

CHAPTER 13

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 227

Context and objectives

1. The Parties recall the Agenda 21 of the United Nations Conference on Environment and Development of 1992, the International Labour Organisation's (ILO) Declaration on Fundamental Principles and Rights at Work of 1998, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the United Nations Economic and Social Council on Generating Full and Productive Employment and Decent Work for All of 2006, and the ILO Declaration on Social Justice for a Fair Globalisation of 2008. 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, for the welfare of present and future generations, and to ensure that this objective is integrated and reflected at every level of their trade relationship.

2. The Parties reaffirm their commitment to pursue sustainable development and recognise that economic development, social development and environmental protection are its interdependent and mutually reinforcing pillars. They underline the benefit of considering trade-related labour¹ and environmental issues as part of a global approach to trade and sustainable development.

¹ When labour is referred to in this Chapter, it includes the issues 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.

ARTICLE 228

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 establish its own levels of domestic environmental and labour protection, and to adopt or modify accordingly its relevant law and policies, consistently with their commitment to the internationally recognised standards and agreements referred to in Articles 229 and 230 of this Agreement.

2. In that context, each Party shall strive to ensure that its law and policies provide for and encourage high levels of environmental and labour protection and shall strive to continue to improve its law and policies and the underlying levels of protection.

ARTICLE 229

Multilateral labour standards and agreements

1. The Parties recognise full and productive employment and decent work for all as key elements for managing globalisation, and reaffirm their commitment to promote the development of international trade in a way that is conducive to full and productive employment and decent work for all. In this context, the Parties commit to consulting and cooperating as appropriate on trade-related labour issues of mutual interest.

2. In accordance with their obligations as members 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, the Parties commit to respecting, promoting and realising in their law and practice and in their whole territory the internationally recognised core labour standards, as embodied in the fundamental ILO conventions, and in particular:

- (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.

3. The Parties reaffirm their commitment to effectively implement in their law and practice the fundamental, the priority and other ILO conventions ratified by Georgia and the Member States respectively.

4. The Parties will also consider the ratification of the remaining priority and other conventions that are classified as up-to-date by the ILO. The Parties shall regularly exchange information on their respective situation and developments in this regard.

5. 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 protectionist trade purposes.

ARTICLE 230

Multilateral environmental governance and agreements

1. The Parties recognise the value of multilateral environmental governance and agreements as a response of the international community to global or regional environmental problems, and stress the need to enhance the mutual supportiveness between trade and environmental policies. In this context, the Parties commit to consult and cooperate as appropriate with respect to negotiations on trade-related environmental issues and with respect to other trade-related environmental matters of mutual interest.
2. The Parties reaffirm their commitment to effectively implement in their law and practice the multilateral environmental agreements (MEAs) to which they are party.
3. The Parties shall regularly exchange information on their respective situation and advancements as regards ratifications of MEAs or amendments to such agreements.
4. The Parties reaffirm their commitment to reaching the ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC) and the Protocol thereto (Kyoto Protocol). They commit to cooperate on the development of the future international climate change framework under the UNFCCC and its related agreements and decisions.
5. Nothing in this Agreement shall prevent the Parties from adopting or maintaining measures to implement the MEAs to which they are 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 231

Trade and investment promoting sustainable development

The Parties reconfirm their commitment to enhance the contribution of trade to the goal of sustainable development in its economic, social and environmental dimensions. Accordingly:

- (a) the Parties recognise the beneficial role that core labour standards and decent work can have on economic efficiency, innovation and productivity, and they shall seek greater policy coherence between trade policies, on the one hand, and labour policies on the other;
- (b) the Parties shall strive to facilitate and promote trade and investment in environmental goods and services, including through addressing related non-tariff barriers;
- (c) the Parties shall strive to facilitate the removal of obstacles to trade or investment concerning goods and services of particular relevance to climate change mitigation, such as sustainable renewable energy and energy efficient products and services. This may include the adoption of appropriate technologies and the promotion of standards that respond to environmental and economic needs and minimise technical obstacles to trade;
- (d) the Parties agree to 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;
- (e) the Parties agree to promote corporate social responsibility, including through exchange of information and best practices. In this regard, the Parties refer to the relevant internationally recognised principles and guidelines, especially the OECD Guidelines for Multinational Enterprises.

ARTICLE 232

Biological diversity

1. The Parties recognise the importance of ensuring the conservation and the sustainable use of biological diversity as a key element for the achievement of sustainable development, and reaffirm their commitment to conserve and sustainably use biological diversity, in accordance with the Convention on Biological Diversity and other relevant international instruments to which they are party.

2. To that end, the Parties commit to:
 - (a) promoting trade in natural resource-based products obtained through a sustainable use of biological resources and contributing to the conservation of biodiversity;

 - (b) exchanging information on actions on trade in natural resource-based products aimed at halting the loss of biological diversity and reducing pressures on biodiversity and, where relevant, cooperating to maximise the impact and ensure the mutual supportiveness of their respective policies;

 - (c) promoting the listing of species under Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) where the conservation status of those species is considered at risk; and

 - (d) cooperating at the regional and global levels with the aim of promoting the conservation and the sustainable use of biological diversity in natural or agricultural ecosystems, including endangered species, their habitat, specially protected natural areas and genetic diversity; 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.

ARTICLE 233

Sustainable management of forests and trade in forest products

1. The Parties recognise the importance of ensuring the conservation and the sustainable management of forests and of forests' contribution to the Parties' economic, environmental and social objectives.
2. To that end, the Parties commit to:
 - (a) promoting trade in forest products derived from sustainably managed forests, harvested in accordance with the domestic legislation of the country of harvest, which could include bilateral or regional agreements to that end;
 - (b) exchanging information on measures to promote the consumption of timber and timber products from sustainably managed forests and, where relevant, cooperate to developing such measures;
 - (c) adopting measures to promote the conservation of forest cover and combat illegal logging and related trade, including with respect to third countries, as appropriate;
 - (d) exchanging information on actions for improving forest governance and where relevant cooperating to maximise the impact and ensure the mutual supportiveness of their respective policies aiming at excluding illegally harvested timber and timber products from trade flows;
 - (e) promoting the listing of timber species under CITES where the conservation status of those species is considered at risk; and
 - (f) cooperating at the regional and the global levels with the aim of promoting the conservation of forest cover and the sustainable management of all types of forests.

ARTICLE 234

Trade in fish products

Taking into account the importance of ensuring responsible management of fish stocks in a sustainable manner as well as promoting good governance in trade, the Parties commit to:

- (a) promoting best practices in fisheries management with a view to ensuring the conservation and the management of fish stocks in a sustainable manner, and based on the ecosystem approach;
- (b) taking effective measures to monitor and control fishing activities;
- (c) complying with long-term conservation measures and sustainable exploitation of marine living resources as defined in the main UN and FAO instruments relating to these issues;
- (d) promoting coordinated data collection schemes and scientific cooperation between the Parties in order to improve current scientific advice for fisheries management;
- (e) cooperating with and within relevant Regional Fisheries Management Organisations as widely as possible; and
- (f) cooperating in the fight against illegal, unreported and unregulated (IUU) fishing and fishing related activities with comprehensive, effective and transparent measures. The Parties shall also implement policies and measures to exclude IUU products from trade flows and their markets.

ARTICLE 235

Upholding levels of protection

1. The Parties recognise that it is inappropriate to encourage trade or investment by lowering the levels of protection afforded in domestic environmental or labour law.
2. A Party shall not waive or derogate from, or offer to waive or derogate from, its environmental or labour law as an encouragement for trade or the establishment, the acquisition, the expansion or the retention of an investment of an investor in its territory.
3. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental and labour law, as an encouragement for trade or investment.

ARTICLE 236

Scientific information

When preparing and implementing measures aimed at protecting the environment or labour conditions that may affect trade or investment, the Parties shall take account of available scientific and technical information, and relevant international standards, guidelines or recommendations if they exist. In this regard, the Parties may also use the precautionary principle.

ARTICLE 237

Transparency

Each Party, in accordance with its domestic law and Chapter 12 (Transparency) of Title IV (Trade and Trade-related Matters) of this Agreement, shall ensure that any measure aimed at protecting the environment or labour conditions that may affect trade or investment is developed, introduced and implemented in a transparent manner, with due notice and public consultation, and with appropriate and timely communication to and consultation of non-state actors.

ARTICLE 238

Review of sustainability impacts

The Parties commit to reviewing, monitoring and assessing the impact of the implementation of Title IV (Trade and Trade-related Matters) of this Agreement on sustainable development through their respective participative processes and institutions, as well as those set up under this Agreement, for instance through trade-related sustainability impact assessments.

ARTICLE 239

Working together on trade and sustainable development

The Parties recognise the importance of working together on trade-related aspects of environmental and labour policies in order to achieve the objectives of Title IV (Trade and Trade-related Matters) of this Agreement. They may cooperate in, inter alia, the following areas:

- (a) labour or environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the ILO, United Nations Environment Programme, and MEAs;
- (b) methodologies and indicators for trade sustainability impact assessments;
- (c) the impact of labour and environment regulations, norms and standards on trade, as well as the impact of trade and investment rules on labour and environmental law, including on the development of labour and environmental regulations and policy;
- (d) the positive and negative impacts of Title IV (Trade and Trade-related Matters) of this Agreement on sustainable development and ways to enhance, prevent or mitigate them, respectively, also taking into account the sustainability impact assessments carried out by either or both Parties;
- (e) exchanging views and best practices on promoting the ratification and the effective implementation of fundamental, priority and other up-to-date ILO conventions and MEAs of relevance in a trade context;
- (f) promoting private and public certification, traceability and labelling schemes, including eco-labelling;
- (g) promoting corporate social responsibility, for instance through actions concerning

awareness raising, implementation and dissemination of internationally recognised guidelines and principles;

- (h) trade related aspects of the ILO Decent Work Agenda, including on the interlink between trade and full and productive employment, labour market adjustment, core labour standards, labour statistics, human resources development and lifelong learning, social protection and social inclusion, social dialogue and gender equality;
- (i) trade-related aspects of MEAs, including customs cooperation;
- (j) trade-related aspects of the current and future international climate change regime, including means to promote low-carbon technologies and energy efficiency;
- (k) trade-related measures to promote the conservation and the sustainable use of biological diversity;
- (l) trade-related measures to promote the conservation and sustainable management of forests, thereby reducing pressure on deforestation including with regard to illegal logging; and
- (m) trade-related measures to promote sustainable fishing practices and trade in sustainably managed fish products.

ARTICLE 240

Institutional set-up and overseeing mechanisms

1. Each Party shall designate a contact point within its administration that shall serve as the contact point with the other Party for purposes of implementing this Chapter.
2. The Trade and Sustainable Development Sub-Committee is hereby established. It shall report on its activities to the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement. It shall comprise senior officials from within the administrations of each Party.
3. The Trade and Sustainable Development Sub-Committee shall meet within the first year after the date this Agreement enters into force, and thereafter as necessary, to oversee the implementation of this Chapter, including cooperative activities undertaken under Article 239 of this Agreement. That Sub-Committee shall establish its own rules of procedure.
4. Each Party shall convene new or consult existing domestic advisory group(s) on sustainable development with the task of advising on issues relating to this Chapter. Such group(s) may submit views or recommendations on the implementation of this Chapter, including on its (their) own initiative.
5. The domestic advisory group(s) shall comprise independent representative organisations of civil society in a balanced representation of economic, social, and environmental stakeholders, including, among others, employers and workers organisations, non-governmental organisations, business groups, as well as other relevant stakeholders.

ARTICLE 241

Joint Civil Society Dialogue Forum

1. The Parties shall facilitate a joint forum with civil society organisations established in their territories, including members of their domestic advisory group(s), and the public at large to conduct a dialogue on sustainable development aspects of this Agreement. The Parties shall promote a balanced representation of relevant interests, including independent representative organisations of employers, workers, environmental interests and business groups, as well as other relevant stakeholders, as appropriate.
2. The joint civil society dialogue forum shall be convened once a year unless otherwise agreed by the Parties. The Parties shall agree on the operation of the joint civil society dialogue forum no later than one year after the entry into force of this Agreement.
3. The Parties shall present an update on the implementation of this Chapter to the joint civil society dialogue forum. The views and the opinions of a joint civil society dialogue forum shall be submitted to the Parties and shall be publicly available.

ARTICLE 242

Government consultations

1. For any matter arising under this Chapter the Parties shall only have recourse to the procedures established under this Article and Article 243 of this Agreement.
2. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the contact point of the other Party. The request shall present the matter clearly, identifying the problem at issue and providing a brief summary of the claims under this Chapter. Consultations shall start promptly after a Party delivers a request for consultations.
3. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. The Parties shall take into account the activities of the ILO or relevant multilateral environmental organisations or bodies so as to promote greater cooperation and coherence between the work of the Parties and these organisations. Where relevant, the Parties may seek advice from these organisations or bodies, or any person or body they deem appropriate, in order to fully examine the matter.
4. If a Party considers that the matter needs further discussion, that Party may request that the Trade and Sustainable Development Sub-Committee be convened to consider the matter by delivering a written request to the contact point of the other Party. That Sub-Committee shall convene promptly and endeavour to agree on a resolution of the matter.
5. Where appropriate, that Sub-Committee may seek the advice of the domestic advisory group(s) of either or both Party(ies) or other expert assistance.
6. Any resolution reached by the consulting Parties on the matter shall be made publicly available.

ARTICLE 243

Panel of Experts

1. Each Party may, 90 days after the delivery of a request for consultations under Article 242(2) of this Agreement, request that a Panel of Experts be convened to examine a matter that has not been satisfactorily addressed through government consultations.
2. The provisions of Sub-Section 1 (Arbitration procedure) and Sub-Section 3 (Common provisions), of Section 3 (Dispute settlement procedures), and of Article 270 of Chapter 14 (Dispute Settlement) of Title IV (Trade and Trade-related Matters) of this Agreement, as well as the Rules of Procedure in Annex XX to this Agreement and the Code of Conduct for Arbitrators and Mediators ("Code of Conduct") set out in Annex XXI to this Agreement shall apply, except as otherwise provided in this Article.
3. At its first meeting after the entry into force of this Agreement, the Trade and Sustainable Development Sub-Committee shall establish a list of at least 15 individuals who are willing and able to serve as experts in panel procedures. Each Party shall propose at least five individuals to serve as experts. The Parties shall also select at least five individuals who are not nationals of either Party who may serve as chairperson to the Panel of Experts. The Trade and Sustainable Development Sub-Committee shall ensure that the list is always maintained at this level.
4. The list referred to in paragraph 3 of this Article shall comprise individuals with specialised knowledge or expertise in law, labour or environmental issues addressed in this Chapter, or the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to issues related to the matter at stake, or be affiliated with the government of any Party, and shall comply with Annex XXI to this Agreement.

5. For matters arising under this Chapter, the Panel of Experts shall be composed of experts from the list referred to in paragraph 3 of this Article, in accordance with Article 249 of this Agreement and rule 8 of the Rules of Procedure set out in Annex XX to this Agreement.

6. The Panel of Experts may seek information and advice from either Party, the domestic advisory group(s) or any other source it deems appropriate. In matters related to the respect of multilateral agreements as set out in Article 229 and 230 of this Agreement, the Panel of Experts should seek information and advice from the ILO or MEA bodies.

7. The Panel of Experts shall issue its report to the Parties, in accordance with the relevant procedures set out in Chapter 14 (Dispute Settlement) of Title IV (Trade and Trade-related Matters) of this Agreement, setting out the findings of facts, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations that it makes. The Parties shall make the report publicly available within 15 days of its issuance.

8. The Parties shall discuss appropriate measures to be implemented taking into account the Panel of Experts' report and recommendations. The Party concerned shall inform its advisory groups and the other Party of its decisions on any action or measure to be implemented no later than three months after the public release of the report. The follow-up to the report and the recommendations of the Panel of Experts shall be monitored by the Trade and Sustainable Development Sub-committee. The advisory bodies and the Joint Civil Society Dialogue Forum may submit observations to the Trade and Sustainable Development Sub-Committee in this regard.