This document contains the consolidated text resulting from the 28th round of negotiations (3-7 July 2017) on Trade and Sustainable Development in the Trade Part of the EU-Mercosur Association Agreement. This is without prejudice to the final outcome of negotiations. Both sides reserve the right to make subsequent modifications to their proposals.

EU Mercosur Negotiations

Trade and Sustainable Development

Draft Consolidated Text

Green: EU proposal

Blue: Mercosur [MCS] proposal

Red: text pending confirmation of the parties

CHAPTER
TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 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 labour[1] 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 Declaration on Sustainable Development and the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the United Nations Economic and Social Council on Creating an environment at the national and international levels conducive to

[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 Globalization.

generating full and productive employment and decent work for all, and its impact on sustainable development of 2006, the Declaration on Social Justice for a Fair Globalization 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 document "Transforming our World: The 2030 Agenda for Sustainable Development", adopted in 2015.

3. The Parties recognise that the economic, social and environmental dimensions are interdependent and mutually reinforcing dimensions of sustainable development, and 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.

4. Consistent with the instruments referred to in Paragraph 2, the Parties shall promote sustainable development through:

   (a) The development of trade and economic relations in a manner that contributes to the objective of achieving the Sustainable Development Goals and supports their respective labour and environmental standards and objectives in a context of trade relations that are free, open, transparent, and respectful of multilateral agreements to which they are Party.
   (b) The respect of their multilateral commitments in the fields of labour and of the environment.
   (c) Enhanced cooperation and understanding of their respective labour, and environmental trade-related policies and measures, taking into account the different national realities, capacities, needs and levels of development and respecting national policies and priorities.
   (d) [[EU: a trade [MCS: and cooperative] relationship that promotes] the dissemination and use of practices and technologies that contribute to the achievement of the Sustainable Development Goals.]

5. Recognising the differences in their levels of development, the Parties agree that this Chapter embodies a cooperative approach based on common values and interests.

ARTICLE 2

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 the levels of domestic environmental and labour protection it deems appropriate and to adopt or modify its law and policies. Such levels, law and policies shall be consistent with each Party's commitment to the international agreements and labour standards referred to in Articles 5 and 6.

2. Each Party shall strive to improve its relevant laws and policies so as to ensure high and effective levels of environmental and labour protection.

3. The Parties should not weaken the [EU: levels of] protection afforded in domestic environmental or labour law 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.

6. A Party shall not apply environmental and labour laws in a manner that would constitute a disguised restriction on trade or an unjustifiable or arbitrary discrimination.[2]

[2] To be discussed in the light of general exceptions "clause" in other chapters.

ARTICLE 3

Transparency[3]

1. Each Party shall, in accordance with Chapter XX *[Transparency]* and its domestic law, ensure that the development, enactment and implementation of:
   (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

   is done in a transparent manner, ensuring awareness and encouraging public participation.

ARTICLE 4

Multilateral Labour Standards and Agreements

1. Affirming the value of greater policy coherence in decent work, encompassing core labour standards, and high levels of labour protection, coupled with their effective enforcement, the Parties recognise the beneficial role that those areas can have on economic efficiency, innovation and productivity, including export performance. In this context, they also recognise the importance of social dialogue on labour matters among workers and employers, and their respective organisations, and governments, and commit to the promotion of such dialogue.

2. The Parties reaffirm their commitment to promote the development of international trade in a way that is conducive to decent work for all, including for women and young people.

3. 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 the internationally recognised core labour standards, as defined

[3] Depending on the discussion of the working group dealing with Transparency.

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.

4. Each Party shall make continued and sustained efforts towards ratifying the [EU: fundamental] ILO Conventions and Protocols to which they are not yet Parties, [MCS: in accordance with its constitutional and legal framework.]

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

6. The Parties shall regularly exchange information on their respective progress with regard to ratification of the fundamental ILO Conventions and related Protocols and of other ILO Conventions or protocols to which they are not yet party and that are classified as up-to-date by the ILO.

7. Recalling paragraph 2, each Party reaffirms its commitment to promote and effectively implement the ILO Conventions and Protocols ratified by the signatory Mercosur States and by the Member States of the European Union respectively and classified as up-to-date by the ILO.

8. The Parties shall consult and cooperate, as appropriate, on trade-related labour issues of mutual interest, including in the context of the ILO.

9. Recalling the ILO Declaration of Fundamental Principles and Rights at Work of 1998 and the ILO Declaration on Social Justice for a Fair Globalization 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.

10. Each Party shall promote decent work as provided by the Declaration on Social Justice for a Fair Globalization of 2008 adopted by the International Labour Conference at its 97th Session. Particular attention shall be paid by each Party to:
    (a) developing and enhancing measures for occupational safety and health, including compensation in case of occupational 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 inspections;
    (d) non-discrimination in respect of working conditions, including for migrant workers.

11. Each Party shall ensure that administrative and judicial proceedings are accessible and available in order to permit effective action to be taken against infringements of labour rights referred to in this Chapter.

ARTICLE 5

Multilateral Environmental Agreements

1. The Parties recognise that the environment is one of the three dimensions of sustainable development and that its three dimensions – economic, social and environmental – should be addressed in a balanced and integrated manner. Additionally, the Parties recognise the contribution that trade could make to sustainable development.

2. The Parties recognise the importance of the United Nations Environment Assembly (UNEA) of the United Nations Environment Programme (UNEP) and multilateral environmental 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.

3. Recalling the above paragraphs, each Party reaffirms its commitments to promote and

effectively implement, in accordance with its legal framework, multilateral environmental agreements (MEAs), protocols and their amendments [EU: to which it is a party] [MCS: applicable to the Parties.]

4. The Parties shall regularly exchange information on their respective progress as regards the ratifications of MEAs, including their protocols and amendments.

5. The Parties shall consult and cooperate, as appropriate, on trade-related environmental matters of mutual interest, in the context of multilateral environmental agreements.

6. [The Parties acknowledge their right to invoke Article [*insert article number – General Exceptions*] in relation to environmental measures, including those taken pursuant to multilateral environmental agreements to which [MS: the Parties] [EU: they] are party.[4]

7. Nothing in this agreement shall prevent Parties from adopting or maintain 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.[5]]

ARTICLE 6

Trade and Climate Change

1. The Parties recognise the importance of pursuing the ultimate objective of the United Nations Framework Convention on Climate Change (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;

[4] To be discussed in the light of general exceptions "clause".
[5] To be discussed in the light of general exceptions "clause".

(b) consistent with Article 2 of the Paris Agreement, promote the positive contribution of trade to a pathway towards low greenhouse gas emissions and climate-resilient development and to increasing the ability to adapt to the adverse impacts of climate change [MCS: in a manner that does not threaten food production];

(c) cooperate, as appropriate, with the other Party on trade-related climate change issues bilaterally, regionally and in international fora, particularly in the UNFCCC, as well as in other fora such as the WTO and the Montreal Protocol on Substances that Deplete the Ozone Layer.

ARTICLE 7[6]

Trade and Biodiversity

1. The Parties recognise the importance of the conservation and sustainable use of biological diversity consistent with the Convention on Biological Diversity (CBD), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Treaty on Plant Genetic Resources for Food and Agriculture, and the decisions adopted thereunder [EU: and the role that trade can play in contributing to these objectives].

2. Pursuant to Paragraph 1, each Party shall:

(a) 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 and implement effective measures leading to a reduction of illegal trade in wildlife;

(b) promote trade in natural resource-based products obtained through a sustainable use of biological resources or which contribute to the conservation of biodiversity, in accordance with domestic laws;

(c) [MCS: promote the establishment of measures on access to genetic resources, prior informed consent and the fair and equitable sharing of benefits arising from the use of genetic resources;]

[6] To see in light of IPR working group discussions.

(d) exchange information with the other Party on initiatives and good practices on trade in natural resource-based products with the aim of conserving biological diversity;

(e) cooperate, as appropriate, with the other Party bilaterally, regionally and in international fora on issues concerning trade and the conservation and sustainable use of biological diversity and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources as well as illegal wildlife trade, including steps to reduce demand for illegal wildlife products.

ARTICLE 8

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 trade in products from sustainably managed forests harvested in accordance with the law of the country of harvest;
   (b) implement measures to combat illegal logging and related trade;
   (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;
   (d) cooperate, as appropriate, with the other Party bilaterally, regionally and in international fora on issues concerning trade and the conservation of forest cover as well as sustainable forest management, consistent with the 2030 Agenda for Sustainable Development;
   (e) as appropriate and with their prior informed consent, promote the inclusion of forest-based local communities and indigenous people in sustainable supply chains for responsible business of timber and non-timber forest products, as a means of enhancing their livelihoods and of promoting the conservation and sustainable use of forests;

(f) [MCS: implement measures to promote forest restoration for conservation and sustainable use.]

ARTICLE 9

Trade and Sustainable Management of Fisheries and Aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems as well as of promoting responsible and sustainable aquaculture, and the role of trade in pursuing these objectives and their shared commitment to achieving Sustainable Development Goal 14 of the 2030 Agenda for Sustainable Development, particularly SDGs 14.4 and 14.6.

2. Pursuant to Paragraph 1, and in a manner consistent with its international obligations, each Party shall:
   (a) implement long-term conservation and management measures and sustainable exploitation of marine living resources in accordance with international law as enshrined in the UN Convention on the Law of the Sea of 1982 and other relevant UN and FAO instruments [MCS: to which it is party] [EU:[7];]
   (b) act consistent with the principles of [EU: the UN 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 [EU: and the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) fishing;]
   [(b) Alt. Consistent with the SDG 14.4 of the 2030 Agenda for Sustainable Development, take measures to effectively regulate harvesting and end overfishing, illegal, unreported and unregulated (IUU) fishing and destructive fishing practices and implement science-based management plans, in order to

[7] [EU: 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 1995, 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.]

restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics;]

(c) participate and cooperate actively within the Regional Fisheries Management Organisations (RFMOs) and other relevant international fora to which it is a member, observer, or cooperating non-contracting party, with the aim of achieving good fisheries governance and sustainable fisheries; including through the adoption of effective control, monitoring and enforcement of management measures and, where applicable, the implementation of Catch Documentation or Certification Schemes;

(d) implement comprehensive, effective and transparent measures to combat IUU fishing, and cooperate to this end, including by facilitating the exchange of information and [MCS: encourage the implementation of] [EU: implement] effective policies and measures to exclude products resulting from IUU fishing from trade flows;

(e) work with a view to coordinating the measures necessary for the conservation and sustainable use of straddling fish stocks in areas of common interest;

(f) 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 10

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 [EU: take into account] [MS: ensure that they are based on] available scientific and technical information [MCS: from international technical and scientific bodies to which they are parties.] [from recognised technical and scientific bodies,] [relevant international standards, guidelines or recommendations.]

[EU: , 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 environmental degradation.]

ARTICLE 11

Trade and Responsible Management of Supply Chains

1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices and through the provision of an enabling environment.

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;
   (b) support the dissemination and use of relevant international instruments that it has endorsed or supported, such as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.

3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility or responsible business conduct and shall promote joint work in this regard. In respect of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements, the Parties [MCS: adhering to such Guidance] shall also promote the uptake of this Guidance.

4. The Parties shall exchange information as well as best practices[8] and, as appropriate, cooperate with the other Party, regionally and in international fora on issues covered by this article.

[8] "Buenas practicas" in Spanish version.

ARTICLE 12

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 objective of sustainable development in its economic, social and environmental dimensions.

   Accordingly, the Parties:

   (a) shall promote the objectives of the Decent Work Agenda, consistent with the 2008 ILO Declaration on Social Justice for a Fair Globalization, including the minimum living wage, inclusive social protection, health and safety at work, and other aspects related to working conditions;

   (b) [shall encourage trade and investment in goods and services that contribute to enhanced social conditions and environmentally sound practices;

      i. including those of particular relevance for climate change mitigation and adaptation, [EU: such as renewable energy and energy efficient products and services][9] through *inter alia* the development of domestic policy frameworks conducive to the deployment of best available technologies and cooperating in relation to initiatives in this field;]

      ii. [EU: as well as goods that are the subject of voluntary sustainability assurance schemes such as fair and ethical trade schemes and eco-labels through *inter alia* the sharing of experience and information on such schemes].

      Note: To be deleted if Article 13 par. (d) is confirmed.

   (c) Shall cooperate, as appropriate, bilaterally, regionally and in international fora on issues in this article.

ARTICLE 13

Working Together on Trade and Sustainable Development[10]

The Parties recognise the importance of working together in order to achieve the objectives of

[9] To see in light of the Energy and Raw Materials discussions.
[10] Depending on the Cooperation Pillar discussions.

this Chapter. They may work jointly on *inter alia*:

labour and environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the ILO, UNEP, [MCS: UNCTAD], High-level Political Forum for Sustainable Development and multilateral environmental agreements (MEAs) [MCS: to which both Parties are party];

(a) the impact of labour and environmental law and standards on trade and investment;

(b) the impact of trade and investment law on labour and the environment;

(c) [voluntary sustainability assurance schemes such as fair and ethical trade schemes and eco-labels through the sharing of experience and information on such schemes];

as well as trade-related aspects of:

(d) thMCSe implementation of fundamental, priority and other up-to-date ILO Conventions;

(e) the ILO Decent Work Agenda, including on the inter-linkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue, skills development and gender equality;

(f) the implementation of MEAs and support for each other's participation in such MEAs;

(g) the dynamic international climate change regime under the UNFCCC, in particular the implementation of the Paris Agreement;

(h) the Montreal Protocol and any amendments to it ratified by the Parties, in particular measures to control the production and consumption of and trade in Ozone Depleting Substances (ODS) and Hydrofluorocarbons (HFCs), [EU: and the introduction of environmentally friendly alternatives to them, and combatting illegal trade of substances regulated by these agreements;]

(i) corporate social responsibility, responsible business conduct, responsible management of global supply chains and accountability, including with regard to implementation, follow-up, and dissemination of international instruments [MCS: which they have adopted or adhered to];

(j) the sound management of chemicals and waste;

(k) the conservation and sustainable use of biological diversity, and the fair and equitable sharing of the benefits arising from the utilization of genetic resources, including by appropriate access to such resources, as referred to in Article 7;

(l) combatting wildlife trafficking, as referred to in Article 7;

(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 8; and

(n) the promotion of sustainable fishing practices and trade in sustainably managed fish products, as referred to in Article 9.

(o) [MCS (preliminary): the promotion of sustainable agricultural practices and trade including through the use of biotechnology, no-till, precision and conservation agriculture, agro-ecology, improved livestock efficiency, animal welfare, sustainable grazing and sustainable forest-livestock systems.]