

CHAPTER 6

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 33

Context and Objectives

1. The Parties recall the Stockholm Declaration on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, Agenda 21 on Environment and Development of 1992, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the UN Economic and Social Council on Full 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. They underline the benefit of cooperation on trade-related labour and environmental issues as part of a global approach to trade and 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 relationship.

ARTICLE 34

Scope

Except as otherwise provided for in this Chapter, this Chapter applies to measures adopted or maintained by the Parties affecting trade-related and investment-related aspects of labour² and environmental issues.

ARTICLE 35

Right to Regulate and Levels of Protection

1. Recognising the right of each Party, subject to the provisions of this Agreement, to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, 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 standards, principles and agreements referred to in

² When labour is referred to in this Chapter, it includes the issues relevant to the Decent Work Agenda as agreed on in the ILO.

Articles 37 and 38, and shall strive to further improve the levels of protection provided for in those laws and policies.

2. The Parties recognise the importance, when preparing and implementing measures related to the environment and labour conditions that affect trade and investment between them, of taking account of scientific, technical and other information, and relevant international standards, guidelines and recommendations.

ARTICLE 36

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 35, a Party shall not:

- (a) weaken or reduce the levels of environmental or labour protection provided by its laws, regulations or standards with the sole intention to encourage investment from another Party or to seek or to 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, such laws, regulations or standards in order to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory.

ARTICLE 37

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

2. 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 recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all.

3. The Parties recall the obligations deriving from membership of the ILO to effectively implementing 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.

4. The violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage. Labour standards shall not be used for protectionist trade purposes.

ARTICLE 38

Multilateral Environmental Agreements and Environmental Principles

The Parties reaffirm their commitment to the effective implementation in their laws and practices of the multilateral environmental agreements to which they are party, as well as their adherence to environmental principles reflected in the international instruments referred to in Article 33.

ARTICLE 39

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, sustainable renewable energy, energy efficient and eco-labelled goods and services, including through addressing related non-tariff barriers.

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. For the purposes of paragraphs 1 and 2, the Parties agree to exchange views and may consider, jointly or bilaterally, cooperation in this area.

4. The Parties shall encourage cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development and are beneficial to the environment.

ARTICLE 40

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 41

Implementation and Consultations

1. The Parties shall designate the administrative entities which shall serve as contact points for the purpose of implementing this Chapter.
2. A Party may, through the contact point(s) referred to in paragraph 1, request expert consultations or consultations within the Joint Committee regarding any matter arising under this Chapter. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. Where relevant, and subject to the agreement of the Parties, they may seek advice of the relevant international organisations or bodies.
3. If a Party considers that a measure of another Party does not comply with the obligations under this Chapter, it may have recourse to consultations according to paragraphs 1 to 3 of Article 44.

ARTICLE 42

Review

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