

3. Nothing in this Agreement shall affect the rights and obligations of either Party under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

PART V

INSTITUTIONAL PROVISIONS

Article 100

The Joint Council

A Joint SADC EPA States — EU Council ('Joint Council') is hereby established, which shall oversee and administer the implementation of this Agreement.

Article 101

Composition and functions

1. The Joint Council shall be composed, on the one hand, of the relevant members of the Council of the EU and relevant members of the European Commission or their representatives, and, on the other hand, of the relevant Ministers of the SADC EPA States or their representatives. The first meeting of the Joint Council shall be co-chaired by the Parties.

2. In relation to matters where SACU acts collectively for purposes of this Agreement, SACU shall act collectively in such matters under this provision and the EU shall treat SACU as such. In relation to matters where Member States of SACU act individually in such matters under this provision, the specific SACU Member State shall act in that capacity and the EU shall treat that Member State as such.

3. Without prejudice to the functions of the Council of Ministers as defined in Article 15 of the Cotonou Agreement, the functions of the Joint Council shall be to:

- (a) be responsible for the operation and implementation of this Agreement and monitor the fulfilment of its objectives;
- (b) examine any major issues arising under this Agreement that are of common interest and affect trade between the Parties;
- (c) examine proposals and recommendations from the Parties for the review of this Agreement;
- (d) make appropriate recommendations;
- (e) monitor the development of economic and trade relations between the Parties;
- (f) monitor and assess the impact of the cooperation provisions of this Agreement on sustainable development;
- (g) monitor and review progress on all matters covered by this Agreement;
- (h) establish its own rules of procedure;
- (i) establish the rules of procedures of the Trade and Development Committee;
- (j) monitor the work of the Trade and Development Committee; and
- (k) perform any other duties under this Agreement.

4. The Joint Council may provide periodic reports on the operation of this Agreement to the Council of Ministers established in accordance with Article 15 of the Cotonou Agreement.

*Article 102***Decision-making powers and procedures**

1. In order to attain the objectives of this Agreement, the Joint Council shall have the power to take decisions in respect of all matters covered by this Agreement.
2. The decisions of the Joint Council shall be taken by consensus and shall be binding on the Parties. The Parties shall take all the measures necessary to implement such decisions in accordance with their respective internal rules.
3. For procedural matters and dispute settlement procedures, the Joint Council shall adopt decisions and recommendations by mutual agreement between the Parties.
4. The Joint Council shall meet at regular intervals, not exceeding a period of two (2) years, and extraordinarily whenever circumstances so require, if the Parties so agree.

*Article 103***Trade and Development Committee**

1. The Joint Council shall be assisted in the performance of its duties by a Trade and Development Committee composed of representatives of the Parties, normally at the level of senior officials.
2. The Trade and Development Committee shall be chaired alternately by a representative of each of the Parties for a period of one year. The first meeting of the Trade and Development Committee shall be co-chaired by the Parties.
3. This Committee may establish any special technical groups to deal with specific matters falling within their competence.
4. This Committee shall establish the rules of procedure of the special technical groups established under paragraph 3.
5. This Committee shall report and be responsible to the Joint Council.
6. This Committee shall take decisions or make recommendations in the cases provided for in this Agreement or where such power has been delegated to it by the Joint Council. In this event the Committee shall take its decisions by consensus.
7. This Committee shall have, in particular, the following functions:
 - (a) In the area of trade, to:
 - (i) monitor and evaluate the implementation of the decisions of the Joint Council;
 - (ii) facilitate and supervise the implementation of the provisions of this Agreement;
 - (iii) consider and recommend cooperation priorities to the Joint Council;
 - (iv) make recommendations to the Joint Council to avoid potential conflicts in areas covered by this Agreement;
 - (v) carry out any other function assigned to it by the Joint Council;
 - (vi) supervise the work of the special technical groups as referred to in paragraph 3;

- (vii) monitor the development of regional integration and of economic and trade relations between the Parties;
 - (viii) discuss and undertake actions that may facilitate trade, investment and business opportunities between the Parties; and
 - (ix) discuss any matters under this Agreement and any issue that may affect the attainment of its objectives.
- (b) In the area of development cooperation, to:
- (i) monitor the implementation of the cooperation provisions laid down in this Agreement and coordinate such action with third party donors;
 - (ii) make recommendations on trade-related cooperation between the Parties;
 - (iii) keep under periodic review the cooperation priorities set out in this Agreement, and make recommendations on the inclusion of new priorities, as appropriate;
 - (iv) review and discuss cooperation issues pertaining to regional integration and implementation of this Agreement; and
 - (v) monitor and assess the impact of the implementation of this Agreement on the sustainable development of the Parties.

PART VI

GENERAL AND FINAL PROVISIONS

Article 104

Definition of the Parties and fulfilment of obligations

1. The Parties of this Agreement shall be Botswana, Lesotho, Namibia, South Africa, Swaziland and Mozambique, of the one part ('the SADC EPA States'), and the European Union or its Member States or the European Union and its Member States, within their respective areas of competence as derived from the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), of the other part ('the EU').
2. The term 'Party' shall refer to the SADC EPA States individually on the one part or the EU on the other part as the case may be.
3. Where reference is made to SACU in this Agreement, as in Articles 25(1), 34, 35 and 101 and in PART III, Botswana, Lesotho, Namibia, South Africa and Swaziland, shall act collectively as provided for in the SACU Agreement.
4. The Joint Council may decide to modify the application of paragraph 3.
5. The Parties shall adopt any general or specific measures required to fulfil their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement.

Article 105

Exchange of information

1. In order to facilitate communication relating to the effective implementation of this Agreement, the Parties shall designate a coordinator for the exchange of information upon the entry into force of this Agreement. The designation of a coordinator for the exchange of information is without prejudice to the specific designation of competent authorities under specific provisions of this Agreement.