

*This **document** is the European Union's (EU) proposal for a legal text on trade and sustainable development in the EU-Indonesia FTA. It has been tabled for discussion with Indonesia. The actual text in the final agreement will be a result of negotiations between the EU and Indonesia.*

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.*

CHAPTER [XX]

TRADE AND SUSTAINABLE DEVELOPMENT

Article X.1

Objectives and Scope

1. The objective of this Chapter is to enhance the integration of sustainable development in the Parties' trade and investment relationship, notably by establishing principles and actions concerning labour¹ and environmental aspects of sustainable development of specific relevance in a trade and investment context.
2. The Parties recall the Agenda 21 and the Rio Declaration on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Declaration on Social Justice for a Fair Globalisation of 2008 of the International Labour Organisation (ILO), and the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want" and the UN 2030 Agenda for Sustainable Development of 2015.
3. Consistent with the instruments referred to in paragraph 2, the Parties shall promote:
 - (a) sustainable development, which encompasses economic development, social development and environmental protection, all three being inter-dependent and mutually reinforcing; and
 - (b) the development of international trade and investment in a way that contributes to the objective of sustainable development.

Article X.2

Right to Regulate and Levels of Protection

¹ For the purposes of this Chapter, the term "labour" means the strategic objectives of the ILO under the Decent Work Agenda, which is expressed in the ILO 2008 Declaration on Social Justice for a Fair Globalisation.

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish the levels of domestic environmental and labour protection it deems appropriate and to adopt or modify its relevant laws and policies. Such levels, laws and policies shall be consistent with each Party's commitment to the internationally recognised standards and agreements referred to in Articles X.3 (Multilateral Labour Standards and Agreements) and X.4 (Multilateral Environmental Governance and Agreements).
2. Each Party shall ensure that its relevant laws and policies provide for and encourage a high level of environmental and labour protection and shall strive to improve such laws and policies and their underlying levels of protection.
3. The Parties should not weaken the levels of protection afforded in domestic environmental or labour laws in order to encourage trade or investment.
4. A Party shall not waive or derogate from, or offer to waive or derogate from, its environmental or labour laws in order to encourage trade or investment.
5. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental or labour laws in order to encourage trade or investment.

Article X.3

Multilateral Labour Standards and Agreements

1. The Parties reaffirm their commitment to promote the development of international trade in a way that is conducive to decent work for all.
2. In accordance with the ILO Constitution 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, each Party shall respect, promote and effectively implement in their laws and practices the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are:
 - (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; and
 - (d) the elimination of discrimination in respect of employment and occupation.
3. The Parties shall regularly exchange information on their respective progress with regard to the ratification of ILO Conventions or protocols that are classified as up-to-date by the ILO to which they are not yet party.

Recalling that the elimination of forced labour is among the objectives of the Agenda 2030, the Parties underline the importance of ratification and effective implementation of the 2014 Protocol to the Convention on Forced Labour.

4. In order to support multilateral governance and a level playing field, each Party shall effectively implement the ILO Conventions and Protocols ratified by Indonesia and by the Member States of the Union respectively.
5. The Parties shall consult and cooperate, as appropriate, on trade-related labour issues of mutual interest, including in the context of the ILO.
6. Recalling the ILO Declaration on Social Justice for a Fair Globalisation of 2008, the Parties note 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 protectionist trade purposes.
7. Each Party shall promote decent work as expressed in the Declaration on Social Justice for a Fair Globalization of 2008 adopted by the International Labour Conference at its 97th Session.
8. Particular attention shall be paid by each Party to:
 - (a) developing and enhancing measures for occupational safety and health, including prevention of occupational injury or illness and compensation in cases of such injury or illness, as defined in the relevant ILO Conventions and other international commitments;
 - (b) decent working conditions for all, with regard to, inter alia, wages and earnings, working hours and other conditions of work;
 - (c) labour inspection, in particular through effective implementation of relevant ILO standards on labour inspection aimed at securing the enforcement of legal provisions relating to working conditions and the protection of workers; and
 - (d) non-discrimination in respect of working conditions, including for migrant workers.

Article X.4

Multilateral Environmental Governance and Agreements

1. The Parties recognise the importance of multilateral environmental governance and 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 environment policies.
2. In order to support multilateral governance and a level playing field, each Party shall effectively implement the multilateral environmental agreements (hereinafter referred to as “MEAs”), protocols and amendments to which it is a party.

3. The Parties shall regularly exchange information on their respective progress as regards the ratifications of MEAs, including their protocols and amendments.
4. The Parties shall consult and cooperate, as appropriate, on trade-related environmental matters of mutual interest, including in the context of multilateral environmental agreements.
5. The Parties acknowledge the right of each Party to further the objectives of MEAs to which it is a party.

Article X.5

Trade and Climate Change

1. The Parties recognise the importance of pursuing the ultimate objective of the United Nations Framework Convention on Climate Change (hereinafter referred to as “UNFCCC”) in order to address the urgent threat of climate change and the role of trade to this end.
2. Pursuant to paragraph 1, each Party shall:
 - (a) effectively implement the UNFCCC and the Paris Agreement established thereunder;
 - (b) promote the positive contribution of trade to the transition to a low-carbon economy and to climate-resilient development; and
 - (c) cooperate with the other Party on trade-related climate change issues bilaterally, regionally and in international fora as appropriate, including in the UNFCCC, the WTO and the Montreal Protocol on Substances that Deplete the Ozone Layer.

Article X.6

Trade and Biological Diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity and the role of trade in pursuing these objectives, consistent with the Convention on Biological Diversity (hereinafter referred to as “CBD”), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter referred to as “CITES”), other relevant international instruments to which they are a party, and the decisions adopted thereunder.
2. Pursuant to paragraph 1, each Party shall:
 - (a) implement effective measures to combat illegal wildlife trade, including with respect to third countries, as appropriate;

- (b) promote the inclusion of animal and plant species in the Appendices to the CITES where the conservation status of that species is considered at risk because of international trade;
- (c) promote trade in products obtained through a sustainable use of biological resources and contributing to the conservation of biodiversity, including with regard to combating deforestation;
- (d) exchange information with the other Party on initiatives on trade with the aim of conserving biological diversity; and
- (e) cooperate with the other Party bilaterally, regionally and in international fora on issues concerning trade and the conservation and sustainable use of biological diversity as well as illegal wildlife trade, including initiatives to reduce demand for illegal wildlife products.

Article X.7

Trade and Sustainable Management of Forests

1. The Parties recognise the importance of sustainable forest management and the role of trade in pursuing this objective.
2. Pursuant to paragraph 1, each Party shall:
 - (a) encourage the conservation and sustainable management of forests and the promotion of trade and consumption of timber and timber products from sustainably managed forests;
 - (b) implement measures to combat illegal logging and related trade, including, as appropriate, with respect to third countries, and promote trade in legally harvested forest products, in particular through the implementation of the EU-Indonesia Forest Law Enforcement Governance and Trade Voluntary Partnership Agreement;
 - (c) exchange information with the other Party on trade-related initiatives on sustainable forest management, forest governance and on the conservation of forest cover and cooperate to maximise the impact and ensure the mutual supportiveness of their respective policies of mutual interest; and
 - (d) cooperate with the other Party bilaterally, regionally and in international fora on issues concerning trade and the conservation of forests as well as sustainable forest management.

Article X.8

Trade and Sustainable Management of Marine Biological Resources and Aquaculture

1. The Parties recognise the importance of conserving and sustainably managing, in a way that is consistent with achieving economic, social and environmental benefits, marine biological resources and their ecosystems as well as of promoting responsible and sustainable aquaculture, and the role of trade in pursuing these objectives.
2. Pursuant to paragraph 1, each Party shall:
 - (a) implement long-term conservation and management measures and sustainable exploitation of marine living resources as defined in the main UN and FAO instruments relating to these issues²;
 - (b) act consistent with the principles of the UN Convention on the Law of the Sea, the 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 Code of Conduct for responsible Fisheries and the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate illegal, unreported and unregulated (hereinafter referred to as “IUU”) fishing;
 - (c) cooperate actively in the work of the Regional Fisheries Management Organisations (hereinafter referred to as “RFMOs”) to which they are members, observers, or cooperating non-contracting parties, with the aim of ensuring the sustainable exploitation, management and conservation of marine biological resources and the marine environment. This includes the adoption of management, conservation and control measures by those RFMOs and their effective implementation and enforcement, including, where applicable, Catch Documentation or Certification Schemes;
 - (d) implement comprehensive, effective and transparent measures to combat IUU fishing, implement effective policies and measures to exclude IUU products from trade flows, and cooperate to this end, including by facilitating the exchange of information;
 - (e) cooperate with and within RFMOs and other international fora with the aim of achieving sustainable fisheries management; and
 - (f) promote the development of sustainable and responsible aquaculture, including with regard to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries.

Article X.9

Trade and Responsible Management of Supply Chains

² The UN Convention on the Law of the Sea of 1982, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 1993, the UN Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995, the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of 2009.

1. The Parties recognise the importance of sustainable and responsible management of supply chains through responsible business conduct and corporate social responsibility practices and through the provision of an enabling environment, and the role of trade in pursuing the objective of sustainable and responsible management of supply chains.
2. Pursuant to paragraph 1, each Party shall:
 - (a) promote corporate social responsibility or responsible business conduct, including by encouraging the uptake of relevant practices by businesses; and
 - (b) support the dissemination and use of relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact and the UN Guiding Principles on Business and Human Rights.
3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility or responsible business conduct³ and shall promote joint work in this regard. The Parties shall also implement measures to promote their uptake.
4. The Parties shall exchange information as well as best practices and, as appropriate, cooperate with the other Party, regionally and in international fora on issues covered by this Article.

Article X.10

Other Trade- and Investment-related Initiatives Favouring Sustainable Development

1. The Parties confirm their commitment to enhance the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions.
2. Pursuant to paragraph 1, the Parties shall:
 - (a) promote trade and investment policies that support the objectives of the Decent Work Agenda, consistent with the 2008 ILO Declaration on Social Justice for a Fair Globalisation, including the minimum living wage, inclusive social protection, health and safety at work, and other aspects related to working conditions;
 - (b) facilitate trade and investment in environmental goods and services, including those of particular relevance for climate change mitigation such as sustainable renewable energy and energy efficient products and services, through inter alia

³ The OECD-FAO Guidance for Responsible Agricultural Supply Chains, the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements, the OECD Due Diligence Guidance for Meaningful Stakeholders Engagement in the Extractive sectors, the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector.

addressing related non-tariff barriers, the adoption of policy frameworks conducive to the deployment of best available technologies and cooperating in relation to initiatives in this field;

- (c) promote trade in goods that contribute to enhanced social conditions and environmentally sound practices, including goods that are the subject of voluntary sustainability assurance schemes such as fair and ethical trade schemes and eco-labels; and
- (d) cooperate bilaterally, regionally and in international fora on issues covered by this Article.

Article X.11

Scientific and Technical Information

When establishing or implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, each Party shall take into account available scientific and technical information, relevant international standards, guidelines or recommendations, including the precautionary principle. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent labour hazards and environmental degradation.

Article X.12

Transparency

Each Party shall, in accordance with Chapter XX [Transparency], ensure that it develops, enacts and implements:

- (a) measures aimed at protecting the environment and labour conditions that may affect trade or investment; or
- (b) trade or investment measures that may affect the protection of the environment or labour conditions,

in a transparent manner, providing opportunities for non-state actors to submit views.

Article X.13

Working Together on Trade and Sustainable Development

The Parties recognise the importance of working together in order to achieve the objectives of this Chapter. They may work jointly on inter alia:

- (a) labour and environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the ILO, UN Environment, and MEAs;

- (b) the impact of labour and environmental law and standards on trade and investment; and
- (c) the impact of trade and investment law on labour and the environment;

as well as on trade-related aspects of:

- (d) the implementation of MEAs and fundamental, priority and other up-to-date ILO Conventions of relevance in a trade context;
- (e) the ILO Decent Work Agenda, including on the inter-linkages between trade and full and productive employment, labour market adjustment, core labour standards, occupational health and safety, labour inspection, decent work in global supply chains, social protection and social inclusion, social dialogue, skills development and gender equality;
- (f) MEAs, including customs cooperation and support for each other's participation in MEAs;
- (g) the current and future international climate change regime, including means to promote low-carbon technologies and energy efficiency;
- (h) the Montreal protocol and Kigali Amendment, in particular measures to control the production and consumption of and trade in Ozone Depleting Substances (ODS) and Hydrofluorocarbons (HFCs), introduction of environmentally friendly alternatives, updating of standards and combating illegal trade of substances regulated by these agreements.;
- (i) transparent private and public sustainability assurance schemes, including eco-labelling;
- (j) corporate social responsibility, responsible business conduct, responsible management of global supply chains and accountability, including with regard to adherence, implementation, follow-up, and dissemination of internationally agreed instruments;
- (k) the sound management of chemicals and waste; and
- (l) the promotion of the conservation and sustainable use of biological diversity, including combatting illegal wildlife trade, as referred to in Article X.6 (Trade and Biological Diversity);
- (m) the promotion of the conservation and sustainable management of forests with a view to reducing deforestation and illegal logging, as referred to in Article X.7 (Trade and Sustainable Management of Forests); and
- (n) the promotion of sustainable fishing practices and trade in sustainably managed fish products, as referred to in Article X.8 (Trade and Sustainable Management of Marine Biological Resources and Aquaculture).

Article X.14

[Body⁴] on Trade and Sustainable Development and Contact Points⁵

1. The Parties hereby establish a [body] on Trade and Sustainable Development (hereafter referred to as "..."). The [body] shall comprise senior officials from each Party, or their delegates.
2. The [body] shall meet [within the first year after the date this Agreement enters into force, unless otherwise agreed by the Parties, and thereafter as necessary]⁶ in accordance with Article X.X of Chapter XX [Institutional Provisions].
3. The functions of the [body] are to:
 - (a) facilitate and monitor the implementation of this Chapter, including joint actions undertaken under Article X.12 (Transparency);
 - (b) carry out the tasks referred to in Articles X.X and X.X [Dispute Settlement Procedures];
 - (c) make recommendations to the [Joint Committee], including with regard to topics for discussion with [the civil society mechanisms] referred to in Article X.X of Chapter XX⁷; and
 - (d) consider any other matter related to this Chapter as the Parties may agree.

[3bis. This [body] shall establish its own rules of procedure.⁸]

4. Each Party shall designate a Contact Point within its administration to facilitate communication and coordination between the Parties on any matter relating to the implementation of this Chapter.

[Note: The EU will table dispute settlement provisions at a later stage]

⁴ Note: The name of the "body" will be determined in accordance with the overall institutional structure of the Agreement and terminology.

⁵ Note: Discussions on the text proposed for this Article are without prejudice to horizontal discussions on the institutional mechanisms and structures under the FTA.

⁶ Note: The bracketed text will be determined in accordance with horizontal provisions on the institutional mechanisms and structures under the FTA.

⁷ Note: The bracketed text will be determined in accordance with horizontal provisions on the institutional mechanisms and structures under the FTA.

⁸ Note: paragraph 3bis is to be included only in case there is no horizontal institutional provision on the rules of procedure for specialised committees.