

CHAPTER 8

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 8.1

Context and Objectives

1. The Parties recall the Declaration of the United Nations Conference on the Human Environment of 1972, the Rio Declaration on Environment and Development and the Agenda 21 adopted by the United Nations Conference on Environment and Development of 1992, the Johannesburg Declaration on Sustainable Development and its Plan of Implementation on Sustainable Development of 2002, the Rio+20 Outcome Document “The Future We Want” of 2012, the outcome document of the UN Summit on Sustainable Development “Transforming Our World: the 2030 Agenda for Sustainable Development” of 2015, the International Labour Organisation (ILO), Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998, the Ministerial Declaration of the UN Economic and Social Council on Full and Productive Employment and Decent Work of 2006 and the ILO Declaration on Social Justice for a Fair Globalization of 2008.
2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually supportive components of sustainable development.
3. The Parties reaffirm their commitment to promote the development of international trade in such a way as to contribute to the objective of sustainable development, and to ensure that this objective is integrated and reflected in the Parties’ trade relations.
4. The Parties will promote dialogue and cooperation on trade-related labour and environmental issues as part of a global approach to trade and sustainable development.

ARTICLE 8.2

Scope

Except as otherwise provided in this Chapter, this Chapter applies to measures adopted or maintained by the Parties affecting trade-related and investment-related aspects of labour and environmental issues.¹⁴

¹⁴ It is understood that the reference to labour in this Chapter includes the issues relevant to the Decent Work Agenda as agreed in the ILO.

ARTICLE 8.3

Right to Regulate and Levels of Protection

1. Recognising the sovereign right of each Party, in a manner consistent with this Agreement, to establish its priorities and its levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws, policies and practices, each Party shall seek to ensure that its laws, policies and practices provide for and encourage high levels of environmental and labour protection consistent with the standards, principles and agreements referred to in Articles 8.5 (International Labour Standards and Agreements) and 8.6 (Multilateral Environmental Agreements and Environmental Principles) and shall strive to further improve the level of protection provided for in those laws, policies and practices.
2. The Parties recognise the importance of taking account of scientific, technical and other information, and relevant international standards, guidelines and recommendations, if existing, when preparing and implementing measures related to the environment and labour conditions that affect trade and investment between them.

ARTICLE 8.4

Upholding Levels of Protection in the Application and Enforcement of Laws, Regulations or Standards

1. A Party shall not fail to effectively enforce its environmental and labour laws, regulations or standards in a manner affecting trade or investment between the Parties.
2. Subject to Article 8.3 (Right to Regulate and Levels of Protection), no Party shall:
 - (a) weaken or reduce the level of environmental or labour protection provided by its domestic laws, regulations or standards with the sole intention to encourage trade or investment from another Party or to seek or enhance a competitive trade advantage of producers or service providers operating in its territory; or
 - (b) waive or otherwise derogate from, or offer to waive or otherwise derogate from, laws, regulations or standards relevant to environment and labour, in order to encourage trade or investment from another Party or to seek or enhance a competitive trade advantage of producers or service providers operating in its territory.

ARTICLE 8.5

International Labour Standards and Agreements

1. The Parties recall the obligations deriving from membership of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up adopted by the International Labour Conference at its 86th Session in 1998 to respect,

promote and realise the principles concerning the fundamental rights, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) elimination of all forms of forced or compulsory labour;
- (c) effective abolition of child labour; and
- (d) elimination of discrimination in respect of employment and occupation.

2. The Parties recall the obligations deriving from membership of the ILO to effectively implement the ILO Conventions, which they have ratified and to make continued and sustained efforts towards ratifying the fundamental ILO Conventions as well as the other conventions that are classified as “up-to-date” by the ILO.

3. The Parties reaffirm their commitment, under the Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006, to recognise the importance of full and productive employment and decent work for all as key elements of sustainable development for all countries and as a priority objective of international cooperation and to promote the development of international trade in a way that is conducive to full productive employment and decent work for all.

4. The Parties shall promote decent work and reaffirm in this regard the ILO Declaration on Social Justice for a Fair Globalization, adopted by the International Labour Conference at its 97th session in 2008.

5. The Parties shall pay particular attention to developing and enhancing measures for:

- (a) occupational safety and health, including compensation in case of occupational injury or illness;
- (b) decent working conditions for all, with regard to, *inter alia*, wages and earnings, working hours and other conditions of work;
- (c) effective labour inspection systems; and
- (d) equality of treatment in respect of working conditions.

6. The Parties reaffirm that the violation of fundamental principles and rights at work, shall not be invoked or otherwise used as a legitimate comparative advantage and that labour standards shall not be used for protectionist trade purposes.

ARTICLE 8.6

Multilateral Environmental Agreements and Environmental Principles

1. The Parties recognise the importance of international environmental governance and multilateral environmental agreements as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environmental policies.
2. The Parties reaffirm their commitment to the effective implementation in their laws, policies and practices of the multilateral environmental agreements to which they are a party, as well as their adherence to environmental principles reflected in the international instruments, referred to in Article 8.1 (Context and Objectives).

ARTICLE 8.7

Promotion of Trade and Investment Favouring Sustainable Development

1. The Parties shall strive to facilitate and promote foreign investment, trade in and dissemination of goods and services beneficial to the environment, including environmental technologies, renewable energy, energy efficient and eco-labelled goods, organic production and services. Related non-tariff barriers will be addressed as part of these efforts.
2. The Parties shall strive to facilitate and promote foreign investment, trade in and dissemination of goods and services that contribute to sustainable development, including goods and services that are the subject of schemes such as fair and ethical trade.
3. The Parties shall encourage corporate social responsibility practices, as well as cooperation between enterprises in relation to goods, services and technologies that are beneficial to the environment and contribute to sustainable development in its economic, environmental and social dimension.
4. The Parties shall promote sustainable consumption and production patterns.
5. To this end, the Parties agree to exchange views and may consider, jointly or bilaterally, cooperation in this area.

ARTICLE 8.8

Trade and Biological Diversity

1. The Parties recognise the importance of the conservation and sustainable use of biological diversity and the role of trade in pursuing these objectives.
2. To this end, the Parties commit to:

- (a) promote the inclusion of animal and plant species in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) where a species is threatened or may be threatened with extinction;
- (b) implement effective measures to combat illegal wildlife trade;
- (c) prevent or control the introduction and spread of invasive alien species in connection with trade activities; and
- (d) cooperate where applicable on issues concerning trade and the conservation and sustainable use of biological diversity, including initiatives to reduce demand for illegal wildlife products.

ARTICLE 8.9

Trade and Sustainable Management of Fisheries

1. The Parties recognise the importance of ensuring the conservation and sustainable management of living marine resources and marine ecosystems and the role of trade in pursuing these objectives.
2. To this end, the Parties commit to:
 - (a) implement comprehensive, effective and transparent policies and measures to combat illegal, unreported and unregulated (IUU) fishing and aim to exclude IUU products from trade flows;
 - (b) promote the use of FAO's Voluntary Guidelines for Catch Documentation Schemes;
 - (c) cooperate bilaterally and in relevant international fora in the fight against IUU fishing with the aim of achieving sustainable fisheries management by inter alia facilitating the exchange of information on IUU fishing activities; and
 - (d) continue to engage constructively in the fisheries subsidies negotiations in the WTO with a view to adopting an agreement on comprehensive and effective disciplines, that prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU fishing, recognising that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiations.

ARTICLE 8.10

Sustainable Forest Management and Associated Trade

1. The Parties recognise the importance of effective forest law and governance in order to ensure sustainable forest management and thereby contribute to the reduction of greenhouse gas emissions and biodiversity loss resulting from deforestation and degradation of natural forest and peatlands including from land-use change for economic activities.

2. With the aim of contributing to sustainable forest management, the Parties commit to promote trade in goods which derive from sustainably managed forests. To this end, the Parties undertake to, *inter alia*:

- (a) promote the effective use of CITES with regard to endangered timber species;
- (b) promote the development and use of certification schemes for forest products from sustainably managed forests;
- (c) combat illegal logging by improving forest law enforcement and governance and by ensuring that only legally sourced timber is traded among the Parties; and
- (d) cooperate on issues relating to sustainable forest management through existing bilateral arrangements if applicable and in the relevant multilateral fora in which they participate, in particular in Reducing Emissions from Deforestation and Forest Degradation (REDD+) as encouraged by the Paris Agreement.

ARTICLE 8.11

Trade and Climate Change

1. The Parties recognise the importance of achieving the objectives of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement in order to address the urgent threat of climate change and the role of trade in achieving these objectives.

2. Pursuant to paragraph 1, the Parties shall:

- (a) effectively implement the UNFCCC;
- (b) effectively implement the Paris Agreement under which each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances;

- (c) promote the contribution of trade to the transition to a low-carbon-, sustainable and climate resilient economy; and
- (d) cooperate bilaterally, regionally and in international fora, as appropriate, on trade-related climate change issues.

ARTICLE 8.12

Cooperation in International Fora

The Parties shall strive to strengthen their cooperation on trade and investment related labour and environmental issues of mutual interest in relevant bilateral, regional and multilateral fora in which they participate.

ARTICLE 8.13

Implementation and Consultations

1. The Parties shall designate contact points for the purpose of implementing this Chapter.
2. A Party may through the contact points referred to in paragraph 1 request consultations at experts level or consultations within the Joint Committee regarding any matter arising under this Chapter. The Parties shall make every attempt to reach a mutually satisfactory solution of the matter. Subject to the agreement of the Parties, they may seek advice of the relevant international organisations or bodies.
3. The Parties shall not have recourse to Chapter 11 (Dispute Settlement) for matters arising under this Chapter. If the Parties agree, they may have recourse to good offices, conciliation or mediation under Article 11.2 (Good Offices, Conciliation or Mediation). These procedures may begin and be suspended or terminated at any time.

ARTICLE 8.14

Review

The Joint Committee shall periodically review progress achieved in pursuing the objectives set out in this Chapter, and consider relevant international developments in order to identify areas where further action could promote these objectives.