorno dinámico para el comercio electrónico;
(d) fomentar el comercio electrónico promoviendo la adopción de códigos de conducta, modelos de contratos, sellos de confianza, directrices y mecanismos de aplicación en el sector privado, y
(e) participar activamente en foros regionales y multilaterales, para promover el desarrollo del comercio electrónico.

[2. Financial Technology]

[The Parties shall promote cooperation between the financial technology (FinTech) industry in the Parties. The Parties recognize that effective cooperation regarding FinTech will require involvement of businesses. To this end, the Parties shall:
(a) promote cooperation between firms in the FinTech sector;
(b) promote development of FinTech solutions for business or financial sectors; and
(c) encourage collaboration of entrepreneurship or start-up talent between the Parties in FinTech, consistent with the laws and regulations of the respective Parties.]

[3. Competition Policy]

[1. Recognizing that the Parties can benefit by sharing their experiences in enforcing competition law and in developing and implementing competition policies to address the challenges that arise from the digital economy, the Parties shall consider undertaking mutually agreed technical cooperation activities, including:
(a) exchanging information and experiences on development of competition policies in the digital markets;
(b) sharing best practices on promotion of competition in digital markets; and
(c) providing advice or training, including through the exchange of officials, to assist a Party to build necessary capacities to strengthen competition policy development and competition law enforcement in the digital markets.]

[2. The Parties shall cooperate, as appropriate, on issues of competition law enforcement in digital markets, including through notification, consultation and the exchange of information.]

[3. The Parties shall cooperate in a manner compatible with their respective laws, regulations and important interests, and within their reasonably available resources.]

[4. Open Government Data]

[1. The Parties recognize that facilitating public access to and use of government information may foster economic and social development, competitiveness and innovation.]

[2. To the extent that a Party makes government information, including data, available to the public, it shall endeavor to ensure that the information is made available as open data.]
3. The Parties shall endeavor to cooperate to identify ways in which Parties can expand access to and use of open data, with a view to enhancing and generating business opportunities.

4. Cooperation under this Article may include activities such as:
   (a) jointly identifying sectors where open data sets, particularly those with global value, can be used to facilitate technology transfer, talent formation and innovation, among other things;
   (b) encouraging the development of new products and services based on open data sets; and
   (c) fostering the use and development of open data licensing models in the form of standardized public licenses available online, which will allow open data to be freely accessed, used, modified and shared by anyone for any purpose permitted by the Parties’ respective laws and regulations, and which rely on open data formats.

5. Digital Inclusion

1. The Parties acknowledge the importance of digital inclusion to ensure that all people and businesses have what they need to participate in, contribute to, and benefit from the digital economy.

2. The Parties recognize the importance of expanding and facilitating digital economy opportunities by removing barriers. This may include enhancing cultural and people-to-people links, including between Indigenous Peoples, and improving access for women, rural populations and low socio-economic groups.

3. To this end, the Parties shall cooperate on matters relating to digital inclusion, including participation of women, rural populations, low socio-economic groups and Indigenous Peoples in the digital economy. Cooperation may include:
   (a) sharing of experiences and best practices, including exchange of experts, with respect to digital inclusion;
   (b) promoting inclusive and sustainable economic growth, to help ensure that the benefits of the digital economy are more widely shared;
   (c) addressing barriers in accessing digital economy opportunities;
   (d) developing programmes to promote participation of all groups in the digital economy;
   (e) sharing methods and procedures for the collection of disaggregated data, the use of indicators, and the analysis of statistics related to participation in the digital economy; and
   (f) other areas as jointly agreed by the Parties.

6. Cybersecurity

1. The Parties have a shared vision to promote secure digital trade to achieve global prosperity and recognize that cybersecurity underpins the digital economy.

2. The Parties further recognize the importance of:
   (a) building the capabilities of their national entities responsible for computer security incident response;
(b) using existing collaboration mechanisms to cooperate to identify and mitigate malicious intrusions or dissemination of malicious code that affect the electronic networks of the Parties; and
(c) workforce development in the area of cybersecurity, including through possible initiatives relating to mutual recognition of qualifications, diversity and equality.]

[7. Small and medium enterprises]

[1. With a view to more robust cooperation between the Parties to enhance trade and investment opportunities for SMEs in the digital economy, the Parties shall:
(a) continue cooperation with the other Parties to exchange information and best practices in leveraging on digital tools and technology to improve SMEs access to capital and credit, SMEs participation in government procurement opportunities and other areas that could help SMEs adapt to the digital economy; and
(b) encourage participation by the Parties’ SMEs in platforms that could help SMEs link with international suppliers, buyers and other potential business partners.]

[2. The Parties shall use existing business meetings (Macro business meetings), to promote a Digital SME Forum (the Forum). The Forum shall include private sector, non-government organizations, academic experts and other stakeholders from each Party. The Parties may collaborate with other interested persons in convening the Forum.
(a) The Forum shall promote the benefits of this Chapter for the Parties’ SMEs. The Forum shall also promote relevant collaboration efforts and initiatives between the Parties arising from this Chapter.
(b) To encourage inclusive participation by the Parties’ stakeholders and increase outreach impact, the Parties may consider organizing the Forum on the sidelines, or as part of existing platforms and meetings that the Parties are participants or members of, including APEC, CELAC or WTO meetings.
(c) The Parties may consider using relevant technical or scientific input, or other information arising from the Dialogue towards implementation efforts and further modernization of this Chapter for the benefit of the Parties’ SMEs.

[7. Cooperation activities relating to this chapter may be carried out through the coordination, as appropriate, of the Parties’ respective agencies, enterprises, labor unions, civil society, academic institutions and non-governmental organizations, among others.]

ARTICLE 13.24: Transparency

1. Each Party, according to its own legislation shall ensure that its laws, regulations, procedures, and administrative rulings of general application with respect to any matter covered by this Chapter are promptly published or otherwise made available in such a manner as to enable interested persons and Parties to become acquainted with them.

[2. Each Party shall:
(a) publish in advance any measure referred to in paragraph 1 that it proposes to adopt; and
(b) provide, where appropriate, interested persons and the other Parties with a reasonable opportunity to comment on such proposed measures.]
[3. With a view to administering in a consistent, impartial, and reasonable manner all measures affecting matters covered by this Chapter, each Party shall ensure in its administrative proceedings applying measures referred to in Article 13.5.1 to particular persons, goods, or services of the other Parties in specific cases that:

(a) wherever possible, persons of another Party that are directly affected by a proceeding are provided reasonable notice, in accordance with its domestic procedures, when a proceeding is initiated, including a description of the nature of the proceeding, a statement of the legal authority under which the proceeding is initiated, and a general description of any issues in question;
(b) such persons are afforded a reasonable opportunity to present facts and arguments in support of their positions prior to any final administrative action, when time, the nature of the proceeding, and the public interest permit; and
(c) its procedures are in accordance with its laws and regulations.]

[4. Each Party shall establish or maintain its own free, publicly accessible website containing information regarding this Chapter, including:

(a) the text of this Chapter;
(b) a summary of this Chapter; and
(c) information designed for SMEs that contains:
   (i) a description of the provisions in this Chapter that the Party considers to be relevant to SMEs; and
   (ii) any additional information that would be useful for SMEs interested in benefiting from the opportunities provided by this Chapter.]

[5. Each Party shall include on its website, established or maintained in accordance with paragraph 4, links or information accessible through automated electronic transfer to:

(a) the equivalent websites of the other Parties; and
(b) the websites of its own government agencies and other appropriate entities that provide information that the Party considers useful to any person interested in the implementation of this Agreement.]

[6. The information described in paragraph 4(b) may include information related to the following areas:

(a) customs regulations, procedures or enquiry points;
(b) regulations concerning data flows and data privacy;
(c) innovation and data regulatory sandboxes;
(d) regulations or procedures concerning intellectual property rights;
(e) technical regulations, standards, or conformity assessment procedures related to digital trade;
(f) sanitary or phytosanitary measures relating to importation or exportation;
(g) trade promotion programmes;
(h) government procurement opportunities; and
(i) financing programmes for SMEs.]

[7. Each Party shall regularly review the information and links on the website referred to in paragraph 4 and paragraph 5 to ensure that the information and links are up-to-date and accurate.]

[8. Review and Appeal]
[8.1 Each Party shall, where warranted, establish or maintain judicial, quasi-judicial, or administrative tribunals, or procedures for the purpose of the prompt review and correction of final administrative actions regarding matters covered by this Chapter, other than those taken for prudential reasons. Such tribunals shall be impartial and independent of the office or authority entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter.]

[8.2. Each Party shall ensure that, in any such tribunals or procedures, the Parties to the proceedings are provided with the right to:
   (a) a reasonable opportunity to support or defend their respective positions; and
   (b) a decision based on the evidence and submissions of record or, where required by its laws and regulations, the record compiled by the relevant authority.]

[8.3. Each Party shall ensure, subject to appeal or further review as provided for in its laws and regulations, that the decisions referred to in paragraph 4.2(b) shall be implemented by, and shall govern the practice of, the offices or authorities with respect to the administrative action at issue.]

[9: Notification and Provision of Information]

[9.1. Where a Party considers that any proposed or actual measure might materially affect the operation of this Chapter or otherwise substantially affect another Party’s interests under this Chapter, it shall notify that other Party, to the extent possible, of the proposed or actual measure.]

[9.2. On request of another Party, a Party shall provide information and respond to questions pertaining to any actual or proposed measure, whether or not that other Party has been previously notified of that measure.]

[9.3. Any notification, request, or information under this Article shall be conveyed to the other Parties through their contact points.]

[9.4. Any notification or information provided under this Article shall be without prejudice as to whether the measure is consistent with this Chapter.]

ARTICLE 13.25: Chapter administration

[Each Party shall designate an overall contact point to facilitate communications between the Parties on any matter covered by this Chapter, as well as other contact points as required by this Chapter.]

[Except as otherwise provided in this Chapter, each Party shall notify the other Parties in writing of its designated contact points no later than 60 days after the date of entry into force of this Chapter for that Party. A Party shall notify its designated contact points to another Party for which this Chapter enters into force at a later date, no later than 30 days after the date of entry into force of this Chapter for that other Party.]

[Each Party shall notify the other Parties of any changes to its designated contact points.]

ARTICLE 13.26: Relation with other chapters
In case of incompatibility between this Chapter and other Chapter of this Additional Protocol, the other Chapter will prevail in the measure of incompatibility.
Gender

There is a growing awareness that the gains from trade are unequally distributed and that trade impacts differently every segment of the population\(^{42}\). In this context, there is a complex relationship between trade and gender. On the one hand, trade affects women and men differently, based on their position in the economy (workers, traders, producers, consumers, etc.), affecting women’s empowerment and wellbeing. On the other hand, gender inequality impacts economies’ trade performance and competitiveness\(^{43}\). Thus, trade is not gender neutral.

It is necessary to understand the economy as a “gendered structure” and recognize the interdependence between market and non-market activities (unpaid household work). The participation of more women in the economy is a constant and fundamental debate of world leaders in the search of achieving gender equality. Mainstreaming gender elements into economic and trade policies will be crucial for women empowerment, which in turn will have a positive effect on social and economic development\(^{44}\).

According to information from the World Trade Organization (WTO), many women worldwide stand on the sidelines of the economy. While women comprise about half of the global population, they generate only 37% of gross domestic product (GDP) and run only about a third of small and medium-sized enterprises\(^{45}\). In some developing countries, female-owned businesses can drop as low as 3-6%. Women are universally underpaid, underrepresented and face many barriers, such as access to formal financial services. The World Bank reports a staggering $300 billion annual credit deficit for women-owned small and medium-sized businesses\(^{46}\). Without capital, it is nearly impossible to start and sustain a business. Yet when women-owned micro and small businesses thrive, their livelihoods improve, and they reinvest in their local communities.

Women are more vulnerable to economic shocks, therefore, the current pandemic deepens the inequalities previously mentioned. The effects of the pandemic have reduced employment opportunities for temporary workers (in majority women). Women cannot access to social safety nets due to the lack of formal participation in the labor force; and services sectors such as hospitality, tourism and food, where women are highly employed, are feeling the effects of the pandemic. Besides, the limited access to credit also affects women entrepreneurs and the


\(^{44}\) UNCTAD. (2017). Trade and Gender Toolbox. In UNCTAD/DITC/2017/1 (Ed.).


survival of their firms. Measures, such as the closure of schools and quarantines translate in additional household work and responsibilities for women⁴⁷.

For governments to address both the economic and social effects of crises, gender equality progress must be protected. Therefore, women’s productive participation in the labor force must be retained. For these, governments’ support must go beyond formal employment, and include part-time, informal and seasonal workers, where women are located⁴⁸. In this context, this crisis has generated positive initiatives that seek to address the new needs created from COVID-19. However, in term of trade policy, it is important to generate provisions in agreements to guide national trade policies after crises and make sure that women’s economic empowerment is addressed in economic recoveries.

It has been widely declared that this pandemic presents an opportunity to incorporate structural changes that could promote women’s economic empowerment and also protect them from enduring similar shocks in the future. Gender-responsive trade policies would open new opportunities to women as entrepreneurs and employees. This scenario may be used to design and implement policies that maximize women’s opportunities; facilitate the integration of women into more dynamic economic sectors; mitigate gender disparities; enable women’s empowerment and well-being; and promote women’s education in non-traditional areas, allowing them to shift from precarious jobs to more stable employment⁴⁹.

This section is structured as follows. After this introduction, some effects of COVID-19 on women’s economic empowerment are presented. Then, it analyzes the incorporation of gender-related issues in Chilean trade policy, specifically the incorporation of gender and trade chapters in trade agreements. Later, it is analyzed how the Pacific Alliance has incorporated gender issues within its work agenda (Declarations, Gender Working Group, Women of the Pacific). As there are no gender references in the Pacific Alliance Additional Protocol, this report presents amendments to the preamble and a proposal for a gender and trade chapter. Finally, the 2020 ITC toolkit is applied to compare the gender-responsiveness of the current Protocol and the modifications proposed.

1. COVID-19 Impact on Women’s Economic Empowerment

Results from data gathered in 2019, and published in the 2020 Global Gender Gap Report, showed that there is still a 31.4% average gender gap that remains to be closed globally in dimensions such as economic participation and opportunity, educational attainment, health and

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⁴⁹ UNCTAD. (2013). Trade, Gender and Development Division on International Trade in Goods and Services, and Commodities (pp. 12). Geneve: UNCTAD.
survival, and political empowerment. This year marks the twenty-fifth anniversary of the work of the Beijing Platform for Action towards gender equality. However, the current COVID-19 pandemic is affecting health, social and economic aspects for the world’s population, affecting the progress made in gender equality. Pre-existing structures, which generate gender inequalities, have exacerbated the negative impacts caused by the pandemic on women. Women’s productive and economic lives are being affected disproportionately and differently than men, as women have less capacity to absorb economic shocks than men. According to United Nations, it is possible to project that the recession provoked by COVID-19 will result in long lasting difficulties for women in terms of their income, labor force participation, among others. These difficulties are explained due to their participation in economic sectors, their presence in the informal economy, and the uneven distribution of domestic work and unpaid care of children. This can have devastating effects on women’s family, personal income and economic vulnerability. Previous studies related to the Ebola virus have demonstrated how quarantines, one of the most extended policies to control COVID-19 expansion, reduce women’s economic activities, increasing poverty rates.

Regarding their participation in the economy, in lower and upper middle-income countries, 56% of women work in high-risk sectors. The manufacturing sector, where women and men are unequally represented, is a good example of how these differences will deepen during the pandemic and afterwards. For example, the apparel and textile sectors, characterized by long working hours and low wages, have had the highest sales losses, where women represent 75% of total employment. The tourism sector, in which women make up most workers in food services and accommodation activities, have been impacted by COVID-related travel restrictions. In developing countries, women, who comprise on average 43% of the agricultural workforce, are being affected by the slowdown in supply and demand of these products and they have lost their income as they are not able to sell them in local and informal markets.

Women entrepreneurs are concentrated in micro, small and medium-sized enterprises (MSMEs), while women-owned businesses tend to be focused on sectors with lower profit

In addition to facing legal restrictions in terms of entrepreneurship and employment, women-owned enterprises have had to close their businesses and find other ways of coping during the pandemic. For example, among the enterprises that participate in the International Trade Centre’s “SheTrades” Initiative, which seeks to connect three million women entrepreneurs to market by 2021, this situation has not only affected women’s businesses and themselves, but also their communities.

Before the pandemic, 740 million women worked disproportionately in the informal economy, in insecure, low-paying, part-time and informal jobs, with little or no income security and social protection benefits. Besides this informality, women are overrepresented in sectors that have been affected by the pandemic due to cuts in payments, shortages in the supply of raw materials and inputs, restricted transportation, among others.

In developing and least developed economies the situation is critical. As the majority of women are employed in the informal economy, there is less access to paid sick leave and social protection. Besides, they often depend on social interactions to earn a living, which it is now widely restricted. Women in Africa are more likely than men to be entrepreneurs, and they make up 58% of the continent’s self-employed population. Between 70% and 80% of small-scale informal traders working in African cross-border areas, are women, particularly vulnerable to shocks, as they are disproportionately informal and operate in less-profitable sectors.

Before this health crisis, women dedicated a third of their time to domestic work and unpaid care, but today with the closure of schools, social isolation, and an increasing number of sick people, the additional burden of unpaid work is intensifying. According to estimates by the


United Nations Conference on Trade and Development (UNCTAD), it is expected that women’s domestic work and unpaid work will increase because of the pandemic, which will reduce women’s opportunities to participate in the labor market. Moreover, women are more likely to be single parents more vulnerable to the economic downturn.

In Latin America, it is estimated that as a result of COVID-19, besides the loss of income of 5% of the economically active population, poverty could increase in 3.5%, carrying 107 million women to post-pandemic poverty. Before the crisis, women were already overrepresented among the unemployed and one in two women held an informal job, which today results in limited access to social protection in the region. This crisis can deepen the social and labor inequalities suffered by women, for example, indigenous and Afro-descendant women who only receive one third of the hourly income earned by non-indigenous and Afro-descendant men with the same educational level.

According to the Economic Commission for Latin America and the Caribbean (ECLAC), measures to contain the pandemic could influence women’s formal work, which is concentrated mainly on the most affected sectors, such as social services, wholesale and retail sales, commercial services and transportation, storage and communications. These four sectors represent 78% of all employed women in the region. In particular, in case of accommodation and food activities, one of the most affected sectors, almost 60% of workers in Latin America and the Caribbean, are women; in the health sector, 72.8% of employees are women; and paid domestic work represents 11.4% of employed women.

The reality of the Pacific Alliance members is not different from the region. Information from ECLAC argues that the consequences of the pandemic are becoming noticeable within their economies. In Mexico, the manufacturing industry activity decreased by 10.9% in the first four months of 2020 and in Colombia, the decrease was 7.7% for the total industry. Even more serious is the reality in Peru, where industrial production decreased by 21.4% in the first quarter and the manufacture of capital goods decreased by 47.9%. Finally, in Chile, 37.5% of

71 Ibid. N. 30.
73 Ibid. N. 30.
companies reduced their personnel between April and May and 44% of the companies are in a bad or critical financial state, a figure that increases to 51% among micro-companies.\textsuperscript{74}

Unfortunately, the lack of gender-sensitive data in the region makes even more challenging to have an accurate outlook of the situation of women in the Pacific Alliance economies. Available data is disaggregated by gender on domestic violence\textsuperscript{75}, labor, health care system and others\textsuperscript{76}, but not specifically about women’s economic empowerment and their participation in international trade.

2. Inclusion of Gender in Chile’s Trade Agreements

For Chile, gender became an explicit component of its trade policy during Michelle Bachelet’s second government (2014-2018). This in the context of a progressive agenda with special emphasis on gender equality. Gender relevance during Bachelet’s administration was based on two main elements: women’s role as supporters of the economy and the lack of information, discussion, proposals and institutional participation.

Since 1991, a National Service for Women was in place with the objective to promote equal opportunities between women and men. In this context of gender awareness, in 2016, it was established as a Ministry of Women and Gender Equity in order to create policies and programs that will benefit women, trying to eliminate all kinds of gender discrimination.\textsuperscript{77} To comply with this presidential mandate, the institution responsible for trade policy formulation and implementation, the General Directorate for International Economic Relations\textsuperscript{78}, incorporated a gender perspective in its work agenda. In order to identify in which sectors this perspective could be addressed, a Gender Department was established in 2016. This department was responsible for following up gender topics, enhancing internal policies, and managing the different programs that will support and promote women’s participation in international trade and empowerment.\textsuperscript{79} The same year, in order to mainstream the gender-perspective within public institutions and their areas of work, they implemented a Management Upgrade Program. From here, the working areas identified: the implementation of gender-based impact assessments; the formulation and implementation of a gender-based trade promotion policy; and the inclusion of a gender perspective within trade negotiations and trade agreements.

Despite the relevance of trade liberalization as one of the key elements of Chilean economic development strategy and its extensive preferential agreements network, the inclusion of a


\textsuperscript{78} In 2018, the General Directorate for International Economic Relations was transformed into the Under-Secretary of International Economic Relations (SUBREI, for its acronym in Spanish).

gender perspective has been a later comer.\textsuperscript{80} However, negotiations with like-minded countries and the work agenda previously mentioned have led to the inclusion of gender chapters within free trade agreements negotiations (see Table 1). Chile can be considered a pioneer in the inclusion of these chapters, which represents a shift in the way gender equality issues were considered within trade agreements. Initially, gender was addressed as a cross-cutting issue when making reference to Human Rights or women international conventions, or in the general preamble of the agreement.\textsuperscript{81}

![Table 1: Gender and Trade Chapters in Chilean FTAs\textsuperscript{82}](
<table>
<thead>
<tr>
<th>Countries</th>
<th>Year</th>
<th>Type of agreement and dispositions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chile and Uruguay</td>
<td>2016</td>
<td>Free trade agreement. Chapter 14: Trade and gender. Objectives and cooperation activities.</td>
</tr>
<tr>
<td>Chile and Canada</td>
<td>2016 – 2017</td>
<td>Free trade agreement upgrading. Appendix II, Chapter N bis: Trade and gender. Objectives and cooperation activities.</td>
</tr>
<tr>
<td>Chile and Argentina</td>
<td>2017</td>
<td>Additional Protocol (ACE 35) Chile- Mercosur</td>
</tr>
<tr>
<td>Chile and European Union</td>
<td>2017 -</td>
<td>Negotiations under development</td>
</tr>
<tr>
<td>Chile and Brazil</td>
<td>2018</td>
<td>Additional Protocol (ACE 35) Chile- Mercosur</td>
</tr>
<tr>
<td>Chile and Ecuador</td>
<td>2019 -</td>
<td>Negotiations under development</td>
</tr>
<tr>
<td>The Pacific Alliance with</td>
<td>2018 -</td>
<td>Negotiations under development</td>
</tr>
<tr>
<td>Australia, Canada, New Zealand and Singapore</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In these chapters, the parties have sought to stimulate women’s participation in international trade. They recognize the relevance of incorporate a gender perspective in the promotion of an inclusive economic growth. Even though the chapters contain some mandatory elements, none of them require a change in domestic regulations, as they mainly refer to cooperation activities, not needing regulatory changes for their implementation. In some cases, the chapters’ recall Goal 5 of the Sustainable Development Goals in the United Nations 2030 Agenda for Sustainable Development; reaffirm obligations under the Agreement on Labor Cooperation and the OECD Guidelines for Multinational Enterprises; and refer to the effective implementation of international agreements (CEDAW Convention, Belen do Para Convention, International Labor Organization conventions N°100, N°111, and N°156).

Cooperation activities are an important part of these chapters. These activities are meant to enhance and promote women’s skills, financial inclusion, leadership, entrepreneurship, access to science, technology and innovation, among other elements. A Trade and Gender Committee is established in each chapter to manage the possible outcomes of the agreement in areas such as information exchange, discuss joint proposals, and to manage any other related topic that may arise in the future.

\textsuperscript{80} Chile currently has 29 preferential trade agreement, with 65 economies, representing 67% of world population and 88% of global GDP. SUBREI (2020). Acuerdos comerciales. Retrieved from [https://www.subrei.gob.cl/modulo-de-acuerdos-comerciales/](https://www.subrei.gob.cl/modulo-de-acuerdos-comerciales/)


It is important to highlight that these chapters do not include a specific program on cooperation, nor defining budgets, baselines, targets, objectives, measurements or other relevant characteristics to enforce the cooperation. Therefore, cooperation activities are subject to the will of in-office administrations.

One important characteristic of these chapters is their exclusion from the Dispute Settlement Mechanism. Hence, its commitments are voluntary actions for the parties that cannot be enforced nor retaliation can be applied in case of non-compliance. This weakness the objective of women empowerment, and as shown in the cooperation activities, leave compliance to the political will of incumbent administrations.

Although the main impact of gender chapters’ inclusion into FTAs may not be on trade relations, it reflects Chilean government’s willingness to incorporate and visualize this topic, by including the gender perspective within its trade policy agenda. The inclusion of gender chapters highlights the instrumental role that gender policies may have towards a sustainable socioeconomic development, and reinforce the parties’ commitment to effectively implement their normative, policies and good practices towards gender equality and equity. From here, it becomes important to advance in the inclusion of these issues within trade agreements, deepening countries’ commitments. Besides Chile, it is important to highlight that Canada has also incorporated this perspective within their trade policymaking, and it has included a gender chapter in its FTA with Israel and it is currently negotiating with Mercosur.

3. Analyzing gender commitments in the Pacific Alliance

This section presents the description and analysis of how the Pacific Alliance has incorporated gender issues within its work agenda, considering Declarations, the Gender Technical Working Group and its main focus on women entrepreneurs, through the initiative Women of the Pacific.

3.1 Declarations

The analysis of Declarations made by the Pacific Alliance and its members exhibit that the first inclusion of a gender perspective occurred four years after its creation. In 2015, at the X Summit of the Pacific Alliance, in Paracas, Peru, the members of the Alliance agreed on the incorporation of a gender approach into presidential terms, consisting of a transversal inclusion of the gender perspective:

“Express its commitment to include the gender perspective as a crosscutting element within the work of the Pacific Alliance and, to this end, establish a Working Group to develop a strategy to be incorporated in the Alliance programs and this Group should present the progress of their work at the next GAN meeting.”

84 GAN refers to Grupo de Alto Nivel (High Level Group) by its acronym in Spanish.
In this context, the proposal for mainstreaming gender within the Alliance will be noticeable by the creation of the Gender Technical Working Group (GTG, for its name in Spanish). This will be a fundamental instrument for the promotion and incorporation of a gender perspective within the actions and objectives proposed by the Pacific Alliance\textsuperscript{86}.

In 2016, during the XI Summit of the Pacific Alliance held in Puerto Varas, Chile, the members of the Alliance continue to consider the importance of mainstreaming the gender perspective and they worked on deepening its application. They proposed three fundamental topics focused on promoting the incorporation of a gender perspective both in programs and activities, as well as the development of positive actions that can promote the dialogue on gender and trade among member countries\textsuperscript{87}. Months later, the Alliance asked the OECD to review gender equality in these countries. As a result, the OECD published the study “Gender Equality in the Pacific Alliance: promoting the economic empowerment of women” (OECD, 2016), which became the main source of analysis for gender inequality in later years. In this report, it is concluded that "girls and women in these countries are making progress on the path to gender equality and inclusive growth, but still face major obstacles"\textsuperscript{88}.

At the XII Summit of the Pacific Alliance, held in Santiago de Cali, Colombia, in 2017, the member countries declared their:

“willingness to intensify efforts to incorporate the gender perspective in a transversal manner in the programs and activities of the Pacific Alliance, recognizing the important role of women, including businesswomen and entrepreneurs in the growth and development of our countries, as well as their role for the fulfillment of the 2030 Agenda for Sustainable Development”\textsuperscript{89}.

In this context, the members of the Pacific Alliance sought to achieve gender mainstreaming by implementing positive actions that contribute to female empowerment for the first-time. The Virtual Community of Female Entrepreneurs was created. This same year, while intensifying the efforts to incorporate the gender perspective, it was held the III Forum of female entrepreneurs of Colombia, Chile, Mexico, and Peru. The aim was to encourage and promote a dynamic business relationship for businesses generation, through the acquisition of new knowledge and capabilities. These will allow them to strengthen key issues, for example, empowerment and competitiveness, innovation, new opportunities and internationalization, integrating the main actors at a global level\textsuperscript{90}.

Subsequently, during 2018 in the XIII Summit of the Pacific Alliance held in Puerto Vallarta, Mexico, the creation of the Women Entrepreneurs Community is recognized and its modification is proposed, carrying out activities that promote the association between

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\textsuperscript{86} The Gender Technical Working Group will be analyzed in the following section.

\textsuperscript{87} Alianza del Pacifico (2016). Declaración de Puerto Varas: XI Cumbre de la Alianza del Pacifico, celebrada en Puerto Varas, Chile, el 1 de julio de 2016. Anexo 1, Género. Retrieved from https://alianzapacifico.net/download/declaracion-de-puerto-varas-julio-1-de-2016/


businesswomen of the Pacific Alliance. The Alliance held in November of the same year the Commercial Meeting which promoted the participation and generation of business opportunities for women-led companies of the Pacific Alliance. Later the same year, the academic day within the IV Pacific Entrepreneurs Leaders Forum of the Pacific Alliance was held, which sought to unite female entrepreneurs to deliver tools and inspire other women.

The XIV Summit of the Pacific Alliance was held in 2019 in Lima, Peru. Until this moment gender was still included as a separate chapter in the declarations, which would demonstrate an incomplete process in relation to the objective of mainstreaming the gender perspective raised in 2015. Nevertheless, the efforts of the Alliance members have focuses on promoting the incorporation of a gender perspective monitoring in technical groups. Specifically, on the structural barriers faced by female entrepreneurs.

The declarations signed by the parties repeatedly emphasize the inclusion of a gender perspective within the Alliance, agreeing and guaranteeing its application through the creation of work groups focused on its business and commercial perspective, with a gender perspective. Although the Alliance is currently working in the improvement, generation and development of more job opportunities, it needs to deepen its scope and directly address the concerns recognized in its Declarations. This way, its work to strengthen women’s empowerment will be reflected on solid commitments and goals that are carried out with progressive methods, thus giving stability and permanence to the objective of mainstreaming the gender perspective, included in the X Summit of the Alliance in Paracas.

3.2 The Gender Technical Working Group

The Gender Technical Working Group (GTG) was created in 2015 at the Pacific Alliance Summit in Paracas, Peru. Its objective is to promote the incorporation of a gender perspective in different programs and activities of the Pacific Alliance; to develop and implement positive actions to incorporate women leaders in export processes; and to develop virtual platforms to promote dialogue on trade and gender.

Since its creation, the GTG has promoted various initiatives that seek female empowerment in the region, especially in the economic field. One of the main working methodologies of the GTG has been the incorporation of a gender sensible perspective in other technical working groups in the Pacific Alliance. The first phase of gender awareness focused on cooperation groups, export promotion agencies, communication strategy, SMEs, education, institutional affairs, and external relations, and it was later expanded to the digital agenda, tourism, and innovation.

The establishment of a “Glossary on gender” is one of the main projects of the Pacific Alliance’s GTG, since it seeks to facilitate the incorporation of a gender perspective by spreading knowledge on women equality to other work groups of the Alliance. This glossary provides

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clarity and precision to other working groups about the meaning and implications of gender-related terms and discrimination.

The creation of the PA Women Entrepreneurs Community, which seeks to “promote the economic empowerment of women in the countries that make up the Pacific Alliance”94 has also been an important part of the work within the Alliance. This initiative will be fully developed in the next sections.

Other efforts made by the GTG have been the implementation of a Diagnostic Tool for the incorporation of a gender approach. The main function of this mechanism is to monitor effective application of the gender approach in the guidelines, work plans and activities carried out by the different working groups of the PA. Currently, the GTG is conducting a descriptive survey to gather more information from each working group. Using these results, it is expected to deliver recommendations and specialized training to each of the working groups according to the level of incorporation of the gender perspective that they have.

The GTG has focused on the implementation of a gender perspective within the Alliance, to the extent that it has been the main driver of measures and activities that reaffirm the commitment to women empowerment, mainly in trade and entrepreneurial terms. It has also helped member countries during the COVID-19 pandemic by recognizing the importance of a continued work and support platforms for women in this context. The GTG, since its creation, has achieved the development of its main objectives by promoting the incorporation of the gender perspective in PA programs, encouraging dialogue between gender and trade, creating virtual platforms for this. However, the GTG must expand its objectives to the other areas and programs of the Alliance to carry out a more comprehensive and effective gender mainstreaming process, and in turn, encourage Alliance members to strengthen agreements with a gender perspective, demand the incorporation of a transversal element within the official documents of the Alliance.

3.3 Women of the Pacific

In December 2013, the organization Mujeres del Pacífico Chile (Women of the Pacific) was created, bringing together participants from the rest of the countries that make up the Pacific Alliance: Peru, Colombia and Mexico with Costa Rica and Brazil as observers95.

Mujeres del Pacífico is self-defined as an “international organization focused on the study, linkage, visualization and promotion of the economic development of the entrepreneurial woman of Latin America and its entrepreneurial ecosystem” (Strategic Observatory of the Pacific Alliance, 2018). For this, it works with two approaches: boosting the economic development of female entrepreneurs and promoting the entrepreneurial ecosystem that benefits female entrepreneurs in Latin America96. It has the support of institutions such as: Production Promotion Corporation of Chile (CORFO); the Inter-American Development Bank (IDB), through its Multilateral Investment Fund; the Association of Entrepreneurs of Latin America (ASELA); and the Association of Entrepreneurs of Chile (ASECH).

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It is estimated that this organization has managed to impact a community of 15,000 women around Latin America, and it hopes to reach another 20,000 in 2020. It was also recognized for three consecutive years (2015 to 2017) with the award: “Best B company for the world”, for the implementation of significant improvements in its business practices related to its workers, customers, community, governance and environment. Thus, on its website it details: “We are interested in ending the gaps in entrepreneurship, achieving gender equality and empowering all women, thus contributing to being a source of learning and promoting economic development, sustainable and inclusive”97.

The organization offers courses, workshops, talks, missions, business promotion, among others. It also collaborates with the strengthening of the female entrepreneurial ecosystem, generating studies in coordination with its supporting institutions and the Strategic Observatory of the Pacific Alliance.

It is important to mention that the rate of economic participation of women in Latin America is 52%, this average is not reached in all the economies of the Pacific Alliance; while in Colombia (58%) and Peru (61%) are over the regional average, in Chile (43%) and Mexico (44%), there is still much work to be done.98 Women of the Pacific works with a multidisciplinary and diverse team of professional experts in business development, entrepreneurship, innovation, international affairs, trade, among others; with the objective of co-constructing and continuously strengthening the entrepreneur network at the regional level, to expand its social capital and achieve strong connections between them and the entrepreneurship ecosystem.99 The objective is to study the female entrepreneur and her ecosystem based on the field experience and the gathering of information in daily work with women. Therefore, generating useful information for government agencies and civil society with the aim of collaborating in strengthening female entrepreneurship.

The Pacific Alliance has focused its gender-related work agenda on female entrepreneurship support. In 2018, the first report on support programs for female entrepreneurship was presented in the Pacific Alliance, with the aim at diagnosing the main programs and public initiatives to support female entrepreneurship in Chile, Colombia, Mexico and Peru, and generate recommendations for improvement in each country.

This research indicates that in the countries that make up the PA, there are a total of 51 programs aimed at strengthening and promoting female entrepreneurship, being 65% education and training programs, 40% destined to promote networks, 31% related to access to financing and, to a lesser extent, those related to the reduction of risk perception (12%), and others. Similarly, it is distressing that only programs aimed at breaking sexist stereotypes that limit the intention to start and the development of the business itself do not exceed 18%. It also shows that the

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country with the largest offer of programs is Colombia, with a total of 23, followed by Chile
with 14 initiatives, Mexico with 11, and finally Peru with only 3 programs.\textsuperscript{100}

The Pacific Alliance Female Entrepreneurs Community has been characterized by the exchange
of information for the strengthening of entrepreneurial and leadership capacities throughout the
Community, promoting the access of women entrepreneurs to online events and courses. This
Community has functioned as a tool that allows women entrepreneurs to be connected to form
alliances, since it works directly with the Inter-American Development Bank\textsuperscript{101}. Under this
circumstances, PA members periodically hold workshops with female entrepreneurs to
publicize the benefits for their businesses, and to socialize the PA Women Entrepreneurs
Community as a tool allowing them to connect with each other and thus strengthen their
business. This community is linked to the “ConnectAmericas” platform, which was developed
at the request of small and medium-sized companies in Latin America and the Caribbean with
the aim of supporting their internationalization.

4. Recommendations and proposals

To respond to the pandemic, governments in Latin America are implementing fiscal measures
that will have a gender impact due to the unequal position that men and women occupy in the
economy as workers, consumers, employers and those responsible (or not) for unpaid work and
care.\textsuperscript{102} Before this pandemic, in the framework of the “Regional Conference on Women in
Latin America and the Caribbean”, governments have already committed to strengthen
cooperation to combat tax evasion and avoidance and illicit financial flows. In addition, they
agreed to implement countercyclical policies with a gender perspective to mitigate the effects
of economic crises and recessions on women’s lives, revitalizing the economy in key sectors of
society.\textsuperscript{103} In terms of trade, governments needs to understand how it can contribute to women’s
economic empowerment. For this, it is important to explore how women participate in trade as
entrepreneurs, traders, or workers. For example, SMEs face particular barriers in participating
in trade and can benefit from reforms that reduce trade costs such as trade facilitation.\textsuperscript{104}

Certainly, the situation of Latin America is concerning. The relevant information gathered
regarding the incorporation of the gender perspective in the work of the Pacific Alliance and
the impact the COVID-19 pandemic has had on women’s economic empowerment, stress the
relevance of initiatives such as the Virtual Platform for Female Entrepreneurs\textsuperscript{105}. This initiative
has focused on digital skills training and creating networks between companies led by women

\textsuperscript{102} UNCTAD. (2013). Trade, Gender and Development Division on International Trade in Goods and Services, and Commodities (pp. 12). Geneve: UNCTAD.
\textsuperscript{103} UNCTAD. (2013). Trade, Gender and Development Division on International Trade in Goods and Services, and Commodities (pp. 12). Geneve: UNCTAD.
who are experiencing the same situation due to this global context\textsuperscript{106}. However, for the Pacific Alliance to keep working on women’s economic empowerment and guarantee a sustainable and inclusive economic recovery after a crisis, a gender perspective must be mainstreamed into its Additional Protocol.

As Isabelle Durant, Deputy Secretary-General, and Pamela Coke-Hamilton, Director of Division on International Trade and Commodities, UNCTAD, argued “[…] our ability to bounce back from this crisis is dependent on how we include everyone equally. If more women take part in shaping a new social and economic order, chances are that it will be more responsive to everyone’s needs and make us all more resilient to future shocks”\textsuperscript{107}. In this context, this report proposes a gender and trade chapter to be included in the Additional Protocol of the Pacific Alliance, as well as a gender-sensitive provision for the Protocol’s preamble. Both elements are further analyzed in the following sections.

4.1 Preamble

Incorporating gender equality in the preamble of agreements is a useful way to mainstream gender perspectives in trade agreements as it reveals the initial intentions of the negotiators\textsuperscript{108}. Besides, following Article 31 of the Vienna Convention on the Law of Treaties, decision makers can consider how the preamble is phased to identify parties’ objectives and solve disputes that may arise from the agreement. The preamble in the Pacific Alliance Additional Protocol does not contain any reference to gender-related aspects. Therefore, the modifications proposed help parties to recognize gender equality as an important public policy objective to achieve sustainable development and implement the agreement in a way that provides equal opportunities for both women and men.

4.2 Trade and Gender Chapter

For the Trade and Gender Chapter proposal, the Chapter in the Chile – Argentina FTA was considered as model. However, this proposal was modified to tackle the difficulties shown in section 2. Throughout the Chapter, provisions were rewritten to be gender-sensible (general dispositions, international agreements, and gender and trade committee); to deepen the commitments in current articles (cooperation activities); and even to incorporate elements that have not been included in the chapters negotiated to date, specifically in terms of funding for cooperation activities, the creation of a Gender Unit within the Pacific Alliance Strategic Observatory, and its incorporation of the Dispute Settlement Mechanism.

In the General Dispositions (Article 1), the parties acknowledge the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and the key role that gender-responsive policies have in achieving sustainable socioeconomic development. Besides, the parties: reaffirm their commitment to the United Nations 2030 Agenda for Sustainable Development, particularly SDG 5 for gender equality and women’ empowerment; and recognize that to achieve a sustainable economic growth, female labor participation and


economic autonomy must be enhanced. In order to increase the gender responsiveness of the Additional Protocol, in this first Article the parties “recognize that international trade affects women and men differently due to pre-existing socio-economic structures and agree that this impact must be considered in the formulation of gender-sensitive trade policies”. As it was mentioned, it is important that parties commit to implement post pandemic measures that consider a gender perspective in their design, so “the parties recognize that the participation of women in international trade promotes sustainable and inclusive growth, which is crucial for post-crisis economic recovery”. As a novel contribution, even though governments are reluctant to include gender provisions that require a change in domestic regulations, it is proposed a provision in which the parties commit to implement policies and laws to protect women workers against workplace discrimination on the basis of sex.

In this context, in International Agreements (Article 2), the parties confirm their duty to implement their respective international commitments. For this a thorough list is provided, including the 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and its Optional Protocol; the 1995 Beijing Declaration and Action Platform; the Inter-American Convention to Prevent, Punish, and Eradicate Violence against Women "Convention of Belem do Para"; and the Agreements of the International Labor Organization (number 100, 111 and 156). Besides, to encourage companies to trade in a sustainable and inclusive manner, there is a provision in which the parties drive companies to ascribe to commitments of corporate social responsibility and to the elimination of all forms of discrimination at work. In particular, parties encourage national companies and those operating in their territories to follow the principles of the Global Compact.

Even though previous negotiated chapters have included a Trade and Gender Committee, this Chapter presents some differences to monitor the implementation of gender provisions. In Article 6, it specifies the functions of the Committee, clarifies financing arrangements for its functioning, and states the timeline to review the implementation of the Chapter. For example, the Committee will facilitate the exchange of information between the parties regarding the formulation and implementation of national policies aimed at the integration of a gender perspective; organize cooperation activities; manage the cooperation fund; and work with the Gender Technical Working Group and Women of the Pacific. The Committee will meet annually and the implementation of the Chapter will be reviewed no later than three year after its entry into force. The parties will provide the adequate resources and funds for its functioning.

For Articles 3 (Gender Observatory), 4 (Cooperation Activities), 5 (Pacific Alliance Cooperation Fund), and 7 (Dispute Settlement Mechanism), additional elements are presented.

**Article 3: Gender Observatory**

The Pacific Alliance has a Strategic Observatory (Observatorio Estratégico de la Alianza del Pacífico), founded in 2016. It seeks to contribute to the monitoring of the commitments of the Pacific Alliance, through the compilation of indicators and reports that reflect its state of progress and contribute with applied research to the decision-making of the different actors that make up the Alliance. It is conformed by the Pontificia Universidad Católica de Chile (PUC); Tecnológico de Monterrey, Mexico; Universidad del Pacífico, Peru; Universidad Los Andes, Colombia. The topics currently covered by this Observatory are financial integration, trade, regulatory convergence, productive sectors, digital economy, education and culture, people’s mobility, environment and natural disasters, entrepreneurship and innovation, and energy.
Generally, gender observatories can be a channel for monitoring and following public policies. They can help to identify emerging situations and manage empirical evidence based on official data regarding the status of women inequalities. Most observatories respond to the need for better evidence on achievements and progress, the ability to identify/generate responses, and elements that governments can use to respond to emerging situations and phenomena.\(^{109}\)

Given the fact that the Strategic Observatory does not cover specific gender related issues, Article 3 proposes a specific Gender Unit in the Strategic Observatory. This Unit will include national institutions that handle gender issues. In this way the studies carried out will be in charge of complying with the commitments assumed by the parties regarding the incorporation of the gender approach. Its objectives are to generate diagnoses on progress in gender equality, to construct gender indicators, to provide tools for the formulation of public policies with a gender perspective/approach, and to monitor and evaluate the implementation of policies. The Gender Unit within the Strategic Observatory of the Pacific Alliance could deliver structured and systematic information according to the demands of the Alliance’s interest groups, contributing to decision-making and linking the faculty, students, and researchers of the participating universities.

This Gender Unit of the Strategic Observatory could work with the GTG and generate strategic alliances with the ECLAC Gender Equality Observatory\(^ {110}\), the International Trade Center, the United Nations Conference on Trade and Development, and the academy and national institutions in charge of gender issues. By aligning their objectives, the fulfillment of international goals and objectives around gender equality in the region will be promoted.

Recognizing that the lack of information has made difficult mainstreaming gender into the Pacific Alliance working groups, this Gender Unit can complement the work of GTG and provide technical support and training for the advancement of women. It will also prepare reports that provide a diagnosis of inequalities between women and men within the Pacific Alliance economies, on key issues such as: participation of women in trade; paid and unpaid work; access to financial resources, decision-making and political representation; gender violence; reproductive health and rights; and access to education.

**Article 4: Cooperation activities**

In Article 4, the parties acknowledge the benefits of sharing their experiences in designing, implementing, monitoring, and strengthening policies and programs to encourage women’s participation in national and international economy. A list of areas of cooperation are included, for example, the development of activities that promote women’s skills; financial inclusion; access to digital skills; parity participation in decision-making positions; female entrepreneurship; and the access for excluded groups to markets (migrant, rural and indigenous women).

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\(^{110}\) This observatory was created by the X Regional Conference of Women in Latin America and the Caribbean held in 2007. Its operation oversees ECLAC's Division of Gender Affairs, in coordination with United Nations and cooperation agencies involved, such as the Mechanisms for the Advancement of Women and the National Statistical Institutes of the countries of the region. Reference: CEPAL. (2009). Manual Observatorio de Igualdad de Género de América Latina y el Caribe. Retrieved from: [www.cepal.org/oig](www.cepal.org/oig)
The areas of cooperation listed also include the promotion of women’s access to education, leadership and skill-development in non-traditional areas such as technology, science, engineering and mathematics. These allow women to move away from traditional stereotyped jobs. Another innovative provision refers to internships and academic gender-related research to study and document policies and practices, which be complemented through the Gender Unit within the Pacific Alliance Observatory, as it was mentioned. In terms of improving the awareness of the interaction between trade and gender, the parties will work in ex-ante and ex-post gender-focused impact assessments; and raise awareness of the importance of gender equality for economic growth among trade negotiators, policymakers, companies, and people in general.

A key challenge to be confronted in trying to answer gender equality issues is data availability. Even though national statistical offices have compiled information in terms of living conditions, time use, employment, among others, it has not be properly addressed the link between gender outcomes and international trade. For this, the cooperation areas also include the collection of sex-disaggregated data to make strategic gender indicators and analytical tools for policy formulation. This will help to monitor the physical, economic, and decision-making autonomy of women, relevant to gender equality within the Pacific Alliance.

For the administration of this article, the parties will establish national contact points within the Trade and Gender Committee, which will be in charge of supervising the administration of the commitments.

**Article 5: Pacific Alliance Cooperation Fund**

As it was mentioned, the lack of funding for the cooperation within these chapters is one of the main criticisms. For this reason, this proposal includes the “Pacific Alliance Cooperation Fund” which will provide adequate funds to carry out the cooperation activities and support the work of the contact points. This fund will have an annual budgetary allocation of US$ 4,000,000. The associated stated of the Pacific Alliance may also join to the fund. This fund was inspired in the bilateral cooperation fund between Chile and Mexico.

**Article 7: Dispute Settlement Mechanism**

To date, gender-related provisions are excluded from dispute settlement mechanisms, therefore, these provision do not generate binding obligations among the parties. For compliance not to rely on parties’ good faith, this proposal includes gender provisions of this chapter in a compulsory dispute settlement mechanism, so the parties will face direct consequences if the commitments are not met.

In this context, parties can solve any matter that may arise regarding the interpretation and application of this Chapter through dialogue, consultation, and cooperation. However, if they are unable to resolve the matter in a period of 90 days, they can resort to the dispute settlement mechanism in Chapter 17 of the Pacific Alliance Additional Protocol.

Additionally, the complaining party may request the defendant party to comply with an additional obligation that promotes the empowerment of women. These obligations are a way to offset the harm caused by the agreement in one sector by creating an advantage for women.

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For example: create a government procurement scheme that favors women; create a supplier diversity program that favors women; finance women’s business networks; or any other actions designed for the empowerment of women and the reduction of gaps, decided by the Parties.

4.3 ITC Toolkit

Based on the new methodology published by the International Trade Center, designed to analyze the gender responsiveness in trade agreements, the Additional Protocol of the Pacific Alliance was reviewed\textsuperscript{112}. This 20-question survey is based on “maturity network” methodology and it is the first time that this type of approach is used to measure gender responsiveness.

The survey is divided into ten categories: frequency of relevant provisions; location of relevant provision; affirmations and reaffirmations; cooperation activities; institutional arrangements; procedural arrangements; review and funding; settlements of disputes; waivers, reservations and exceptions; and minimum legal standards. Besides, it has three parts: dimensional, which refers to the analysis of gender content from different perspectives so that the elements that need improving are identified; benchmarking, as it shows how the agreement is performing in comparison to others; and a diagnosis, that evaluates the current gender responsiveness of the agreement. Each questions has the same value and the result may lead to one of three levels of maturity. The lowest level, “limited” maturity, means that the FTA is gender-blind or gender-neutral, as it does not contain gender concerns. The second level “evolving” means that the FTA employs some best practices, but it still needs to improve the incorporation of gender concerns. Finally, the highest level of maturity is “advanced”, meaning that the FTA mainstreams gender concerns through best practices, with a negligible scope for improvement.

To finalize, the analysis conducted compared both the Additional Protocol of the Pacific Alliance as such, and the Protocol with the amendments proposed in this report, and the gender and trade chapter (see Table 2). As a result, it can be stated that the Additional Protocol does not contain any reference (main text or annexes) to gender related aspects or terms (women, gender, female, sex, etc.). Following the ITC survey, this result classifies the Protocol as “limited”, meaning is gender-blind. In contrast, including both the gender related provision in the preamble and the trade and gender chapter, will upgrade the gender sensitiveness of the Protocol. The results of the survey show that the agreement will reach 90% of maturity, reaching an advanced level of gender sensitivity. In summary, Annex 1 presents the proposed modifications to the Preamble and the Trade and Gender Chapter.

Table 2: Pacific Alliance Additional Protocol Assessment

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<th>ITC Toolkit</th>
<th>Current Additional Protocol</th>
<th>Proposal Additional Protocol with a Trade and Gender Chapter and Modifications to the Preamble</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>I. Frequency of relevant provisions</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Does the given FTA (main text, side instruments or annexes) mention the term gender/women/female/girl/sex/mother/maternity (referred to as gender-related term)?</td>
<td>There are no references (0)</td>
<td>There are explicit mentions to gender-relate terms. The role of women in trade is recognized (1)</td>
<td></td>
</tr>
<tr>
<td>2. How many times is a gender-related term (gender/women/female/girl/sex/mother/maternity) mentioned in the given FTA including side instruments, footnotes and/or annexes (excluding mention of products)?</td>
<td>These terms are not mention in the agreement (0)</td>
<td>These terms are mentioned more than 10 times in the agreement (1)</td>
<td></td>
</tr>
<tr>
<td><strong>II. Location of relevant provisions</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Is there a mention of gender-related concerns in the given FTA’s preamble?</td>
<td>No mention of gender-related terms in the preamble (0)</td>
<td>Explicit mention of gender specific concerns in the preamble. Members recognize the importance of addressing a gender perspective in policy formulation &quot;RECOGNIZE that gender equality is an important public policy objective and a crucial factor in achieving economic growth and sustainable development. The Parties seek to ensure that the implementation of this agreement provides equal opportunities for women and men, and that its implementation allows for a better participation of women in the respective economies and international trade&quot; (1)</td>
<td></td>
</tr>
<tr>
<td>4. In which part of the given FTA are 50% or more of gender-explicit provisions located?</td>
<td>There are no gender provisions (0)</td>
<td>More than 50% of gender-explicit provisions are mentioned in the Chapter (1)</td>
<td></td>
</tr>
<tr>
<td><strong>III. Affirmations and reaffirmations</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Does the agreement demonstrate members’ willingness or commitment to incorporate gender perspective into their economic growth and</td>
<td>The agreement does not demonstrate members’ willingness to incorporate a gender perspective (0)</td>
<td>The Chapter contains provisions with members’ commitments to incorporate gender perspective into</td>
<td></td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Development, policies, programs, decision-making, policymaking and practices at the national level?</th>
<th>their economic growth and development by means of policies and programs (Art. 1.8) (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Are there any references or affirmations or re-affirmations to existing international conventions or declarations or other international instruments directly or indirectly related to gender issues?</td>
<td>There are no references to international conventions related to gender issues (0)</td>
</tr>
<tr>
<td>IV. Cooperation activities</td>
<td>There are explicit reference to international conventions focused on gender issues. For example, Article 2. CEDAW, ILO Conventions, Beijing Platform, among others (1)</td>
</tr>
<tr>
<td>7. Does the given FTA contain provisions that prescribe cooperation activities aimed at the elimination or reduction of barriers to trade for women and enhancement of women’s empowerment (such as cooperation on access to education, access to finance, formation of business networks and others)?</td>
<td>The agreement does not have provisions aimed at enhancing women’s empowerment (0)</td>
</tr>
<tr>
<td>8. Does the given FTA among its cooperation activities incorporate women’s access to education or skill development?</td>
<td>The agreement does not have provisions related to women’s access to education or skill development (0)</td>
</tr>
<tr>
<td>V. Institutional arrangements</td>
<td>Article 4 contains a list of cooperation activities designed to improve women’s professional and occupational skills and abilities. These activities include women as workers, entrepreneurs, consumers, leaders, among others (1)</td>
</tr>
<tr>
<td>9. Is there a committee or any other institution to monitor the implementation or operation of gender-focused provisions?</td>
<td>There is no committee or any other institution to monitor the implementation or operation of the agreement in gender-specific provisions (0)</td>
</tr>
<tr>
<td>10. Does the agreement define duties, functions, meeting frequencies, and other organizational requirements of the committee or any other institution created for the implementation or operation of gender-specific provisions?</td>
<td>There is no committee or any other institution to monitor the implementation or operation of the agreement in gender-specific provisions (0)</td>
</tr>
<tr>
<td>VI. Procedural arrangements</td>
<td>Article 6 establishes a Committee on Trade and Gender that monitors the implementation of this Chapter (1)</td>
</tr>
<tr>
<td>11. Does the agreement create procedural tools to address gender issues such as action plans, frameworks, dialogues, information exchange, exchange of best practices and experiences, programs or legislation?</td>
<td>There are not procedural tools to address gender issues (0)</td>
</tr>
<tr>
<td></td>
<td>Article 4 establishes procedural tools such as collaborative research, seminars, information exchange, internships, dialogues, among others (1)</td>
</tr>
<tr>
<td>12. Do the members encourage or seek to collaborate on study, research or publication relating to gender and trade?</td>
<td>There is no commitment to encourage studies, research or publications related to gender and trade (0)</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>VII. Review and funding</td>
<td></td>
</tr>
<tr>
<td>13. Does the agreement contain a provision that requires: (i) the review of the implementation of gender provisions and/or (ii) the assessment of gender impact of the agreement?</td>
<td>There is no such provision (0)</td>
</tr>
<tr>
<td>14. Have members provided funding or identified measures to finance gender-related plans, processes, institutions, activities and other related commitments?</td>
<td>There is no provision on financing gender-related activities (0)</td>
</tr>
<tr>
<td>VIII. Settlement of disputes</td>
<td></td>
</tr>
<tr>
<td>15. Is there any consultation or discussion mechanism to resolve gender-specific conflicts (excluding the ones arising from cooperation activities)?</td>
<td>There are no gender-related provisions in the Agreement (0)</td>
</tr>
<tr>
<td>16. Are a majority of gender provisions (excluding the ones mentioned in cooperation activities) in the given FTA subject to a dispute settlement mechanism?</td>
<td>There are no gender-related provisions in the Agreement (0)</td>
</tr>
<tr>
<td>IX. Waivers, reservations and exceptions</td>
<td></td>
</tr>
<tr>
<td>17. Does the agreement establish an exception referring to gender concerns?</td>
<td>There are no exceptions referring to gender concerns in the Agreement (0)</td>
</tr>
<tr>
<td>18. Does the agreement allow parties to invoke a reservation or waiver explicitly favoring women or explicitly referring to gender concerns?</td>
<td>The Agreement does not allow parties to have any reservation explicitly favoring women or explicitly referring to gender concerns (0)</td>
</tr>
<tr>
<td>X. Minimum legal standards</td>
<td></td>
</tr>
<tr>
<td>19. Does the agreement establish minimum legal standards explicitly related to gender for the countries’ respective domestic law?</td>
<td>The Agreement does not establish minimum legal standards related to gender for the members’ respective domestic law (0)</td>
</tr>
</tbody>
</table>
In Article 2, parties reaffirm their commitment to international conventions.

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
<th>Score</th>
<th>Maturity level</th>
</tr>
</thead>
<tbody>
<tr>
<td>20. Does the agreement contain provisions to encourage industries/enterprises to incorporate minimum standards on corporate social responsibility explicitly related to gender?</td>
<td>There are no such provisions</td>
<td>0</td>
<td>Limited</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Advanced</td>
</tr>
</tbody>
</table>

In Article 2, there is a provision which affirms the importance of corporate social responsibility and it encourages enterprises to follow the Global Compact principles.
References

IPTICO.PDF


Annex 1: Proposed amendments to the Pacific Alliance Additional Protocol’s - English version

PREAMBLE

The Republic of Colombia, the Republic of Chile, the United Mexican States, and the Republic of Peru, hereinafter referred to as "the Parties",

Developing the objectives and principles set out in the Framework Agreement of the Pacific Alliance, signed in Paranal, Antofagasta, Republic of Chile, on June 6, 2012, with the aim of:

STRENGTHEN the bonds of friendship, solidarity and cooperation among their people;

RATIFY their will to build a common space in order to deepen political, economic, social and cultural integration, as well as to establish effective commitments for joint action to improve the well-being and living standards of its inhabitants and promote sustainable development in their respective territories;

RECOGNIZE that gender equality is an important public policy objective and a crucial factor in achieving economic growth and sustainable development. The Parties seek to ensure that the implementation of this Agreement provides equal opportunities for women and men, and allows better participation of women in their economies and in international trade;

STRENGTHEN regional integration to accomplish greater growth, development and competitiveness of their economies and progressively move towards the free movement of goods, services, capital, and people;

ESTABLISH clear and mutually beneficial rules with the purpose of stimulating the expansion and diversification of trade in goods and services between the Parties, as well as attracting investment to their territories;

REAFFIRM the objective of eliminating trade barriers, in order to generate greater dynamism in their trade flows in goods, services, and investment between the Parties;

FACILITATE trade by promoting efficient, transparent, and predictable customs procedures for its importers and exporters;

PREVENT distortions in their reciprocal trade and promote conditions of fair competition;

STIMULATE trade in the innovative sectors of their economies;

PROMOTE transparency in trade in goods and services and investment;
RECOGNIZE this integration process based on economic, trade and integration agreements between the Parties at the bilateral, regional, and multilateral levels;

REASSERT the rights and obligations derived from the Marrakesh Agreement that established the World Trade Organization, the 1980 Montevideo Treaty, as well as the free trade and integration agreements between the Parties;

CONSIDER membership in the Andean Community of the Republic of Colombia and the Republic of Peru and the commitments derived from this membership to these States;

PROMOTE closer connections with other regions particularly with the Asia Pacific region, and

DEEPEEN cooperation and enhance trade flows of goods and services and investment with third markets;

HAVE AGREED this Additional Protocol to the Framework Agreement of the Pacific Alliance (hereinafter referred to as "Additional Protocol"):  

CHAPTER:
TRADE AND GENDER

Article 1: General Dispositions

1. The Parties acknowledge the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and the key role that gender-responsive policies can play in achieving sustainable socioeconomic development. Inclusive economic growth aims to distribute benefits among the entire population by providing equitable opportunities for the participation of women and men in business, industry and the labor market.

2. The Parties reaffirm their commitment to the United Nations 2030 Agenda for Sustainable Development, particularly to the Goal 5 which seeks to achieve gender equality and the empowerment of all women and girls. The Parties recognize the importance of promoting gender equality policies and practices, improving capabilities and developing the potential of the Parties in this area, including non-governmental sectors, advance to equal rights, treatment and opportunities between women and men and the elimination of all forms of discrimination against women based on sex, ethnicity, race, color, national or social origin,
sexual orientation, gender identity, age, creed, political opinion or of any other nature, economic position or any other social, family or personal condition.

3. The Parties acknowledge that international trade and investment are engines of economic growth, and that improving women’s access to opportunities and removing barriers in their countries enhances their participation in national and international economies and contributes to sustainable economic development.

4. The Parties recognize that international trade affects women and men differently due to pre-existing socio-economic structures and agree that this impact must be considered in the formulation of gender-sensitive trade policies.

5. The Parties also recognize that increasing female labor participation, decent work, economic autonomy, and access to ownership of economic resources contribute to sustainable economic growth.

6. Each party shall implement laws and policies to protect women workers against workplace discrimination on the basis of sex (including regarding to sexual harassment), pregnancy, sexual orientation, gender identity and care responsibilities; provide a protected work license for the birth or adoption of a child and the care of family members; and protection against wage discrimination.

7. Each Party will promote public awareness of its laws, regulations, policies, and practices related to gender equity and equality, using available physical and digital platforms.

8. The Parties recognize that the participation of women in international trade promotes sustainable and inclusive growth, which is crucial for post-crises economic recovery. The Parties commit to implement measures that consider in their design a gender perspective and the distributive effects between women and men due to the unequal position they have in the economy as workers, consumers, employers and responsible for unpaid work.

Article 2: International Agreements

1. The Parties confirm their duty to effectively implement, from a rights perspective, their respective international commitments on gender equality and women’s rights. Particularly,
   (a) The 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and its Optional Protocol,
   (b) The 1995 Beijing Declaration and Action Platform
   (c) The Inter-American Convention to Prevent, Punish, and Eradicate Violence against Women "Convention of Belem do Para",
   (d) The Agreements of the International Labor Organization, number 100 on equal remuneration, number 111 on discrimination in employment and occupation, number 156 on workers with family responsibilities, among others.

2. The Parties reaffirm their commitment to effectively implement their obligations in current
and future international agreements regarding women’s rights.

3. The Parties reaffirm their interest in national companies and those operating in their territories, ascribing to commitments of corporate social responsibility and elimination of all forms of discrimination at work. In particular, they encourage them to follow the principles of the Global Compact, specifically, principle 6 of abolition of discrimination practices in occupation and employment.

**Article 3: Gender Observatory**

1. The parties agree to include a Gender Unit within the Strategic Observatory. This entity will oversee the effectiveness of the commitments made by the parties regarding the mainstreaming of the gender approach.

2. The Unit objectives are:
   (a) Analyze the fulfillment of the objectives and goals regarding gender in the Pacific Alliance;
   (b) Generate diagnostics on the progress of gender equality;
   (c) Build gender indicators;
   (d) Provide tools for building public policies with a gender perspective/approach;
   (e) Oversee and evaluate the implementation of policies with a gender perspective/approach within the framework of the Pacific Alliance.

3. The Gender Unit of the Strategic Observatory will operate in coordination and support of the Technical Group on Gender and organizations for female empowerment created within the framework of the Pacific Alliance. In addition, it will seek alliances with organizations such as ECLAC’s Observatory for Gender Equality, the International Trade Center, the United Nations Conference on Trade and Development, and will work with the academy and national institutions in charge of gender issues.

4. The generated proposals will be requested to the Gender Unit of the Strategic Observatory by each of the parties and will be evaluated by the Technical Group on Gender.

5. The parties agree to contribute financially to the operation of the Gender Unit of the Strategic Observatory, for which they will determine an annual budget.

6. The Gender Unit of the Strategic Observatory will increase its visibility by:
   (a) Create a gender section on the digital platform of the Strategic Observatory in which relevant information on the gender institutions created within the framework of the Pacific Alliance will be published;
   (b) Make available to the members and observers governments of the Pacific Alliance strategic indicators of gender inequality and analytical tools for the formulation of public policies;
(c) Keep an updated supervision of economic and political decision-making regarding gender.

7. The Observatory will deliver biannual reports on inequalities between women and men. These should offer a diagnosis and follow-up in key areas such as:
   (a) Participation of women in trade;
   (b) Paid and unpaid work;
   (c) Access to physical and financial resources.
   (d) Access to decision-making and political representation;
   (e) Gender violence;
   (f) Reproductive health and rights;
   (g) Education access.

Article 4: Cooperative activities

1. The Parties acknowledge the benefit of sharing their respective experiences in designing, implementing, monitoring, and strengthening policies and programs to encourage women’s participation in national and international economies.

2. The Parties shall carry out cooperation activities designed to improve the capacity and conditions for women, including workers, businesswomen and entrepreneurs, to access and fully benefit from the opportunities created by this Agreement.

3. Cooperation activities shall be carried out on issues and topics agreed upon by the Parties through the interaction of their respective Government Institutions, businesses, labor unions, education and research organizations, other non-governmental organizations, and their representatives, as appropriate.

4. Areas of cooperation may include, among others:
   (a) Developing programs or practices to promote the development of women’s skills and competences in the labor, business, social and financial areas.
   (b) Improving women’s access to, and participation and leadership in, science, technology and innovation, including education in science, technology, engineering, mathematics and business;
   (c) Improving women’s access to education and skills development in business studies and management, science, technology, engineering and mathematics, and other areas that may represent high wages and decent
working conditions for women;

(d) Improving women’s access to digital skills to reduce the digital gap between women and men;

(e) Promoting financial inclusion and education as well as promoting access to financing and financial assistance;

(f) Advancing women’s leadership and developing women’s networks; with special attention to promoting networks of women entrepreneurs, and trainers;

(g) Creating best labor practices to promote gender equality in companies and in the workplace;

(h) Fostering parity participation of women in decision-making positions in the public and private sectors;

(i) Enhancing the development of female entrepreneurship, its formalization according to the respective national regulations, and the development of women’s MSMEs;

(j) Enabling best practices in health and safety at work;

(k) Generating care programs and policies with a gender perspective and social co-responsibility for the reconciliation of working life with parental co-responsibility;

(l) Expanding the coverage in Social Security policies;

(m) Formulating programs aimed at generating employment and social inclusion for women in situations of high vulnerability;

(n) Formulating programs focus on promoting access for excluded groups to markets (indigenous, rural, and migrant women), and to decrease their discrimination in different sectors;

(o) Other issues to be decided by the Parties

5. The parties seek to work to improve understanding and awareness of the interaction between trade and gender justice through the following activities:

(a) Collection of sex-disaggregated data and sharing of methods and best practices for the collection of sex-disaggregated data; to homogenize the information in statistical indicators, methods, and procedures with a gender perspective;

(b) Promote *ex-ante* and *ex-post* gender-focused impact assessments of the Agreement, as well as evaluations of other trade policies;
(c) Promote academic and policy research to better understand the connection between gender and trade, through the creation of research funds and exchange programs;

(d) Raise awareness of the importance of gender equality for economic growth among policymakers, trade negotiators, decision makers, companies, and people in general.

6. The Parties may carry out cooperation activities in the areas set out in previous paragraphs virtually or in person, through:

   (a) Workshops, seminars, dialogues and other forums for exchanging knowledge, experiences, and best practices;

   (b) Internships, visits and research studies to document and study policies and practices;

   (c) Collaborative research and development of best practices in subject-matters of mutual interest;

   (d) Specific exchanges of specialized technical knowledge and technical assistance, as appropriate; and

   (e) Other activities that may be agreed by the Parties, with the support of the Technical Group on Gender and the Gender Unit of the Strategic Observatory.

7. With this information, the Parties will be able to identify which sectors could benefit from the Cooperation Fund of the Pacific Alliance contained in Article 5 of this Chapter. The establishment of priorities in cooperation activities will be jointly decided by the Parties based on their interests, for which each Party will consult with its Government Institutions, businesses, unions, educational and research organizations, and other representatives of civil society, as appropriate and according to their own procedures.

8. All Parties agree to establish their respective national contact points with the Trade and Gender Committee to carry out and supervise the implementation of the commitments mentioned in Articles 4.4, 4.5 and 4.6. Each point of contact will:

   (a) Submit a biennial report to the Gender and Trade Committee to be distributed among the parties. The report will contain a summary of the actions taken in the last two years and the actions planned for the next two years.

**Article 5: Pacific Alliance Cooperation Fund**

1. The Parties recognize the importance of providing adequate funds to carry out the cooperation activities indicated in Article 4. To this end, the Parties agree to establish a Joint Partnership Fund for the Pacific Alliance, hereinafter called "The Fund", intended to finance:
(a) The execution of the projects, plans and activities defined through the Gender Committee;

(b) The work and functions of the contact points.

2. The Fund will have an annual budgetary allocation of four million United States dollars (US $ 4,000,000), with one million (US $ 1,000,000) contributed annually by the Republic of Chile, one million (US $ 1,000,000) annually by the Republic of Colombia, one million (US $ 1,000,000) annually by the United Mexican States, and one million (US $ 1,000,000) annually by the Republic of Peru.

3. The Parties will review the budget allocation at the end of the first triennium of operations of the Fund, determining its amount for subsequent years, keeping the contribution correspondence at 25% for each Party.

4. The Associated States of the Pacific Alliance may join the Fund with a contribution equivalent to that of the Member States.

5. If new full members join the Pacific Alliance, they will contribute one million United States dollars (US $ 1,000,000) annually, which will increase the Fund’s annual budget.

6. The financial administration of the Fund’s budget may lie with one of the Parties or with an international organization, as determined by common agreement of the Cooperation Commission, in its regulations.

**Article 6: Trade and Gender Committee**

1. The Parties hereby establish a Trade and Gender Committee composed of representatives from each Party’s Government Institutions responsible for trade and gender.

   (a) In the case of Peru, the Ministry of Foreign Trade and Tourism, or its successor,

   (b) In the case of Mexico, the Ministry of Economy, or its successor,

   (c) In the case of Colombia, the Ministry of Commerce, Industry and Tourism or its successor,

   (d) In the case of Chile, the Ministry of Foreign Relations, through the Under Secretary for International Economic Relations or its successor.

2. The Parties must ensure that the Committee has a balanced composition between women and men.

3. The Gender and Trade Committee shall,

   (a) Facilitate the exchange of information on the experiences of the Parties regarding the formulation and implementation of national policies and programs aimed to integrate a gender perspective that allows obtaining the greatest possible benefits from this Agreement;
(b) Facilitate the exchange of information on the experiences of each Party regarding the establishment and implementation of policies and programs designed to achieve gender equity and equality;

(c) Facilitate and organize cooperation activities indicated in Articles 4.4, 4.5 and 4.6;

(d) Coordinate the presentation of the biennial report by the contact points;

(e) Facilitate the information exchange on the experiences and lessons learned by the Parties through cooperation activities carried out in accordance with Articles 4.4, 4.5 and 4.6;

(f) Discuss any proposal for future joint activities in support of development policies related to the economic autonomy of women and their full participation in trade;

(g) Invite international donors, private sector entities, non-governmental organizations, or other relevant institutions, as appropriate, to assist with the development and implementation of cooperative activities;

(h) Consider matters related to the implementation and operation of this Chapter;

(i) Manage the Cooperation Fund for the Pacific Alliance;

(j) Carry out other functions that the Parties agree on.

4. The Gender and Trade Committee will meet annually, in person or through any other available technological mechanism, to consider issues that arise in relation to this Chapter.

5. The members of the Gender and Trade Committee may exchange information and coordinate activities by email, videoconferences, or other means of communication.

6. In the performance of its duties the Gender and Trade Committee may work with other committees, working groups (Gender Technical Working Group), and any other entities established pursuant to this Agreement.

7. Each Party may consult with representatives of its public, private, or non-governmental sectors on matters related to the implementation of this Chapter, by any means that the Party considers appropriate.

8. The Parties recognize Women of the Pacific as an initiative that promotes women’s empowerment and participation in international trade. For this reason, this initiative may make recommendations related to the implementation of this Chapter.

9. The Parties may jointly decide to invite relevant organizations or experts to provide
information into meetings of the Gender and Trade Committee.

10. Not later than three (3) years after the entry into force of this Chapter, the Parties shall review the implementation of this Chapter and report to the Administrative Commission. Subsequently, the Parties agree to periodically review this Chapter.

11. Each Party, if applicable, may develop mechanisms to report on the activities included under this Chapter in understanding with its laws, regulations, policies, and practices.

12. The Parties shall provide adequate resources and funds for the Committee to perform its duties.

Article 7: Dispute Settlement Mechanism

1. The Parties shall endeavor to resolve any matter that may arise regarding the interpretation and application of this Chapter through dialogue, consultation, and cooperation.

2. If the Parties are unable to resolve a matter under the preceding article within a period of 90 days, they shall resort to the Dispute Settlement Mechanism in Chapter 17 of this Agreement.

3. For disputes under this Chapter and in addition to the provisions of Chapter 17:
   (a) There must be at least one woman appointed to the Panel to resolve issues related to the interpretation or application of the provisions mentioned in this Chapter.
   (b) The complaining party may request the defendant Party to comply with an additional obligation that promotes the empowerment of women in their respective jurisdiction. This additional obligation may be imposed in the following ways:
       • Create a government procurement scheme that favors women;
       • Create a supplier diversity program that favors women;
       • Subsidize women’s development and advancement in the areas of science, technology and engineering;
       • Create or finance women’s business networks.
       • Other actions designed for women’s empowerment and the reduction of gaps, decided by the Parties.
Annex 2: Proposed amendments to the Pacific Alliance Additional Protocol’s - Spanish version

PREÁMBULO

La República de Colombia, la República de Chile, los Estados Unidos Mexicanos y la República del Perú, en lo sucesivo denominadas “las Partes”,

En desarrollo de los objetivos y principios establecidos en el Acuerdo Marco de la Alianza del Pacífico, suscrito en Paranal, Antofagasta, República de Chile, el 6 de junio de 2012, con el ánimo de:

ESTRECHAR los lazos de amistad, solidaridad y cooperación entre sus pueblos;

RATIFICAR su voluntad de construir un espacio común con el propósito de profundizar la integración política, económica, social y cultural, así como de establecer compromisos efectivos de acción conjunta para mejorar el bienestar y niveles de vida de sus habitantes y promover el desarrollo sostenible en sus respectivos territorios;
RECONOCEN que la igualdad de género es un importante objetivo de política pública y un factor crucial para lograr el crecimiento económico y el desarrollo sostenible. Las Partes buscan garantizar que la implementación de este acuerdo brinde igualdad de oportunidades para mujeres y hombres, y que su implementación permita una mejor participación de las mujeres en las economías respectivas y en el comercio internacional.

FORTALECER la integración regional para alcanzar un mayor crecimiento, desarrollo y competitividad de sus economías y avanzar progresivamente hacia la libre circulación de mercancías, servicios, capitales y personas;

ESTABLECER reglas claras y de beneficio mutuo con el objetivo de estimular la expansión y diversificación del comercio de mercancías y servicios entre las Partes, así como de atraer inversiones a sus territorios;

REAFIRMAR el objetivo de eliminar los obstáculos al comercio, con el fin de generar un mayor dinamismo en los flujos de comercio de mercancías y servicios e inversión entre las Partes;

FACILITAR el comercio, promoviendo procedimientos aduaneros eficientes, transparentes y previsibles para sus importadores y exportadores;

EVITAR distorsiones en su comercio recíproco y promover condiciones de competencia leal;

ESTIMULAR el comercio en los sectores innovadores de sus economías;

PROMOVER la transparencia en el comercio de mercancías y servicios y en la inversión;

RECONOCER que este proceso de integración tiene como base los acuerdos económicos, comerciales y de integración a nivel bilateral, regional y multilateral entre las Partes;

REAFIRMAR los derechos y obligaciones derivados del Acuerdo de Marrakech por el que se establece la Organización Mundial del Comercio, del Tratado de Montevideo de 1980, así como de los acuerdos de libre comercio y de integración entre las Partes;

CONSIDERAR la condición de Miembros de la Comunidad Andina de la República de Colombia y de la República del Perú, y los compromisos que de dicha calidad se derivan entre estos Estados;

PROPICIAR una mayor vinculación con otras regiones, en particular con la región de Asia Pacífico, y

PROFUNDIZAR la cooperación e intensificar los flujos de comercio de mercancías y servicios e inversión con terceros mercados;
HAN ACORDADO el presente Protocolo Adicional al Acuerdo Marco de la Alianza del Pacífico (en lo sucesivo, denominado “Protocolo Adicional”):

CAPÍTULO:
GÉNERO Y COMERCIO

Artículo 1: Disposiciones Generales

9. Las Partes reconocen la importancia de la incorporación de la perspectiva de género en la promoción de un crecimiento económico inclusivo y el rol clave que las políticas de género pueden desempeñar en la consecución de un mayor desarrollo sostenible. El crecimiento económico inclusivo busca distribuir los beneficios entre toda la población, a través de la participación equitativa de mujeres y hombres en los negocios, la industria y el mundo del trabajo.

10. Las Partes reafirman su compromiso con la Agenda 2030 para el Desarrollo Sostenible de las Naciones Unidas, en particular con el objetivo de desarrollo sostenible número 5, el cual busca lograr la igualdad de género y el empoderamiento de todas las mujeres y niñas. Las Partes reconocen la importancia de promover políticas y prácticas de equidad de género, mejorar las capacidades y desarrollar las potencialidades de las Partes en este ámbito, incluidos los sectores no gubernamentales, para avanzar en la igualdad de derechos, trato y oportunidades entre mujeres y hombres y en la eliminación de todas las formas de discriminación contra las mujeres, por motivos de sexo, etnia, raza, color, origen nacional o social, orientación sexual, identidad de género, edad, credo, opinión política o de cualquier otra índole, posición económica o cualquier otra condición social, familiar o personal.

11. Las Partes reconocen al comercio internacional como motor del desarrollo, y coinciden en que mejorar el acceso de las mujeres a las oportunidades existentes dentro de sus territorios, para que participen en la economía nacional e internacional, contribuye a fomentar un desarrollo económico sostenible.

12. Las Partes reconocen que el comercio internacional afecta de manera diferenciada a mujeres y hombres debido a las estructuras socioeconómicas preexistentes, y coinciden en que este impacto debe ser considerado en la formulación de políticas comerciales sensibles al género.

13. Las Partes también reconocen que el aumento de la participación laboral femenina, el trabajo decente, la autonomía económica y el acceso a la propiedad sobre los recursos económicos contribuyen al crecimiento económico sostenible.
14. Cada parte implementará leyes y políticas para proteger a las trabajadoras contra la discriminación laboral por motivos de sexo (incluso con respecto al acoso sexual), embarazo, orientación sexual, identidad de género y responsabilidades de cuidado; proporcionar licencia de trabajo protegida para el nacimiento o la adopción de un/a niño/a y el cuidado de los miembros de la familia; y protección contra la discriminación salarial.

15. Cada Parte promoverá internamente el conocimiento público de sus leyes, regulaciones, políticas y prácticas relativas a equidad e igualdad de género haciendo uso de plataformas físicas y digitales disponibles.

16. Las Partes reconocen que la participación de las mujeres en el comercio internacional promueve un crecimiento sostenible e inclusivo, lo que es crucial para la recuperación económica posterior a una crisis. Las Partes se comprometen a implementar medidas que consideran en su diseño una perspectiva de género y los efectos distributivos entre mujeres y hombres debido a la posición desigual que tienen en la economía como trabajadoras/es, consumidoras/es, empleadoras/es y responsables de trabajos no remunerados.

Artículo 2: Convenios internacionales

4. Las Partes confirman su deber en implementar efectivamente desde una perspectiva de derechos, sus respectivos compromisos internacionales en materia de igualdad de género y derechos de las mujeres. En particular,

   (a) La Convención sobre la Eliminación de Todas las Formas de Discriminación contra la Mujer de 1979 (CEDAW) y su Protocolo Facultativo,
   (b) La Declaración y Plataforma de Acción de Beijing de 1995,
   (c) La Convención Interamericana para Prevenir, Sancionar y Erradicar la Violencia contra la Mujer “Convención de Belem do Para”,
   (d) Los Convenios de la Organización Internacional del Trabajo, número 100 sobre la igualdad de remuneración, número 111 sobre discriminación en el empleo y ocupación, número 156 sobre trabajadoras/es con responsabilidades familiares, entre otros.

5. Las Partes reafirman su compromiso de implementar efectivamente sus obligaciones en acuerdos internacionales actuales y futuros referentes a los derechos de las mujeres.

6. Las Partes reafirman su interés en que las empresas nacionales y aquellas que operan en sus territorios, adscriban a compromisos de responsabilidad social empresarial, y de eliminación de todas las formas de discriminación en el trabajo. En particular alientan a las mismas a seguir los principios del Pacto Global, en específico, el principio 6 de abolición de las prácticas de discriminación en el empleo y la ocupación.

Artículo 3: Observatorio de Género
8. Las partes se comprometen a incluir dentro del Observatorio Estratégico, una Unidad de Género. Esta instancia será la encargada de efectivizar los compromisos adquiridos por las partes en cuanto a la transversalización del enfoque de género.

9. Los objetivos de esta Unidad son:

   (f) Analizar el cumplimiento de los objetivos y metas de la Alianza del Pacífico en materia de género.
   (g) Generar diagnósticos sobre los avances en igualdad de género.
   (h) Construir indicadores de género.
   (i) Proveer de herramientas para la construcción de políticas públicas con perspectiva/enofoque de género.
   (j) Monitorear y evaluar la implementación de políticas con perspectiva/enofoque de género en el marco de la Alianza del Pacífico.

10. La Unidad de Género del Observatorio Estratégico funcionará en coordinación y apoyo del Grupo Técnico de Género y los organismos de apoyo a la mujer creados en el marco de la Alianza del Pacífico. Además, buscará alianzas de trabajo con organismos como el Observatorio para la Igualdad de Género de CEPAL, el International Trade Center, la Conferencia de Naciones Unidas para el Comercio y Desarrollo, y trabajará con la academia y las instituciones nacionales que tengan a su cargo los temas de género.

11. Las propuestas que se generen serán solicitadas a la Unidad de Género del Observatorio Estratégico por cada una de las partes, y serán evaluadas por parte del Grupo Técnico de Género.

12. Las partes se comprometen a contribuir monetariamente al funcionamiento de la Unidad de Género del Observatorio Estratégico, para lo cual determinarán un presupuesto anual.

13. La Unidad de Género del Observatorio Estratégico aumentará su visibilidad mediante:

   (d) Crear una sección de género en la plataforma digital del Observatorio Estratégico en el cual se publican información de interés sobre las instituciones de género creadas en el marco de la Alianza del Pacífico.
   (e) Poner a disposición de los Gobiernos miembros y observadores de la Alianza del Pacífico indicadores estratégicos de desigualdad de género y herramientas analíticas para la formulación de políticas públicas;
   (f) Mantener una supervisión actualizada de la toma de decisiones económicas y políticas en lo que respecta a género.

14. El Observatorio entregará informes semestrales sobre las desigualdades entre mujeres y hombres. Estos deben ofrecer un diagnóstico y seguimiento en áreas clave como:

   (h) Participación de las mujeres en el comercio;
   (i) Trabajo remunerado y no remunerado;
   (j) Acceso a recursos físicos y financieros.
   (k) Acceso a la toma de decisiones y representación política;
   (l) Violencia de género;
   (m) Salud y derechos reproductivos;
Artículo 4: Actividades de cooperación

9. Las Partes reconocen el beneficio de compartir sus respectivas experiencias en diseñar, implementar, monitorear y fortalecer programas y políticas para fomentar la participación de las mujeres en la economía nacional e internacional.

10. Las Partes llevarán a cabo actividades de cooperación diseñadas para mejorar las competencias y habilidades profesionales y laborales de las mujeres, incluyendo a trabajadoras, empresarias, emprendedoras y consumidoras, para acceder y beneficiarse plenamente de las oportunidades creadas por este Acuerdo.

11. Las Partes identificarán áreas de cooperación para desarrollar actividades de interés mutuo. Cada Parte consultará con sus Instituciones Gubernamentales, Organizaciones empresariales, sindicales, educacionales y de investigación y otros representantes de la sociedad civil, según corresponda y de acuerdo a sus propios procedimientos.

12. Las áreas de cooperación podrán incluir, entre otros:

   (a) Desarrollar programas o prácticas orientadas a fomentar el desarrollo de las habilidades y competencias de las mujeres en el ámbito laboral, empresarial, social y financiero;

   (b) Mejorar el acceso a la participación y el liderazgo de las mujeres a la tecnología, ciencias e innovación, incluyendo la educación en ciencias, tecnología, ingeniería, matemáticas y negocios;

   (c) Mejorar el acceso de las mujeres a la educación y el desarrollo de habilidades en estudios de negocios y gestión, ciencia, tecnología, ingeniería y matemáticas, y otras áreas que pueden representar altos salarios y condiciones de trabajo decentes para las mujeres;

   (d) Mejorar el acceso de las mujeres a las habilidades digitales para reducir la brecha digital existente entre mujeres y hombres;

   (e) La educación e inclusión financiera de las mujeres, así como el acceso al crédito, y la asistencia financiera;

   (f) Liderazgo femenino y desarrollo de redes de mujeres, con especial atención en la promoción de redes de mujeres empresarias, formadoras y replicadoras de su rol como tales;

   (g) Crear buenas prácticas laborales para promover la igualdad de género en las empresas y en el mundo del trabajo;

   (h) Promover la participación paritaria de las mujeres en cargos de decisión en el sector público y privado;

   (i) Promover el desarrollo del emprendedurismo femenino, su formalización de acuerdo a las respectivas normativas nacionales y el desarrollo de las MIPYMES de mujeres;

   (j) Fomentar buenas prácticas en salud y seguridad en el trabajo;

   (k) Generar políticas de cuidado y programas con perspectiva de género y de corresponsabilidad social y conciliación de la vida laboral con la corresponsabilidad parental;
(l) Ampliar la cobertura en las políticas de Seguridad Social;
(m) Formular programas orientados a la generación de empleo e inclusión social para mujeres en situación de alta vulnerabilidad;
(n) Formular programas orientados a promover el acceso a mercados de grupos excluidos (mujeres indígenas, rurales y migrantes), y que disminuyan su discriminación en los distintos sectores;
(o) Otros temas que serán decididos por las Partes.

13. Las partes buscan trabajar para mejorar la comprensión y la conciencia de la interacción entre comercio y justicia de género a través de las siguientes actividades:

   (e) Recopilación de información estadística desglosada por sexo e intercambio de métodos y mejores prácticas para la recopilación de datos desagregados por sexo, de tal manera que permita homogeneizar la información en indicadores, métodos y procedimientos estadísticos con perspectiva de género;
   (f) Fomentar evaluaciones de impacto enfocadas en género ex ante y ex post del acuerdo, como también evaluaciones de otras políticas comerciales;
   (g) Fomentar la investigación académica y política para comprender mejor el nexo entre género y comercio, a través de la creación de fondos de investigación y programas de intercambio;
   (h) Sensibilizar sobre la importancia de la igualdad de género para el crecimiento económico entre las y los formuladores/as de políticas, negociadores/as comerciales, tomadores/as de decisiones, empresas y personas en general.

14. Las Partes podrán llevar a cabo actividades de cooperación en las áreas señaladas en los párrafos anteriores de manera virtual o presencial, a través de:

   (f) Talleres, seminarios, diálogos, foros y otros, para intercambiar conocimiento, experiencias y buenas prácticas;
   (g) Pasantías, visitas y estudios de investigación para documentar y estudiar políticas y prácticas;
   (h) Investigación y desarrollo colaborativos relacionados con buenas prácticas en materias de interés mutuo;
   (i) Intercambios específicos de conocimientos técnicos especializados y de asistencia técnica, cuando sea apropiado, y
   (j) Otras actividades que puedan ser acordadas por las Partes, con el apoyo del Grupo Técnico de Género y la Unidad de Género del Observatorio Estratégico.

15. Con esta información, las Partes podrán identificar qué sectores podrían beneficiarse del Fondo Conjunto de Cooperación de la Alianza del Pacífico contenido en el Artículo 5 de este Capítulo. El establecimiento de las prioridades en las actividades de cooperación será decidido conjuntamente por las Partes en base a sus intereses, para lo cual cada Parte consultará con sus Instituciones Gubernamentales, Organizaciones empresariales, sindicales, educacionales y de investigación, y otros representantes de la sociedad civil, según corresponda y de acuerdo a sus propios procedimientos.

16. Todas las Partes se comprometen a establecer sus respectivos puntos de contacto nacionales con el Comité de Género y Comercio para llevar a cabo y supervisar la implementación de los compromisos mencionados en los Artículos 4.4, 4.5 y 4.6. Cada punto de contacto:
(a) Presentará un informe bienal al Comité de Género y Comercio para ser distribuido entre las partes. El informe contará un resumen de las acciones tomadas en los últimos dos años y las acciones planificadas para los próximos dos años.

Artículo 5: Fondo de Cooperación Alianza del Pacífico

1. Las Partes reconocen la importancia de proporcionar fondos adecuados para realizar las actividades de cooperación señaladas en el Artículo 4. Para esto las Partes acuerdan la constitución de un Fondo Conjunto de Cooperación Alianza del Pacífico, en adelante denominado "El Fondo", destinado a financiar:

   (a) La ejecución de los proyectos, planes y actividades que se definan a través del Comité de Género;
   (b) El trabajo y funciones de los puntos focales.

7. El Fondo contará con una dotación presupuestaria anual de cuatro millones de dólares de los Estados Unidos de América (US$ 4.000.000), aportando un millón (US$ 1.000.000) anuales la República de Chile, un millón (US$ 1.000.000) anuales la República de Colombia, un millón (US$ 1.000.000) anuales los Estados Unidos Mexicanos, y un millón (US$ 1.000.000) anuales la República del Perú.

8. Las Partes revisarán la dotación presupuestaria al finalizar el primer trienio de operaciones del Fondo, determinando su monto para los años subsecuentes, manteniendo la correspondencia del aporte en un 25% por cada Parte.

9. Los Estados Asociados a la Alianza del Pacífico podrán sumarse al Fondo con un aporte equivalente al de los Estados miembros.

10. En caso de integrarse nuevos miembros plenos a la Alianza del Pacífico, estos aportarán un millón de dólares de los Estados Unidos de América (US$ 1.000.000) anuales, los que incrementarán la dotación presupuestaria anual del Fondo.

11. La administración financiera del presupuesto del Fondo podrá recaer en una de las Partes o en un organismo internacional, según lo determine de común acuerdo la Comisión de Cooperación, en su reglamento.

Artículo 6: Comité de Género y Comercio

1. Las Partes establecerán un Comité de Género y Comercio compuesto por representantes de las Instituciones Gubernamentales responsables de género y comercio pertinentes de cada Parte:

   (a) En el caso de Perú, el Ministerio de Comercio Exterior y Turismo, o su sucesor,
(b) En el caso de México, la Secretaría de Economía o su sucesora,
(c) En el caso de Colombia, el Ministerio de Comercio, Industria y Turismo o su sucesor,
(d) En el caso de Chile, el Ministerio de Relaciones Exteriores, a través de la Subsecretaría de Relaciones Económicas Internacionales o su sucesora.

13. Las Partes deben asegurarse que el Comité posee una composición equilibrada entre hombre y mujeres.

14. El Comité de Género y Comercio deberá:

(a) Facilitar el intercambio de información sobre las experiencias de las Partes respecto a la formulación e implementación de políticas nacionales y programas destinados a la integración de la perspectiva de género que permita obtener los mayores beneficios posibles de este Acuerdo;
(b) Facilitar el intercambio de información de las experiencias de cada Parte respecto al establecimiento y la implementación de políticas y programas diseñados para la consecución de la equidad e igualdad de género;
(c) Organizar y facilitar actividades de cooperación señaladas en los Artículos 4.4, 4.5 y 4.6;
(d) Coordinar la presentación del informe bienal por parte de los puntos focales;
(e) Facilitar el intercambio de información sobre las experiencias y lecciones aprendidas por las Partes a través de actividades de cooperación llevadas a cabo conforme a los Artículos 4.4, 4.5 y 4.6;
(f) Discutir cualquier propuesta para futuras actividades conjuntas en apoyo a políticas de desarrollo relacionadas con la autonomía económica de las mujeres y su plena participación en el comercio;
(g) Invitar a donantes internacionales, entidades del sector privado, organizaciones no gubernamentales u otras instituciones relevantes, según sea apropiado, para asistir en el desarrollo y la implementación de actividades de cooperación;
(h) Considerar cuestiones relacionadas con la implementación y la operatividad de este Capítulo;
(i) Administrar el Fondo de Cooperación Alianza del Pacífico;
(j) Llevar a cabo otras funciones que las Partes acuerden.

15. El Comité de Género y Comercio se reunirá anualmente, en persona o a través de cualquier otro mecanismo tecnológico disponible, para considerar asuntos que surjan con relación a este Capítulo.

16. Las y los integrantes del Comité de Género y Comercio podrán intercambiar información y coordinar actividades mediante el uso del correo electrónico, videoconferencias u otros medios de comunicación.

17. En el desempeño de sus funciones, el Comité de Género y Comercio podrá trabajar con otros comités, grupos de trabajo (Grupo Técnico de Género) y cualquier otro órgano establecido conforme a este Acuerdo.
18. Cada Parte podrá consultar con representantes de sus sectores público, privado o no gubernamental sobre materias relacionadas con la implementación de este Capítulo, mediante cualquier medio que esa Parte considere adecuado.

19. Las Partes reconocen a Mujeres del Pacífico como una iniciativa que promueve el empoderamiento y la participación de las mujeres en el comercio internacional. Por esto, esta iniciativa podrá realizar recomendaciones relacionadas con la implementación de este Capítulo.

20. Las Partes podrán conjuntamente decidir invitar a expertos/as o a organizaciones relevantes a las reuniones del Comité de Género y Comercio para que provean información.

21. No más allá de transcurridos tres (3) años desde la entrada en vigor de este Capítulo, las Partes revisarán la implementación de este Capítulo e informarán a la Comisión Administradora. Posteriormente, las Partes acuerdan revisar periódicamente este Capítulo.

22. Cada Parte, si procede, podrá desarrollar mecanismos para informar sobre las actividades incluidas bajo este Capítulo en concordancia con sus leyes, regulaciones, políticas y prácticas.

23. Las Partes proporcionarán los recursos y fondos adecuados para que el Comité desempeñe sus funciones.

Artículo 7: Mecanismo de Solución de Diferencias

4. Las Partes se esforzarán por resolver cualquier asunto que pudiera surgir en cuanto a la interpretación y aplicación de este Capítulo mediante el diálogo, consultas y la cooperación.

5. En caso que las Partes no puedan resolver un asunto según el artículo precedente en un periodo de 90 días, acudirán al Mecanismo de Solución de Diferencias en el Capítulo 17 del presente Acuerdo.

6. Para disputas en el marco de este Capítulo y en complemento a las disposiciones del Capítulo 17:

   (a) Debe haber al menos una mujer nombrada para el Panel compuesto para resolver asuntos relacionados con la interpretación o aplicación de las disposiciones mencionadas en este Capítulo.

   (b) La parte demandante podrá solicitar a la Parte demandada el cumplimiento de una obligación adicional que promueva el empoderamiento de la mujer en su jurisdicción respectiva. Esta obligación adicional puede ser impuesta de la siguiente forma:

   • Crear un esquema de compras públicas que favorezca a mujeres;
   • Crear un programa de diversidad de proveedoras/es que favorezca a mujeres;
   • Subsidiar el desarrollo y perfeccionamiento de mujeres en las áreas de ciencia, tecnología e ingeniería;
   • Crear o financiar redes de negocios de mujeres.
• Otras acciones destinadas al empoderamiento de la mujer y la reducción de brechas de acuerdo a lo que decidan las Partes.
Team Members

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