

CHAPTER 11

TRADE AND SUSTAINABLE DEVELOPMENT

Article 11.1

Scope, Context and Objectives

1. Recalling the *Rio Declaration on Environment and Development* and the *Agenda 21* adopted by the United Nations Conference on Environment and Development in Rio de Janeiro on 14 June 1992, the *Johannesburg Declaration on Sustainable Development* and its *Plan of Implementation* adopted in Johannesburg on 4 September 2002, the International Labour Organization (hereinafter referred to as “ILO”) *Declaration on Fundamental Principles and Rights at Work (1998)* adopted by the International Labour Conference at its 86th Session in Geneva on 18 June 1998, as amended in 2022 (hereinafter referred to as “ILO Declaration on Fundamental Principles and Rights at Work”), the *Ministerial Declaration on Generating Full and Productive Employment and Decent work for all and its Impact on Sustainable Development* adopted by the United Nations Economic and Social Council of 2006, in Geneva on 5 July 2006, the *ILO Declaration on Social Justice for a Fair Globalization (2008)* adopted by the International Labour Conference at its 97th Session in Geneva on 10 June 2008, as amended in 2022, the *Outcome Document of the UN Conference on Sustainable Development of 2012 entitled “The Future We Want”* endorsed by the UN General Assembly Resolution 66/288 adopted on 27 July 2012 (hereinafter referred to as “the RIO+20 Outcome Document “The Future We Want”), the *UN 2030 Agenda for Sustainable Development*, adopted by the UN General Assembly Resolution 70/1 on 25 September 2015 and its Sustainable Development Goals and the multilateral environmental agreements to which the Parties are party, the Parties reaffirm their commitment to pursue the objective of sustainable development, whose pillars, economic development, social development and environmental protection are mutually supportive, interdependent and essential requirements of sustainable development.
2. The Parties agree to promote international trade in such a way as to contribute towards sustainable development for eradicating poverty and hunger, including towards broad-based, sustained and inclusive economic growth, social development and environmental protection, and to work to integrate and reflect this objective in their trade relationship.
3. Accordingly, the Parties emphasise that it is their aim to strengthen their trade relations and cooperation in ways that promote sustainable development, and it is not their intention in this Chapter to harmonise the labour or environment standards of the Parties.
4. For the purposes of this Chapter, for India, “**laws and regulations**” mean an Act of the Parliament of India or delegated legislation framed pursuant to an Act of the Parliament of India, which is enforceable by action of the Central or Union level of Government.

Article 11.2
Right to Regulate and Upholding-Levels of Protection

1. Recognising the right of each Party, in a manner consistent with the provisions of this Chapter, to set its domestic sustainable development policies and priorities, to establish its own levels of labour and environmental 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 achieving sustainable development objectives.
2. The Parties are committed not to derogate from or, through a sustained or recurring course of action or inaction, fail to effectively enforce their respective environmental and labour laws in a manner affecting trade between the Parties.
3. The Parties stress that environmental and labour measures shall not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade.
4. The Parties recognise the value of international agreements on labour and the environment as means to address global and regional environmental and social challenges. In this context, the Parties stress that neither labour nor environmental issues shall be used for protectionist trade purposes. The Parties note that their comparative advantage should in no way be called into question.

Article 11.3
Promoting Environmentally Sustainable and Inclusive Growth

1. The Parties recognise that trade should contribute towards broad-based, sustainable and inclusive growth, which is necessary to alleviate poverty, raise standards of living, ensure full employment and a large and steadily growing volume of real income and effective demand, and expand the production of and trade in goods and services.
2. The Parties acknowledge the importance of incorporating a gender perspective in the promotion of inclusive economic development and that gender-responsive policies are key elements to enhance the participation of all in the economy and international trade in order to achieve sustainable economic growth.
3. The Parties reaffirm their commitment to implement the international agreements pertaining to gender equality or non-discrimination to which they are a party.
4. The Parties further recognise that in accordance with the objective of sustainable development, they shall allow for the optimal use of the world's resources, seeking both to protect and preserve the environment, and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.

5. In this regard, the Parties recall that the Rio+20 Outcome Document “The Future We Want” provides sufficient flexibility and policy space for the Parties to make their own choices out of a broad menu of options and define their paths towards sustainable development based on each Party’s stage of development, national circumstances and priorities.
6. Recognising the importance of cooperation and supportive measures, the Parties reaffirm their commitment to implement their respective commitments regarding cooperation and supportive measures, such as financial, technological, technical or capacity building support, as relevant, under the international agreements referred to in this Chapter.

Article 11.4 ***Multilateral Environmental Agreements***

1. The Parties reaffirm their adherence to the principles reflected in the international environmental instruments referred to in Article 11.1.
2. The Parties reaffirm their commitment to implement the multilateral environmental agreements to which they are a party.

Article. 11.5 ***Climate Change***

1. The Parties recognise the importance of achieving the objectives and goals of the *United Nations Framework Convention on Climate Change*, done at New York on 09 May 1992 (hereinafter referred to as “UNFCCC”) and the *Paris Agreement*, done at Paris on 12 December 2015, in order to address the urgent threat of climate change, based on best available science and reflecting the principles of the UNFCCC and the Paris Agreement, including equity and the principle of common but differentiated responsibilities and respective capabilities, in light of different national circumstances.
2. The Parties reaffirm their commitment to implement their respective obligations and commitments under the UNFCCC and the Paris Agreement.
3. Pursuant to paragraph 1, the Parties shall endeavour to cooperate bilaterally, and in other fora, as appropriate.

Article 11.6 ***International Labour Organisation Standards***

1. The Parties, in accordance with their obligations as members of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work, commit to respect, promote and realise, in good faith, the fundamental principles and rights at work embodied in the fundamental ILO Conventions, namely:

- (a) 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;
 - (d) the elimination of discrimination in respect of employment and occupation; and
 - (e) a safe and healthy working environment.
2. The Parties affirm their commitment to effectively implement in their laws and practices the ILO Conventions which they have respectively ratified. The Parties will make efforts towards ratifying the fundamental ILO Conventions in a promotional and flexible manner without time limits and according to the ILO Declaration on Social Justice for a Fair Globalization of 2008.

Article 11.7
Cooperation, Information Exchange and Experience Sharing on Trade and Sustainable Development

In view of the objectives set out in Article 11.1, the Parties agree to enhance their cooperation in exchanging information and experiences in areas of mutual interest, such as:

- (a) best practices relating to corporate social responsibility;
- (b) relevant aspects of the ILO Decent Work Agenda, such as labour statistics, and labour market developments;
- (c) identifying and addressing skill gaps;
- (d) human resources development, lifelong learning, skilling, upskilling and re-skilling to facilitate a just transition and decent work in accordance with the *ILO Guidelines on a Just Transition towards environmentally sustainable economies and societies for all* adopted by the Tripartite Meeting of Experts in Geneva on 5 to 9 October 2015;
- (e) best practices in promoting integrated and sustainable management of natural resources and ecosystems, including conservation and sustainable use of biodiversity;
- (f) best practices to promote sustainable consumption and production patterns;
- (g) cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development;

- (h) policy frameworks conducive to the deployment of best available technologies for sustainable development, including with regard to the promotion of eco-innovation, research activities, dissemination of results, and efforts to ensure that such technologies are available in public domain and are accessible at affordable prices; or
- (i) regulatory frameworks to promote sustainable renewable energy and resource and energy efficient products and services.

Article 11.8
Cooperation in International Fora

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

Article 11.9
Contact Points

1. Each Party shall designate a contact point responsible for coordinating implementation of this Chapter.
2. Each Party shall provide the other Parties with the contact details of its contact points and shall promptly notify the other Parties of any change in contact point.

Article 11.10
Security Exception

Nothing in this Chapter shall be construed to prevent the Parties from taking any action or not disclosing any information that it considers necessary for the protection of its essential domestic security interests.

Article 11.11
Non-Application of Dispute Settlement

No Party shall have recourse to Chapter 12 (Dispute Settlement) for any matter arising under this chapter.

Article 11.12
Sub-Committee on Sustainability

1. The Parties hereby establish a Sub-Committee on Sustainability (hereinafter referred to as “Sustainability Sub-Committee”), composed of government representatives of the Parties.

2. The Sustainability Sub-Committee shall meet within one year of the entry into force of this Agreement, and thereafter as mutually agreed.
3. The Sustainability Sub-Committee shall:
 - (a) monitor and review the implementation and operation of this Chapter;
 - (b) discuss, facilitate, and monitor areas and means of cooperation and supportive measures, as appropriate, under this Chapter;
 - (c) report to the Joint Committee with respect to its activities, as mutually agreed; and
 - (d) perform any other functions the Parties may decide.
4. The Sustainability Sub-Committee shall be chaired jointly by an EFTA State and India and may make recommendations, or refer matters, by consensus, to the Joint Committee.

Article 11.13
Consultations

1. The Parties shall at all times endeavour to make every effort through cooperation, dialogue, consultations and exchange of information to address any matter arising under this Chapter.
2. A Party may request consultations (hereinafter referred to as the “requesting party”) with another Party (hereinafter referred to as the “responding party”) regarding any matter arising under this Chapter by delivering a written request to the responding party’s contact point. The requesting party shall set out the reasons for the request and state the matter at issue, to enable the responding party to respond. The other Parties shall be informed that a request for consultations has been submitted.
3. The responding party shall respond to the request in writing no later than 90 days after the receipt of the request. The period for responding to the request may be extended by a further period of 30 days from the request of the responding party.
4. The requesting party and the responding party (hereinafter referred to as the “consulting parties”) shall enter into consultations in good faith. Such consultations shall be held between the appropriate government representatives, as respectively designated by the consulting parties.
5. Unless the consulting parties agree otherwise, the consulting parties shall enter into consultations promptly, and no later than 150 days after the receipt of the request by the responding party.

6. Consultations shall take place in the Joint Committee, unless the consulting parties agree otherwise.
7. The consulting parties may agree to seek advice from any expert or body they deem appropriate, to assist them in the consultations.
8. The consulting parties shall make every effort to arrive at a mutually agreed solution to the matter, which may include appropriate cooperative activities.
9. Consultations may be held in person or by other technological means available.
10. Consultations under this Article, the outcomes, and the positions taken by the Parties during such consultations, shall be confidential. Notwithstanding the preceding sentence, the outcome of these consultations shall be made public unless the consulting parties agree otherwise. Where the outcome of consultations is made public, this shall be through a jointly agreed report.
11. Each Parties shall treat as confidential any information exchanged in the consultations which another Party has designated as confidential.
12. Notwithstanding paragraphs 1 to 11, where the matter arising under this Chapter regards compliance with obligations under a multilateral environmental agreement to which the consulting parties are a party, the requesting party should, where appropriate, address the matter through the consultative procedure or other procedures under that multilateral environmental agreement.

Article 11.14

Review

The Parties shall periodically review this Chapter. Each Party may, as appropriate, take into account views expressed by its relevant stakeholders in relation to such review.