

*This **TEXTUAL PROPOSAL** is the European Union's initial proposal for legal text on "Trade and Sustainable Development" in TTIP. It was tabled for discussion with the US in the negotiating round of 19 - 23 October 2015 and made public on 6 November 2015. The actual text in the final agreement will be a result of negotiations between the EU and US.*

## **EU TEXTUAL PROPOSAL**

### **TRADE AND SUSTAINABLE DEVELOPMENT**

*DISCLAIMER: The EU reserves the right to make subsequent modifications to this text and to complement its proposals at a later stage, by modifying, supplementing or withdrawing all, or any part, at any time. In particular, additional proposals, including on institutional aspects, civil society participation, and dispute settlement, will be developed at a later stage.*

#### **Section I – Trade and Sustainable Development - Overarching principles**

##### *Article 1*

##### *Context*

1. The Parties reaffirm their commitment to pursue sustainable development, the dimensions of which – economic development, social development and environmental protection – are inter-dependent and mutually reinforcing, and are committed to promote the development of international trade and investment in such a way so as to contribute to this overarching objective.
2. The Parties recall the Rio Declaration and the Agenda 21 on Environment and Development of 1992, the ILO Declaration on Fundamental Principles and Rights at Work of 1998 and its Follow-up, 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, the ILO Declaration on Social Justice for a Fair Globalisation of 2008, the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want", and the outcome of the UN Summit on Sustainable Development of 2015 entitled "Transforming Our World: the 2030 Agenda for Sustainable Development".
3. The Parties underline the benefit of considering trade and investment-related labour<sup>1</sup> and environmental issues as part of a global approach to trade and sustainable development.

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<sup>1</sup> When labour is referred to in this chapter, it includes the issues of employment promotion, social protection, social dialogue, fundamental principles and rights at work, as well as the cross-cutting issues of gender equality and non-discrimination, which are relevant to the strategic objectives of the ILO, through which the Decent Work Agenda is expressed, as agreed on in the ILO 2008 Declaration on Social Justice for a Fair Globalisation.

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## Article 2

### **Objectives**

Through this chapter, the Parties aim to:

- a) strengthen the positive contribution of this Agreement to sustainable development;
- b) enhance mutual supportiveness among each Party's labour, environmental and trade and investment policies and measures;
- c) uphold the Parties' environmental and labour protection objectives in a context of more liberalised, open and transparent trade and investment relations;
- d) formulate and implement policies that contribute to the achievement of sustainable development goals;
- e) promote dialogue and cooperation among the Parties on environmental and labour matters of relevance in a trade and investment context, including with regard to third countries;
- f) encourage businesses, social partners, environmental groups and other civil society organisations as well as citizens to develop and implement practices that contribute to the achievement of sustainable development goals;
- g) promote public consultation and participation in the discussion of sustainable development issues arising under this Agreement.

## Article 3

### **Right to regulate and levels of protection**

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to set and regulate its levels of domestic labour and environmental protection, and to adopt or modify relevant policies and laws accordingly. The right to regulate shall be exerted in a manner not inconsistent with the international labour standards and agreements referred to in Article 4 [*Multilateral labour standards and agreements*] and the environmental agreements referred to in Article 10 [*Multilateral environmental governance and rules*].

2. Each Party shall ensure that its domestic policies and laws provide for and encourage high levels of protection in the labour and environmental areas and shall strive to continue to improve those policies and laws and their underlying levels of protection.

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## **Section II – Trade and Sustainable Development - Labour aspects**

### *Article 4*

#### ***Multilateral labour standards and agreements***

1. The Parties recognise the value of global standards and agreements on labour matters as fundamental instruments to promote and achieve decent work for all and stress the need to enhance the mutual supportiveness between trade and labour policies and rules. Accordingly, they agree to promote the development of their trade and investment relations in a manner conducive to the realisation of the Decent Work Agenda, as expressed through the International Labour Organisation (ILO) 2008 Declaration on Social Justice for a Fair Globalisation, in its four strategic objectives:

- a) employment promotion,
- b) social protection,
- c) social dialogue,
- d) fundamental principles and rights at work,

and the cross-cutting issues of gender equality and non-discrimination.

2. In accordance with the obligations of all ILO members and the ILO Declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference at its 86<sup>th</sup> Session in 1998 and its Follow-up, each Party shall:

a) ensure that its laws and practices respect, promote, and realise within an integrated strategy, in its whole territory and for all, the internationally recognised core labour standards, which are the subject of the fundamental ILO Conventions, namely:

- i) the freedom of association and the effective recognition of the right to collective bargaining;
- ii) the elimination of all forms of forced or compulsory labour;
- iii) the effective abolition of child labour<sup>2</sup>; and
- iv) the elimination of discrimination in respect of employment and occupation;

b) in this context, continue to make sustained efforts towards ratifying the fundamental ILO Conventions and their Protocols, and regularly exchange information on its respective situation and advancements as regards the ratification of these as well as of priority and other ILO Conventions that are classified as up to date by the ILO and their Protocols.

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<sup>2</sup> It is understood that this includes a prohibition on the worst forms of child labour, in accordance with ILO Convention 182.

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3. Furthermore, in accordance with the ILO Decent Work Agenda, as expressed in the ILO Declaration on Social Justice for a Fair Globalisation of 2008, and in accordance with its other international commitments, each Party shall ensure to protect:

a) health and safety at work, including through relevant policies, systems and programmes, the fostering and promotion of a preventative safety and health culture and the adoption of risk-based and precautionary approaches;

b) decent working conditions for all, with regard to, inter alia, wages and earnings, working hours and other conditions of work in order to ensure a minimum living wage.

4. Each Party shall effectively implement in its laws and practices and in its whole territory the ILO Conventions it has ratified.

5. For all areas covered by up-to-date Conventions each Party shall implement its policies in the relevant areas bearing in mind the Recommendations adopted by the ILO, where they exist.

6. The Parties recognise the need for an adequate system of labour inspections to ensure the effective enforcement of its labour laws.

7. The Parties recognise that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for arbitrary or unjustifiable discrimination or protectionist trade purposes.

#### *Article 5*

#### ***Freedom of association and right to collective bargaining***

1. The Parties underline their commitment to protecting the freedom of association and the right to collective bargaining, and recognise the importance of international rules and agreements in this area, such as ILO Conventions 87 and 98, the UN Universal Declaration of Human Rights of 1948, the UN International Covenants on Civil and Political Rights and on Economic Social and Cultural Rights of 1966.

2. Accordingly, the Parties shall uphold and implement in their laws and practices the following key principles, as referred to in the instruments under paragraph 1:

a) the right to form and join trade unions and the inherent corollary of the right to strike,

b) the right to establish and join employers' organisations,

c) the effective recognition of the right to collective bargaining,

d) effective social dialogue and tripartite consultations.

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3. To this end, the Parties shall:

- a) implement effective domestic policies and measures for social dialogue, including where appropriate by involving employers and workers representatives in the formulation of or consultation on domestic labour policies and laws;
- b) implement effective domestic policies and measures for information and consultation of workers through dialogue with workers including through permanent worker representation bodies in companies, such as works councils and encourage their active functioning in accordance with domestic laws;
- c) provide adequate protection against acts of anti-union discrimination in respect of workers' employment;
- d) maintain the right to negotiate, conclude and enforce collective agreements as well as to take collective action in accordance to domestic laws and practices;
- e) enable and promote the organisation of employers' and workers' representation;
- f) facilitate dialogue and exchanges between employers' and workers' organisations established in their territories;
- g) promote and facilitate information and consultation of workers in companies at a transnational, including transatlantic, level;
- h) promote worldwide implementation of the principles under paragraph 2, in particular through promoting adherence to relevant international instruments, including with regard to ratification where appropriate, as well as participation in relevant international processes and initiatives.

#### *Article 6*

##### ***Elimination of forced or compulsory labour***

1. The Parties underline their commitment to eliminate forced or compulsory labour, and recognise the importance of international rules and agreements in this area, such as ILO Convention 29 and its Protocol, ILO Convention 105, the UN Universal Declaration of Human Rights of 1948, the UN International Covenants on Civil and Political Rights and on Economic Social and Cultural Rights of 1966.

2. Accordingly, the Parties shall uphold and implement in their laws and practices the following key principles, as referred to in the instruments under paragraph 1:

- a) the effective suppression of forced or compulsory labour, in all its forms, including with regard to trafficking in persons,
- b) the prevention of the use of forced or compulsory labour,
- c) the provision to victims of protection and access to appropriate and effective remedies.

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3. To this end, the Parties shall:

- a) implement effective domestic policies and measures, including the establishment and application of adequate deterrent measures for offences, to prevent and eliminate forced or compulsory labour, and provide protection to the victims;
- b) exchange information and cooperate, as appropriate, on the prevention and elimination of forced or compulsory labour worldwide, including through the promotion of comprehensive approaches and international cooperation in this regard;
- c) promote worldwide implementation of the principles under paragraph 2 in particular through promoting adherence to relevant international instruments, including with regard to ratification where appropriate, as well as participation in relevant international processes and initiatives.

#### *Article 7*

#### ***Effective abolition of child labour***

1. The Parties underline their commitment to protect the rights of the child and to the abolition of child labour, and recognise the importance of international rules and agreements in this area, such as ILO Conventions 138 and 182, the UN Universal Declaration of Human Rights of 1948, the UN Declaration on the Rights of the Child of 1959, the UN International Covenant on Economic Social and Cultural Rights of 1966, the UN Convention on the Rights of the Child of 1989, and the Brasilia Declaration on Child Labour of 2013.

2. Accordingly, the Parties shall uphold and implement in their laws and practices the following key principles, as referred to in the instruments under paragraph 1:

- a) the immediate and effective prohibition and elimination of the worst forms of child labour,
- b) the effective abolition of all child labour,
- c) the protection of children of compulsory schooling age from performing labour.

3. To this end, the Parties shall:

- a) implement effective domestic policies and measures to protect children from performing hazardous work;
- b) promote access to quality basic education to all children;
- c) promote decent working conditions for young people in employment;
- d) exchange information and cooperate, as appropriate, on the elimination of the worst forms of child labour worldwide, including through the promotion of comprehensive approaches in this regard;

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e) promote worldwide implementation of the principles under paragraph 2, in particular through promoting adherence to relevant international instruments, including with regard to ratification where appropriate, as well as participation in relevant international processes and initiatives.

## *Article 8*

### ***Equality and non-discrimination in respect of employment and occupation***

1. The Parties underline their commitment to equality and non-discrimination at the workplace, and recognise the importance of international rules and agreements in this area, such as ILO Conventions 100 and 111, the UN Universal Declaration of Human Rights of 1948, the UN International Covenants on Civil and Political Rights and on Economic Social and Cultural Rights of 1966, the UN Convention on the Elimination of All Forms of Discrimination against Women of 1979, the UN Convention on the Rights of Persons with Disabilities of 2006.

2. Accordingly, the Parties shall uphold and implement in their laws and practices the following key principles, as referred to in the instruments under paragraph 1:

- a) ensuring equal opportunity and treatment in employment and occupation for all,
- b) ensuring protection against all forms of direct and indirect discrimination as regards employment and occupation,
- c) promote gender equality,
- d) ensure equal remuneration for men and women for work of equal value.

3. To this end, the Parties shall:

- a) implement effective domestic policies and measures to ensure equal opportunity and equal treatment in employment and occupation for all, with a view to preventing and eliminating any discrimination, direct and indirect, in respect thereof;
- b) ensure the application of equal remuneration for women and men for work of equal value;
- c) exchange information and cooperate, as appropriate, including through the promotion of integrated approaches in this regard, on:
  - i) the worldwide elimination of discrimination in employment and occupation,
  - ii) the worldwide promotion of gender equality at the workplace;
- d) share experiences and information on measures to eliminate direct and indirect discrimination in the workplace and to ensure equal remuneration for women and men for work of equal value;
- e) take adequate measures to ensure that persons with disabilities can enjoy their right to work on equal basis with others;

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f) promote worldwide implementation of the principles under paragraph 2, in particular through promoting adherence to relevant international instruments, including with regard to ratification where appropriate, as well as participation in relevant international processes and initiatives.

#### *Article 9*

##### ***Working together on the labour aspects of trade and sustainable development***

The Parties recognise the importance of working together on trade-related aspects of labour policies in order to achieve the objectives of this Agreement. In this context, they shall consult and cooperate as appropriate at bilateral, regional, and global levels, paying specific attention to developing countries and in particular Least Developed Countries (LDCs), with respect to trade-related labour matters of mutual interest. In addition to cooperation areas and activities identified elsewhere in this chapter, priority areas and activities in this regard may include, inter alia, the following:

- a) cooperation with and within international fora dealing with issues relevant for both trade and labour and employment policies, including in particular the WTO, the ILO, the G7 and the G20;
- b) cooperation on aspects of the ILO Decent Work Agenda relevant for the interlinkages between trade, decent work and full and productive employment;
- c) exchange of information on each Party's experience in implementing ILO standards and Conventions;
- d) exchange of information on data and statistics concerning labour inspections;
- e) exchange of views and experiences on the information and consultation of workers at the workplace;
- f) exchange of information concerning health and safety at work measures and occupational diseases;
- g) cooperation with and in third countries, with a view to promoting respect and giving effect to the ILO core labour standards and to promoting ratification and effective implementation of fundamental ILO Conventions;
- h) exchange of information on each Party's experience in implementing labour provisions in Free Trade Agreements concluded with third countries, including with regard to technical assistance, and, where appropriate, cooperation in this regard in countries and regions of common interest;
- i) exchange of views on the impacts of this Agreement on labour and employment, on tools to jointly or individually assess such impacts, and on ways to enhance, prevent or mitigate them, taking into account impact assessments carried out by the Parties;
- j) cooperation on the analysis of the trade impact of labour laws and standards, as well as the labour impacts of trade and investment rules including on the development of domestic labour laws and policy;
- k) cooperation on the promotion of decent work in global supply chains.



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### **Section III - Trade and Sustainable Development – Environmental aspects**

#### *Article 10*

#### ***Multilateral environmental governance and rules***

1. The Parties recognise the value of global environmental governance and rules, including Multilateral Environmental Agreements, to tackle environmental challenges of common concern and stress the need to enhance the mutual supportiveness between trade and environment policies, rules and measures.
2. Each Party reaffirms its commitment to effectively implement in its domestic laws and practices the Multilateral Environmental Agreements to which it is a party<sup>3</sup>.
3. The Parties should continue to strive towards further ratification of Multilateral Environmental Agreements and cooperate in this regard, including through exchanging information on advancement and supporting each other's full participation in, or membership to, multilateral environmental agreements, international bodies, and processes.
4. The Parties commit to consult and cooperate with each other as appropriate in Multilateral Environmental Agreements and other global environmental fora, in particular trade-related environmental issues.
5. The Parties acknowledge that nothing in the Agreement should prevent either Party from adopting or maintaining measures to implement the Multilateral Environmental Agreements to which it is a party, provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade.

#### *Article 11*

#### ***Protection, sustainable management and use of biological diversity***

1. The Parties underline their commitment to the conservation and sustainable use of biological diversity and recognise the importance of international rules and agreements in this area.
2. To this end, the Parties shall:
  - a) implement effective domestic policies and measures and exchange information on:
    - i) the conservation and sustainable use of biological diversity,
    - ii) halting the loss of biological diversity and reducing pressures on biological diversity in particular if such pressures are linked to trade flows,

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<sup>3</sup> The Multilateral Environmental Agreements referred to shall encompass those conventions, protocols, amendments, annexes and adjustments binding on the Parties.

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- iii) controlling the spread of invasive alien species and on relevant trade-related preventive measures, including with a view to exploring the potential for coordinated measures;
- b) promote conservation and sustainable use of natural resources when undertaking trade activities, in accordance with domestic laws and with relevant international instruments;
- c) cooperate at the bilateral, regional and global levels, as appropriate, on:
  - i) the conservation of biological diversity and its sustainable use, including through the protection of endangered species, habitats, and genetic diversity,
  - ii) the restoration of ecosystems, and the elimination or the reduction of negative environmental impacts resulting from the use of living and non-living natural resources or of ecosystems, and ecosystem services,
  - iii) matters related to access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation,
  - iv) the mapping and assessment as well as the valuation of ecosystems and their services, and the integration of such values in relevant reporting and accounting systems.

## *Article 12*

### ***Trade in species of wild fauna and flora and derived products***

1. The Parties underline their commitment to combating illegal trade in threatened, including endangered, and other protected species of wild fauna and flora, their parts and derived products, which undermines efforts to conserve and sustainably manage wild fauna and flora, distorts legal trade in these products, and reduces the economic, social, and environmental value of natural resources and recognise the importance of international rules and agreements in this area in particular the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

2. To this end, the Parties shall:

- a) implement effective domestic policies and measures to combat illegal trade in threatened, including endangered, and other protected species of wild fauna and flora and derived products, including related organised crime and illicit financial flows;
- b) effectively implement in their laws and practices the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and other relevant instruments to which they are party;
- c) cooperate as appropriate, and exchange views on issues of mutual interest for the preparation of CITES meetings including to promote the inclusion in the Appendices to the CITES of animal and plant species which meet the criteria agreed within CITES for such inclusion;

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- d) cooperate, as appropriate, on domestic measures complementary to CITES which further strengthen controls on CITES listed species or which regulate trade in species not included in CITES Appendices;
- e) cooperate with interested stakeholders and non-governmental entities to combat illegal trade in threatened, including endangered, and other protected species of wild fauna and flora and derived products, including by awareness-raising actions and measures reducing domestic demand;
- f) enhance monitoring, law enforcement and judicial cooperation and information sharing related to combating illegal trade in threatened, including endangered, and other protected species of wild fauna and flora and derived products, for example by strengthening law enforcement networks; and measures related to combat organised crime and illicit financial flows;
- g) cooperate internationally to combat illegal trade in threatened, including endangered, and other protected species of wild fauna and flora and derived products, such as through coordinated efforts towards third countries and in support of international initiatives.

### *Article 13*

#### ***Sustainable management of forests and trade in forest products***

1. The Parties underline their commitment to sustainable forest management, as a dynamic and evolving concept, which aims to maintain and enhance the economic, social and environmental values of all types of forests, for the benefit of present and future generations, and to fighting against illegal logging, and recognise the importance of international rules and agreements in these areas such as such as CITES, UN Forum on Forests or the International Tropical Timber Organisation.
2. To this end, the Parties shall:
  - a) implement effective domestic policies and measures to combat illegal logging and related trade, including as appropriate with respect to third countries, and exchange information in this regard;
  - b) encourage the use of wood and derived products from sustainably managed forests in their markets and trade thereof, and exchange information in this regard;
  - c) identify and discuss policies to combat illegal logging and related trade, to promote the sustainable use of forest, and/or to encourage the use of wood and derived products from sustainably managed forests;
  - d) exchange information on trade-related actions taken with respect to third countries on issues relevant to this article;
  - e) cooperate with each other and with third parties to identify capacity-building needs to combat illegal logging and associated trade;

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f) cooperate as appropriate in relevant international fora such as CITES, UN Forum on Forests, International Tropical Timber Council, FAO and the UNECE Committee on Forests and Forest-based Industries.

#### *Article 14*

#### ***Trade and sustainable management of fisheries and aquaculture products***

1. The Parties underline their commitment to the conservation and sustainable management of fisheries stocks and aquatic ecosystems as well as to sustainable and responsible aquaculture; and recognise the importance of international rules and agreements in these areas in particular the role of FAO and Regional Fisheries Management Organisations (RFMOs). The Parties also recognise that inadequate fisheries management, as well as illegal unreported and unregulated fishing (IUU-fishing) have significant negative impacts on sustainable development and the environment.
2. To this end, the Parties shall:
  - a) comply with conservation and management measures and sustainable exploitation of marine living resources as defined in the main UN and FAO instruments relating to these issues;
  - b) adhere to the principles of the United Nations Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU and the FAO Code of Conduct for Responsible Fisheries, and commit to promote further ratification of the relevant international instruments;
  - c) comply with conservation and management measures adopted by RFMOs to which they are a party, work towards achieving the objectives of the RFMOs they participate in, and strive to act consistently with relevant conservation and management measures adopted by Regional Fisheries Management Organisations of which the party is not a member so as not to undermine those measures and to promote the sustainable exploitation of marine living resources;
  - d) cooperate with and within RFMOs as widely as possible with the aim of achieving good fisheries governance and sustainable fisheries including through effective control, monitoring and enforcement of the RFMOs' control and management measures;
  - e) introduce and implement effective measures to combat IUU-fishing, including through port state measures, and to exclude IUU-fishing products from trade flows;
  - f) cooperate to address IUU fishing, including with and through relevant international organisations, as reflected in relevant regional and international instruments, including the 2001 International Plan of Action to Prevent, Deter, and Eliminate IUU Fishing, the 2009 Agreement on Port State measures to

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Prevent, Deter, and Eliminate IUU Fishing, and instruments establishing and adopted by RFMOs;

- g) implement Catch Documentation or Certification Schemes established by RFMOs, of which it is a member, for trade of fisheries products and work together towards the establishment of multilateral catch documentation and certification systems, including electronic schemes;
- h) promote the use of International Maritime Organisation numbers in order to enhance transparency of fleets and traceability of fishing vessels;
- i) support monitoring, control, surveillance and enforcement systems to deter vessels flying its flag and its persons from engaging in IUU fishing activities;
- j) cooperate with each other and with third parties to identify capacity-building needs to combat IUU fishing, and collaborate on outreach to third countries whose vessels engage in IUU fishing;
- k) promote the development of sustainable and responsible aquaculture, taking into account its economic, social and environmental aspects, including with regard to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries.

#### *Article 15*

##### ***Trade in and environmentally sound management of chemicals and waste***

1. The Parties underline their commitment to the environmentally sound management of chemicals throughout their life cycle and of waste, so as to prevent or minimise adverse effects on human health and the environment as essential contributions to all three dimensions of sustainable development, and recognise the importance of international rules and agreements in this area.

2. To this end, the Parties shall:

- a) formulate effective policies and take effective measures to prevent or minimise adverse effects on human health and the environment related to chemicals and waste;
- b) cooperate to promote globally the environmentally sound management of all types of waste, reduction of waste generation and using waste as a resource;
- c) take effective measures and cooperate to combat globally illegal shipments of all types of waste;
- d) promote active multi-stakeholder and multisectorial involvement, with particular emphasis on the special role of industry, recognising the multidimensional aspects of the sound management of chemicals and of waste, including trade;
- e) cooperate, as appropriate, at an international level to promote the effective environmentally sound management of chemicals and of waste, and the use of sound scientific information.

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#### *Article 16*

##### ***Working together on the environmental aspects of trade and sustainable development***

The Parties recognise the importance of working together on trade-related aspects of environmental policies in order to achieve the objectives of this Agreement. In this context, they shall consult and cooperate as appropriate at bilateral, regional and global levels, paying specific attention to developing countries and in particular LDCs, with respect to environmental matters of mutual interest. In addition to cooperation areas and activities identified elsewhere in this chapter, this may include, inter alia, cooperation on:

- a) promoting the conservation and sustainable use of biological diversity including matters related to natural resources such as wildlife, forestry, fisheries, and genetic resources;
- b) addressing desertification and land degradation;
- c) facilitating trade in environmental goods, services and technologies;
- d) addressing linkages between health and environment;
- e) marine issues, including governance of the oceans, also in areas beyond national jurisdiction;
- f) sustainable consumption and production;
- g) strategies and policies to promote trade contribution to resource efficiency, the green economy and the circular economy, including eco-innovation, and promoting participation in relevant international instruments;
- h) cooperation and information sharing on global enforcement of international commitments in these areas, including risk management.

#### **Section IV - Trade and Sustainable Development – Horizontal issues**

##### *Article 17*

##### ***Upholding levels of protection***

1. The Parties recognise that it is inappropriate to weaken or reduce the levels of protection afforded in domestic environmental or labour laws in order to encourage, or in a manner affecting, trade or investment.
2. A Party shall not waive or derogate from, or offer to waive or derogate from, its environmental or labour laws as an encouragement for, or in a manner affecting, trade or investment.

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3. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental or labour laws as an encouragement for, or in a manner affecting, trade or investment.

#### *Article 18*

##### ***Transparency and public participation***

1. Each Party, in accordance with Chapter ... [*Transparency*], shall ensure that any measures pursuing sustainable development objectives, particularly measures to protect the environment or labour conditions, that may affect trade or investment - or trade or investment measures that may affect the protection of the environment and labour conditions -, are developed, introduced, implemented and reviewed in a transparent manner.

2. To this end, each Party shall:

- a) encourage public dialogue with and among stakeholders, particularly non-state actors, including social partners and environmental interest groups, as regards the development and definition of priorities that may lead to the adoption by public authorities of such measures;
- b) take account of relevant scientific and technical information and international standards, guidelines or recommendations if they exist, including on risk management and precautionary approaches;
- c) ensure timely communication to, and consultation of, stakeholders, particularly non-state actors, including social partners and environmental interest groups, on such measures and their administration and review;
- d) promote, once they are adopted, awareness of these measures, including related enforcement and compliance procedures, by ensuring the availability of information to the public;
- e) recognise the role of stakeholders, particularly non-state actors, including social partners and environmental interest groups concerning the respect and enforcement of relevant domestic measures.

#### *Article 19*

##### ***Review of sustainability impacts***

1. The Parties recognise the importance of identifying options to address trade and sustainable development issues on the basis of a balanced assessment of the likely economic, social and environmental impacts of possible actions, taking account of the views of stakeholders, particularly non-state actors, including social partners and environmental interest groups.

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2. In this light, with a view to identifying any needs for accompanying measures or for joint actions that may arise under this Agreement, the Parties commit to, jointly or independently, reviewing, monitoring and assessing the impact of the implementation of this Agreement on sustainable development in their territories and globally, including the promotion of decent work and the protection of the environment, building on their respective participative processes and institutions, as well as those set up under this Agreement. In this context, they will pay specific attention to developing countries and in particular LDCs with a view to maximising the positive spill-over effects of this Agreement.

## *Article 20*

### *Corporate Social Responsibility and responsible business conduct*

1. The Parties recognise that Corporate Social Responsibility (CSR) and responsible business conduct, which refer to companies taking responsibility for their impact on society and to their actions over and above their legal obligations towards society and the environment, strengthen the contribution of trade and investment to a sustainable growth and contribute to the objectives of this Agreement to support high levels of environmental and labour protection. The Parties further recognise that CSR and responsible business conduct, by their voluntary nature build on and supplement the respect of domestic laws in these areas.

2. The Parties agree to promote CSR and responsible business conduct, including with regard to accountability and to adherence to, implementation, follow-up and dissemination of internationally agreed guidelines and principles. They agree to encourage the incorporation of these guidelines and principles into public initiatives by governments and into corporate policies and practices by companies and investors, including with regard to global supply chains, including through exchange of information and best practices.

3. In this regard, the Parties shall refer to and support internationally recognised guidelines and principles on CSR and responsible business conduct, including by endorsing, adhering to, or participating in, according to the nature of the instrument, the OECD Guidelines for Multinational Enterprises, the UN Global Compact, the UN Guiding Principles on Business and Human Rights, ISO 26000, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The Parties equally agree to facilitate progress in responsible business conduct by supporting actions which can allow for a greater uptake of these internationally recognised instruments among companies established in their respective territories.

4. Accordingly, the Parties shall cooperate to foster among both governments and private sector actors adherence, implementation, follow-up, and dissemination of internationally recognised instruments on CSR and responsible business conduct, including by promoting:

a) communication and exchanges of best practices between the National Contact Points established under the OECD Guidelines for Multinational Enterprises,



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b) awareness and encouragement of use of the tools and dialogue practices established under the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy,

c) sharing of experiences and best practices on the development and implementation of National Action Plans on the implementation of the UN Guiding Principles on Business and Human Rights or their integration in national CSR strategies.

5. The Parties agree to encourage disclosure by companies of social and environmental information, including by relying on the international frameworks referred to in paragraph 3, the Global Reporting Initiative, and other relevant frameworks.

#### *Article 21*

##### ***Voluntary sustainability assurance schemes***

The Parties recognise that impartial, open and transparent voluntary initiatives to protect the environment and labour rights through codes of conduct, standard schemes, labelling, certification, verification and other related corporate policies or public initiatives can contribute to the achievement and maintenance of high levels of environmental and labour protection and complement domestic regulatory measures, and agree to encourage, with involvement of stakeholders, the development of and participation in such initiatives, including voluntary sustainable assurance schemes such as fair and ethical trade schemes and eco-labels.