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Sustainability and human rights in EPAs

A comparative analysis between the Caribbean
and African EPAs

by Sanoussi Bilal and Isabelle Ramdoo

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Key messages

Sustainability and human rights dimensions are at the centre stage of the international (2030 Agenda) and EU agenda, including in trade relations. These are part of recent EU FTAs and the EU-ACP EPAs, as well as EU Partnerships such as the Cotonou Agreement.

There are some concerns that African EPAs may not have strong enough provisions on sustainability and human rights, and that reference to the Cotonou Agreement may not be relevant after its termination in 2020.

While provisions on sustainability differ among EPAs, leading to some legal uncertainty, basic principles on human rights and sustainability remain valid beyond 2020. The various dimensions of EPAs should also be taken into account when considering sustainability.

Particular attention must be paid to institutional settings, dialogues, review and monitoring, aid and accompanying measures, multi-stakeholders approaches, responsible business initiatives, rendezvous and revision clauses, all most relevant for the sustainability impact of EPAs.

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Acronyms

ACP	African, Caribbean and Pacific States
CARICOM	Caribbean Community
CARIFORUM	Caribbean Forum
CSR	Corporate social responsibility
EAC	East African Community
ECOWAS	Economic Community of West Africa States
EPA	Economic Partnership Agreement
EU	European Union
FDI	Foreign Direct Investment
FLEGT	Forest Law Enforcement, Government and Trade
FPA	Fisheries Partnership Agreement
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GRI	Global Reporting Initiative
GSP	General system of preferences
ILO	International Labour Organization
MEP	Members of the European Parliament
NAFTA	North American Free Trade Agreement
OECD	Organisation for Economic Co-operation and Development
SADC	Southern Africa Development Community
SDG	Sustainable Development Goal
TDCA	Trade, Development and Cooperation Agreement
TEU	Treaty on European Union
TSD	Trade and sustainable development
UN	United Nations
UNEP	United Nations Environment Programme
UNGP	UN Guiding Principles
VCLT	Vienna Convention on the Law of Treaties
WTO	World Trade Organization

Executive Summary

Since 2002, the European Commission has negotiated economic partnership agreements (EPAs) with the African, Caribbean and Pacific (ACP) Group of States, including with the East African Community (EAC), the Economic Community of the West Africa States (ECOWAS), and a group of countries from the Southern Africa Development Community (SADC). The European Union (EU) has decided that, by 1st October 2016 the EPAs should be signed and ratified, if beneficiary countries are to continue to benefit from EPA-related free market access to the EU. This study presents a comparative analysis of the recently concluded EPAs between the EU and these African states and the EPA with the Caribbean (CARIFORUM EPA) with particular view to the achievements in promoting sustainable development and human rights objectives.

Sustainability and human rights in EU trade policy

In light of the adoption of the 2030 Agenda for Sustainable Development at the United Nations (UN) in New York in September 2015, sustainability as well as human rights ambitions and concerns increasingly shape international and European policy making. Trade is considered an important means to achieve the *Sustainable Development Goals* (SDGs). Human rights and sustainability are also key pillars of the new EU trade strategy, *Trade for All*, released in October 2015. Sustainability and human rights dimensions have also been increasingly introduced in the EU trade policy, the Generalised System of Preferences (GSP) and its free trade agreements (FTAs). EPAs entail significant links to the promotion of sustainable development and human rights and can use trade as a tool for the achievement of development objectives.

Links to sustainability and human rights provisions of the Cotonou Agreement

Origins of sustainability and human rights clauses in EU trade policy can be found in the EU partnership with the ACP, as articulated in the Lomé Conventions and the succeeding Cotonou Partnership Agreement (CPA). EPAs refer to the Cotonou Agreement's provisions in various ways and import its sustainability, human rights, social, labour and environment commitments and endeavours. However, not all of these provisions are explicit or refer to international standards and agreements. In addition, concerns have been raised over the termination of the Cotonou Agreement in 2020, which arguably could lead to some uncertainty with regard to the legal effect of such references in the EPA. However, the most reasonable legal interpretation is that since the parties in the EPAs do recognise and commit to the provisions of the Cotonou Agreement and its *acquis*, such commitments extend beyond 2020, with the CPA's references maintaining their full legal effect. Possible challenges are unlikely to arise out of legal arbitration, and could be addressed through dialogue.

Explicit provisions on sustainability and human rights

Some EPAs also contain explicit provisions, referring to international standards and agreements or specific additional commitments. The CARIFORUM EPA stands out as the most comprehensive EPA, which can be viewed as a benchmark agreement in terms of its coverage of sustainability and human rights issues. In contrast, the succeeding EPAs, concluded with ECOWAS, SADC and EAC, have been less thorough in their sustainability and human rights provisions. One possible explanation is that the partners have focused first and foremost on reaching an acceptable deal for all, concentrating on key substantive provisions of the agreements by the EU's imposed October 2014 deadline. This outcome has raised concern among some stakeholders, in particular among civil society organisations, trade

unions and members of (European) parliament, who critically view the recently concluded EPAs' inability to meet current EU standards and practice in FTA negotiations and live up to the ambitions of the *2030 Agenda* and the new European *Trade for All* strategy.

Recommendations and other important elements relating to sustainability and human rights

For this reason, this study aims to consider relevant elements going beyond specific sustainability and human rights clauses and therefore provides concluding recommendations:

- ***EPA institutional framework***: Any issue arising from the implementation of the agreement, including on human rights and sustainability components, can be addressed in the partners' joint institutions.
 - Support of the EPA monitoring mechanisms and institutions, including non-state actors' participation, notably through the Consultative Committee, is considered valuable.
- ***Review and monitoring of the EPAs***, as foreseen in EPAs provisions should be carried out thoroughly with appropriate tools and mechanisms covering all sustainability dimensions.
 - Monitoring should go beyond compliance and EPAs should address sustainability and human rights, preferably in synergy with other monitoring endeavours, in particular on regional integration related issues, as well as the monitoring of specific sustainability and human rights (e.g. by the International Labour Organization - ILO).
- The ***development cooperation chapter*** of EPAs should lead to effective accompanying measures ensuring EPAs positive contribution to sustainability and human rights.
 - To provide adequate development cooperation, it is essential to pay attention to human rights, social, labour and environmental dimensions of the EPA.
- ***Rendez-vous and revision clauses*** allow for the future extension, strengthening and adjustments of some of the EPA provisions, including in terms of sustainability and human rights commitments.
 - It is important to consider *rendez-vous* and revision clauses as an opportunity to negotiate an update and strengthening of the human rights and sustainability provisions of the EPAs.

1. Introduction

The adoption of the 2030 Agenda for Sustainable Development at the United Nations (UN) in New York in September 2015 has put the sustainability ambitions and concerns at centre stage of the international agenda, and through its universality principle, of each and every country's domestic and foreign agenda, developing and developed countries alike. The adoption in December 2015 of the Paris Agreement, with its commitments on climate change and environmental sustainability, has further confirmed the prominence of the sustainability agenda.

In this context, international trade is recognised as an important means of implementation to achieve the sustainable development goals (SDGs) and specific targets (Hoekman, 2016; UNCTAD, 2016). This includes notably ensuring policy coherence for sustainable development and respecting each country's policy space and leadership to establish and implement policies for poverty eradication and sustainable development (Goal 17).

For a long time, the European Union (EU) has been committed to the promotion of human rights and sustainability, including in its international relations, and has been a strong advocate of the SDGs.

Human rights clauses in EU policy have found some of their origins in the EU partnerships with the African, Caribbean and Pacific Group of States (ACP), as articulated in the Lomé Convention (Bartels, 2014), and have been further developed in the succeeding Cotonou Agreement. Human rights and sustainability clauses have then increasingly been introduced in the EU trade policy regime, in its general system of preferences (GSP) and its free trade agreements (FTAs) (Bartels, 2012; Beke et al. 2014). And sustainability has become one of the key pillars of the new EU trade strategy, *Trade for All*, introduced in October 2015.

In this regard, the economic partnership agreements (EPAs) negotiated by the EU with the ACP at regional levels¹ are of particular interest. The EPAs have been officially framed - in the Cotonou Agreement and by the EU - as development agreements, where trade is only a tool for achieving development. It follows that all aspects of the EPAs are relevant in considering their sustainability and development impact. Whether they can achieve their stated ambitions has been hotly debated and is an issue beyond the scope of this paper (for an overview, see Bilal, 2011; Bouët *et al.* 2016; EC, 2016a, 2016b; Makhani, 2009). But EPAs, like other EU FTAs, also contain a specific trade and sustainable development (TSD) chapter.

The purpose of this paper is thus to analyse the content of the sustainable development and human rights dimensions of the EPAs, with a special focus on the sustainable development chapter, articles or links to the sustainable development dimensions in the Cotonou agreement. The paper does so by comparing the main provisions that explicitly relate to sustainable development and human rights in the recently concluded EPA with the East African Community (EAC), the Economic Community of West Africa States (ECOWAS) and a group of countries from the Southern Africa Development Community (SADC).² For the sake of comparison, it also covers the Caribbean Forum (CARIFORUM) EPA, the

¹ For an overview of the EPAs process, see <http://ecdpm.org/dossiers/dossier-economic-partnership-agreements/> and references therein, as well as the DG Trade dedicated webpage <http://ec.europa.eu/trade/policy/countries-and-regions/development/economic-partnerships/> and the NGOs group webpage <http://www.bilaterals.org/?-eu-acc-epas-> and its many relevant references.

² For an overall comparison of the EPAs content, see Ramdoo (2014) on ECOWAS and SADC, Ramdoo and Bilal (2016 – forthcoming) on EAC, ECOWAS and SADC, and Stevens et al. (2009) on CARIFORUM and Pacific.

most comprehensive EPA concluded so far. Some institutional and implementation aspects are also considered, for their relevance.

The paper is structured as follows. It starts by setting the scene of the sustainability and human rights policy framework of the EU, in view of the global context, the EU general approach and in its trade policy (Section 2). The paper then focuses on four key dimensions: human rights (Section 3), social and labour issues (Section 4) and environmental issues (Section 5), considering the relevant provisions of the Caribbean and African regional EPAs in regard to the EU evolving approach. After addressing some issues beyond these provisions, principally related to the policy coherence for development, responsible business and development cooperation (Section 6), the paper concludes by outlining the various dimensions of the EPA process that support sustainability and human rights, and how they could be strengthened when appropriate.

2. Definition and coverage of sustainable development

‘Sustainable development’ can be broadly defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”.³ The principle of ‘sustainable development’ finds its roots in the 1987 Brundtland Report (UN, 1987).⁴ It is commonly articulated around the three interconnected pillars defined in 2002 by the Johannesburg Declaration on Sustainable Development: economic, social and environmental dimensions (Kates et al., 2005). The Johannesburg Declaration pointed to “a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development - economic development, social development and environmental protection - at local, national, regional and global levels”⁵, which is illustrated by Figure 1.

These pillars have been further conceptualised in an integrated framework by the United Nations for Environment Programme along three key principles (UNEP, 2014):

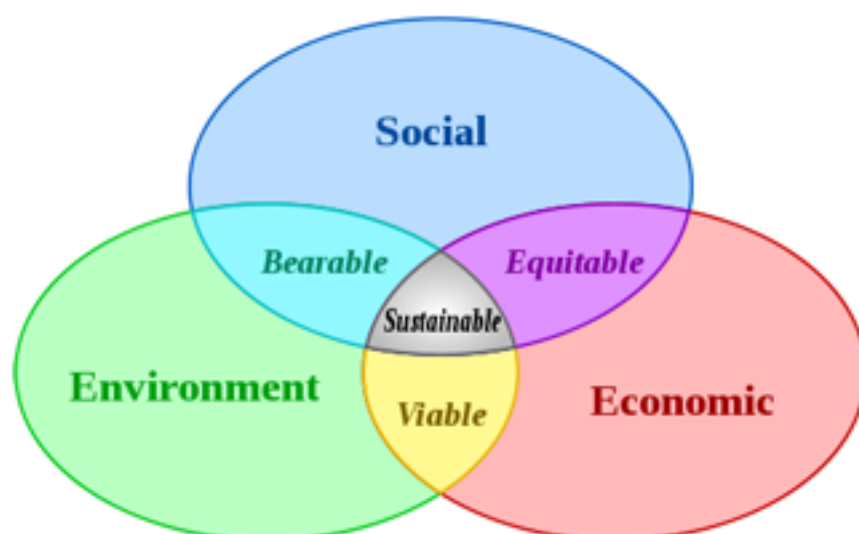
- Leave no one behind and provide a life of dignity for all;
- Live within our means and achieve greater prosperity in an inclusive manner within the capacity of the Earth’s life support system;
- Leave something behind by increasing natural, social and economic capital to achieve greater resilience and secure future generations’ livelihoods.

These principles have now been integrated and further elaborated in the UN 2030 Agenda for Sustainable Development, articulated around 17 Sustainable Development Goals and 169 targets.

³ See <http://www.un-documents.net/ocf-02.htm>

⁴ Although the expression was borrowed from the 1980 World Conservation Strategy.

⁵ See http://www.unmillenniumproject.org/documents/131302_wssd_report_reissued.pdf

Figure 1. The 3 pillars of sustainability

Source: www.thwink.org/sustain/glossary/ThreePillarsOfSustainability.htm

The notion of human rights is different, though closely intertwined with the notion of sustainable development. Human rights cover a wide range of rights, going beyond principles of sustainability.

Although the definition of 'sustainable development' is relatively recent, the EU had in fact included the core principles in its trade and development cooperation with its partners since the 1960s and has included legally binding obligations in its international agreements since the 1990s.

Sustainability has been a core element of the European Union internal policy since 2001 and external policy since 2002.⁶ Later, with the 2005 European Consensus on Development, sustainable development became an overarching objective for the EU and its member states.⁷

The 2009 Lisbon Treaty on European Union (TEU) further elaborated what those principles should be and enshrined human rights and the three traditional dimensions of sustainable development (economic, social and environmental) as guiding principles for the EU international activities (Brady, 2010). The EU has an obligation to comply with human rights in its external policy, as stipulated in TEU Article 21 (see Box 1), and in particular (3), as well as to the entirety of international law, TEU Article 3(5) (Bartels, 2015).

⁶ The 2001 EC Communication on 'A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development' emphasised the internal dimensions of the EU's strategy on sustainable development (EC, 2001c). The external dimensions of sustainable development were developed in the 2002 EC Communication 'Towards a global partnership for sustainable development' (EC, 2002), which was published just before the 2002 UN World Summit on Sustainable Development held in Johannesburg (Bartels, 2015).

⁷ The 2005 European Consensus on Development states that "the primary and overarching objective of EU development cooperation is the eradication of poverty in the context of sustainable development" (EC, 2005).

Box 1. The Lisbon Treaty Article 21: Guiding principles on human rights and sustainability

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

[...]

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

[...]

(b) consolidate and support democracy, the rule of law, human rights and the principles of international law; [...]

(d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;

[...]

(f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development; [...].

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and by Part Five of the Treaty on the Functioning of the European Union, and of the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.

In the context of its trade policy, human rights and sustainability dimensions are taking different forms. However, it is important to remember that in the EU approach, trade policy is not intended as a single, isolated mean of addressing human rights and sustainability concerns, but is to be seen as part of the arsenal of EU tools (e.g. initiatives, policies, institutional frameworks) to address them, and should thus operate in close coordination and synergy with these other approaches.

The EU adopted different tracks in addressing sustainable development in trade agreements. The approach has evolved over time, shaped by particular circumstances in partner countries or on specific areas that were subject to challenges. Trade agreements signed after the Lisbon Treaty have specific clauses on 'sustainable development' where the general contours of what parties understand by the term are defined. Reference is often made to internationally agreed declarations, principles and agreements such as UN Charters and Conventions, the Cotonou Agreement, Millennium Development Goals (MDGs) declarations and now the SDGs, and standards set by the International Labour Organization (ILO).

The new EU *Trade for All* strategy puts a strong emphasis on sustainability, next to the objective of promoting business opportunity to deliver growth, employment and innovation (EC, 2015). Accordingly, its trade policy should contribute to promote European and international values, fostering free and fair trade, social justice, human rights and high labour and environmental standards (see Box 2).

Box 2. Key development dimensions of the EU Trade for All Strategy

“The Communication announces a range of initiatives under the headings of effectiveness, transparency, values, and the EU's programme of negotiations [...]:

- A more **effective** policy that tackles new economic realities and lives up to its promises [...].
- A **more transparent** trade and investment policy [...].
- A trade and investment policy based on **values** by [...]
 - [e]xpanding measures to support sustainable development, fair and ethical trade and human rights, including by ensuring effective implementation of related FTA provisions and the Generalised Scheme of Preferences.
 - Including anti-corruption rules in future trade agreements.
- A **programme of negotiations** to shape globalisation by [...] [e]nsuring EPAs are implemented effectively and deepening relationships with African partners that are willing to go further and with the African Union.

The new trade strategy is focused on making sure as many people as possible have access to the benefits of trade. [...]. People in developing countries:

- As the world's largest importer, the EU's deep and open market is already a vital source of income to people in developing countries. The new strategy confirms this basic pro-development stance.
- It also expands our action to **support sustainable development**. The EU has been the strongest proponent of ambitiously integrating sustainable development into trade policy in the UN's 2030 Agenda and we will keep promoting this ambition worldwide.
- It will also give more prominence to **human rights concerns in trade work**. We will begin intensified dialogue with the developing countries where EU trade has most influence to fight against human rights breaches, in particular those benefitting from the Generalised Scheme of Preferences (GSP).
- The Commission's new efforts to **support fair and ethical trade schemes** and ensure **responsible management of supply chains** will help improve develop more sustainable trade opportunities for small producers and better conditions for workers in poor countries.”

Source: EC Fact Sheet, Q&A on 'Trade for all', 10 October 2015.

http://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153864.pdf

The EU approach to human rights and sustainability thus include the following key elements:

- (i) **Human rights:** The EU has a longstanding practice of including the '**human rights clause**' - also called *essential elements* - in its international trade and cooperation agreements. The approach can be a 'conditional' one, as in the case of the Cotonou Agreement, with economic consequences and rather strong enforcement mechanisms that may even lead to the suspension of obligations, in the event that one of the parties violates fundamental human rights (such as civil and political liberties) or democratic principles. Such a clause makes "*it impossible for both parties to claim that human rights are a purely internal matter*" (EC, 2016c). In such a case, it is the failure of the state to respect its own commitments to human rights treaties that is condemned.
- (ii) **Social issues and labour rights** have received increasing attention in trade agreements. The objectives of such clauses are (i) to promote the adoption or ensure the respect of social and labour standards, and (ii) ensure that trade does not undermine working and social conditions (EC, 2016c). Compared to human rights, the EU has adopted a 'softer' or more 'promotional' approach, where most agreements proceed by way of cooperation and

constructive engagement and dialogue to improve the situation in developing countries, rather than applying sanctions in case of non respect of obligations. The approach is seen as a 'positive' one, in the sense that there are no equivalent sanctions (like for violation of human rights), but it is rather proposed to address challenges by means of financial and technical assistance, cooperative activities, dialogue and institutional and procedural frameworks to ensure implementation (ILO, 2013). It also seeks lead partner countries to respect their own (international) commitment (providing that they have signed and ratified ILO conventions).

- (iii) **Environmental sustainability** provisions are also increasingly included in EU FTAs, in terms of ensuring that the parties abide to international commitments and conventions, and/or in terms of promoting the sustainable management of natural resources.
- (iv) **Economic sustainability**, which is proper to trade agreements with developing countries. In this case, trade agreements are also 'development agreements' and therefore take into account the need to ensure food security, to support industrial development, or the possibility for developing countries to derogate from certain obligations (such as trade liberalisation) in exceptional circumstances, such as balance of payments difficulties. This is beyond the scope of the paper.

The EU is also committed to promote responsible business conduct through corporate social responsibility and other voluntary schemes towards sustainability, including the promotion of fair and ethical trade, as outlined in the EU *Trade for All* strategy.

The institutional setting of EU trade agreements is another important dimension of the approach of the EU towards human rights and sustainability as it provides channels for dialogues and constructive engagement, as well as possible remedies. An innovative feature of recent EU FTAs (including most EPAs) is the establishment of a formal platform for non-state actors dialogue (generally referred to as Domestic Advisory Group, and in EPAs as Consultative Committee), to foster multi-stakeholder engagements of the parties, and feed into the formal mechanism of the implementation of the agreement.

EU FTAs with developing countries are also accompanied by development cooperation and capacity building support to facilitate the implementation of the agreement.

It is also worth noting that in its trade negotiation process, in order to take into account the sustainability implication in shaping its position, the EU systematically conducts sustainability impact assessments.

The remainder of this paper looks at each of the above issues in turn, outlining the EU approach and identifying the key relevant provisions in the CARIFORUM, EAC, ECOWAS and SADC EPAs.

3. Human rights

Human rights are a cornerstone of universal and European values and the EU approach to promote and defend them. It is also an area under close scrutiny (EC, 2012; EP, 2016). The objective of the EU is thus to ensure the coherence and synergy of its policies, in such a way that trade and human rights

reinforce each other. This Section looks at the EU approach to human rights in its trade policy (section 3.1), and in EPAs in particular (section 3.2), and discusses its potential implications (section 3.3).

3.1. EU approach to human rights

Human rights clauses and democratic principles were formally introduced in the EU's free trade agreements in the 1990s, although the EU's insistence to anchor core principles in international cooperation can be traced back to 1962⁸ with the resistance that the then European Community showed regarding the accession of Spain, which was at that time under a dictatorial regime (Powell 2015; Bartels 2012).

The first mention of human rights in trade and cooperation agreements is found in Article 5 of the 1989 Lomé IV Convention signed with ACP countries.⁹ However, it did not provide any mechanisms to take measures in case of violation of those principles. This only became a core principle and most importantly, a systematic policy, for all future trade arrangements as of 1995¹⁰ when the EU Council formally adopted a policy (which was reaffirmed in 2009¹¹) to include 'operative' human rights clauses in all new general cooperation and trade agreements.¹² The Cotonou Agreement, which in 2000 succeeded the Lomé Conventions as the umbrella legal framework for the partnership between the EU and the ACP, also introduced the possibility of negative measures when a country was found in breach of its human rights and good governance commitments (Mackie and Zinke, 2005; Bossuyt et al., 2011). In such cases, all appropriate measures could be taken, including in principle trade sanction (or suspension of trade preferences). In practice, however, the EU never uses trade policy, but rather the suspension of its development cooperation (see also Vanheukelhom, 2012). This issue is of relevance to the discussion on EPAs (see section 3.3).

The Lisbon Treaty in 2009 subsequently made it a mandatory requirement for all relevant EU institutions and bodies to ensure human right provisions to support EU's trade and development agenda. Human rights and other democratic principles became '*essential elements*' that now underpin any trade relationship between the EU and its partner countries.

⁸ A debate held in the European Parliamentary Assembly in January 1962 examined a report on association and membership applications. Drafted with Spain very much in mind, the Report argued that "*states whose governments do not have democratic legitimacy and whose peoples do not participate in the decisions of the government, neither directly nor indirectly by freely elected representatives, cannot expect to be admitted in the circle of peoples who form the European Communities*", and concluded that "*the guaranteed existence of a democratic form of state, in the sense of a free political order, is a condition for membership*" (see Powell: 2015).

⁹ This clause, although already quite comprehensive, was not meant to be an operative provision giving the EU a way out in cases of human rights violations by one of its ACP partners. It rather emphasised the fact that development – the main aim of the Convention, though it includes trade provisions – 'entails respect of and promotion of all human rights'.

¹⁰ An important factor that triggered a change in policy occurred in 1977, when the EU wanted to suspend Stabex payments to Uganda in response to human rights obligations. It then found out that this was not technically possible under the then Lomé Convention. To address this, subsequent agreements between the ACP and the EU (more precisely the 1995 revised Lomé IV Agreement) introduced a clause to enable the suspension or termination of the agreement (the so-called non-execution clause) in the event of human rights abuses (see Bartels: 2015).

¹¹ EU Council, Reflection Paper on Political Clauses in Agreements with Third Countries, Doc 7008/09, 27 February 2009.

¹² Commission Communication on the 'Inclusion of Respect for Democratic Principles and Human Rights in Agreements between the Community and Third Countries', COM (95) 216 and EU Council Conclusions of 29 May 1995 (reported in EU Bulletin 1995-5, point 1.2.3).

Although it has become a core element of EU policy and an explicit requirement since the Lisbon Treaty, not all EU agreements that contain essential clauses also have non-execution clauses. This is the case on agreements concluded prior to the Lisbon Treaty but which have not been reviewed since then as for instance, the cooperation agreements with Brazil (1992), Mongolia (1992), India (1993) and Sri Lanka (1993).¹³ The first bilateral agreements containing human rights and democratic principles were concluded with countries that newly emerged from dictatorships in South America¹⁴ and Central and Eastern Europe.¹⁵

Following that, the EU has introduced human rights conditionalities in its two main trade instruments, namely its **bilateral** trade agreements and its **unilateral** trade policies. These are also a condition for financial and technical cooperation¹⁶, which includes its financing agreements¹⁷ with developing countries. But the human rights (and sustainability) dimension in trade agreements is not only about conditionalities and prevention of violation of human rights. It is also about promotion of human rights, as well as ensuring that FTAs do not unduly restrict the policy space of its partners, which could have negative human rights effects.¹⁸

Bilateral or regional trade agreements have systematically included 'essential elements' since 1995¹⁹, and have since recently also included sustainable development chapters specifically addressing labour rights (KEU Leuven: 2015). In addition, in line with Article 21 of the Treaty on the European Union and Article 207 of the Treaty on the Functioning of the European Union, the EU is required to pursue an integrated approach to the protection of human rights in the context of its trade policy, including FTAs. The EU has also promoted human rights through voluntary partnership agreements, as in the case of the Forest Law Enforcement, Government and Trade - FLEGT - initiative, promoting responsible logging and banning illegal logging, which often takes place in countries marred by human rights violations.

'Essential element clauses' are given their main **operative effects** through an additional '**non-execution**' clause²⁰, which qualifies the consequences of a breach of obligations by either party. The

¹³ On the contrary, the 1995 EU-Vietnam Cooperation Agreement has now been replaced by a Partnership and Cooperation Agreement and an FTA, which include detailed provisions on human rights and sustainable development (discussed in EC, 2016c).

¹⁴ A properly effective human rights clause appeared in the 1990 Argentina-EU Cooperation Agreement. However, the actual wording 'essential elements' were added in the 1992 Framework Agreement for Cooperation with Brazil.

¹⁵ Following the collapse of communism in 1989, in its new relations with its central and eastern European neighbours, the EU introduced human rights clauses.

¹⁶ For example, the European Neighbourhood and Partnership Instrument (Reg. 1638/2006 [2006] OJ L310/1) and the Development Cooperation Instrument (Reg. 1905/2006 [2006] OJ L378/41).

¹⁷ For example, Annex I of the 2012 Model General Conditions to Financing Agreements and Art 23(1) of the European Development Fund, at

http://ec.europa.eu/europeaid/work/procedures/financing/financing_agreement/index_en.htm

¹⁸ For instance, Principle 9 of the UN Guiding Principles on Business and Human Rights states that "States should maintain adequate domestic policy space to meet their human rights obligations when pursuing business-related policy objectives with other States or business enterprises, for instance through investment treaties or contracts", as pointed out by Beke et al. (2014). In this respect, Schmieg (2014) also notes that "The second central concern is therefore that free trade agreements excessively restrict governments' policy space and make it impossible for them to fulfil their human rights obligations. So trade agreements must avoid generating a threat to state revenues, for example if import duties are suddenly lost."

¹⁹ Although their geographical scope, however, is much more limited as these human rights clauses have thus far only been applied to lesser developed nations – thereby reinforcing the trade-development-human rights nexus. Indeed, Chile, Korea and Mexico are the only three countries in the OECD with which the EU has been able to conclude a human rights-infused trade agreement.

²⁰ Non-execution clauses have historically taken two forms: the 'Baltic' clause, which was notably included in agreements with Baltic states prior to their accession, and which authorised a party to suspend the application of the agreement with immediate effect in case of a serious breach of essential provisions. Given the lack of flexibility afforded by this formulation, the Baltic clause was progressively abandoned, and its concurrent, the

non-execution clause states that failure to fulfil an obligation under the agreement, including human rights obligations, entitles the other party, subject to a consultation procedure, to take 'appropriate measures' (Bartels: 2014). With the exception of the Cotonou Agreement, the procedures for consulting the other party before taking 'appropriate measures' are not well described in most agreements. Nonetheless, in general FTAs foresee government consultations and a panel of experts (or via the domestic advisory group or consultative committee) can take place in case of an alleged violation, or other problem, of the chapter on sustainable development.

The EU's key **unilateral** trade instrument²¹ is the Generalised System of Preferences²² (GSP). Trade preferences under the three schemes can be temporarily withdrawn²³ if there is evidence of serious and systematic violations of the principles contained in the international human rights and labour rights Conventions.²⁴ Among the three GSP sub-instruments, the GSP+ is particularly intended to give additional *incentives* (in the form of additional market access) to a certain number of countries²⁵ considered "vulnerable" but which have ratified and "effectively implemented" the 27 main international human rights and labour rights Conventions set out in an Annex to the GSP Regulation. Preferences can be suspended in case of breach of the conventions.²⁶

On the unilateral front, in addition to the GSP, the EU can adopt specific measures in the form of unilateral regulations to impose trade bans or limitations on certain goods that may have detrimental impacts on human rights or that may originate from certain countries²⁷ where there may be human rights violations. These include amongst others, specific rules regarding trade in military equipment and technology²⁸, restrictive measures regarding instruments of torture²⁹ or the promotion of responsible

'Bulgarian' clause, became the standard, allowing either party to 'take appropriate measures' in case of breach by the other party, after proper consultation of that party and/or referral to a committee established by the treaty.

²¹ The EU adopted a formal external human rights policy in 1991 that aimed at including operative human rights clauses in new cooperation and association agreements with these countries, and others around the world.

²² There are three types of sub-arrangements, namely the standard GSP, the special arrangement for sustainable development and good governance (GSP+) and the Everything But Arms (EBA) initiative.

²³ In practice, basic GSP has been suspended in two cases: (i) with Myanmar because of the systematic use of forced labour (Myanmar's withdrawal was later terminated following political changes in the country) and (ii) with Belarus for the violation of ILO Conventions 87 (freedom of association) and 98 (collective bargaining). In both cases, the EU action followed action initiated by the ILO in the form of launching a Commission of Inquiry. The withdrawal is however a reversible step, expected to resume once the country has taken the necessary step to improve the situation (Orbie and Tortell, 2009).

²⁴ The conditions are set out in an Annex to the GSP Regulation, on the basis of conclusions of the relevant monitoring bodies.

²⁵ There are currently 10 GSP plus beneficiaries, namely Armenia, Bolivia, Cape Verde,, Ecuador, Georgia (until 31 December 2016), Kyrgyzstan, Mongolia, Pakistan, Paraguay and the Philippines.

²⁶ GSP+ was withdrawn from Sri Lanka in August 2010 on the grounds of the violation of the International Covenant on Civil and Political Rights, the Convention Against Torture and the Convention on the Rights of the Child. In addition, there have been three more instances when an official investigation had been launched by the EU to evaluate allegations of human rights violations: Pakistan in 1997 on the basis of child labour practices, El Salvador in 2008 concerning its effective implementation of said ILO Convention 87, and Bolivia in 2012 on the grounds of insufficiently implementing the Single Convention on Narcotic Drugs.

²⁷ To date, restrictive measures have been applied to 29 countries: Afghanistan, Belarus, Bosnia and Herzegovina, Burma/Myanmar, Central African Republic, China, Democratic Republic Congo, Côte d'Ivoire, Egypt, Eritrea, Republic of Guinea, Haiti, Iran, Iraq, North Korea, Lebanon, Liberia, Libya, Moldova, Russian Federation, Serbia and Montenegro, Somalia, South Sudan, Sudan, Syria, Tunisia, Ukraine, and Zimbabwe.

²⁸ In 2008, the Council of the European Union adopted its Common Position 2008/944/CFSP that laid out common rules regarding the trade in military equipment and technology.

²⁹ In 2005, the Council of the European Union adopted Regulation 1236/2005, which restricts the trade in goods that could be used for capital punishment, torture or other inhuman treatment.

business practices in the extractive sector.³⁰ It is however argued that effectiveness of those measures have been mixed, at best (Beke et al. 2014).

In its trade policy, bilateral and unilateral, the EU commonly refers to legal norms, principles, and code of conducts, as defined by, *inter alia*:

- the EU: e.g. in the Lisbon Treaty (Art.21), the Charter of Fundamental Rights of the EU, the EU Strategic Framework on Human Rights and Democracy;
- the UN: e.g. Human Rights Conventions; 2030 Agenda for Sustainable Development; Guiding Principles on Business and Human Rights;
- the ILO: fundamental International Labour Organization's (ILO) Conventions and the core labour standards;
- etc.

But although this tends to attract most of the attention, in particular when comparing legal provisions between agreements, it should be kept in mind that the EU trade policy is linked to many other policies and institutional settings, and should therefore not be considered in isolation (see Box 3).

Box 3. EU trade policy as part of wider human rights approach

“Human rights considerations in trade policy initiatives should be seen as one component of a wider approach encompassing a broad range of policies and actions to address directly or indirectly human rights, that is, *inter alia*: political dialogues, co-operation at multilateral and bilateral levels, development aid and support. The external dimension of domestic policies in areas such as environment, employment, social affairs, health, good governance, the rule of law, education, migration, data protection, digital and audiovisual, as well as voluntary corporate social responsibility practices by the private sector, can also contribute to support human rights. As a consequence, when considering the impact of trade policies on human rights issues and ways to address them, the EU's overall relations with the country concerned should be taken into account. This includes the existence of a political framework agreement (in the case of Vietnam, the PCA) and its human rights provisions, as well as the dialogues and policies carried out to address human rights-related considerations in the context of the bilateral relationship more generally.”

Source: EC (2016c).

Let us now consider how this approach to the trade and human rights nexus has been considered in the context of EPAs.

3.2. Human rights clauses in EPAs

Economic partnership agreements were negotiated within the framework of the Cotonou Partnership Agreement (CPA). In fact, Article 9 of the CPA relates to “*essential elements regarding human rights, democratic principles and the rule of law and fundamental element regarding good governance*”. This very comprehensive clause captures the core of the human rights principles, reiterating that these are universal, indivisible and interrelated (see Box 4).

³⁰ For example namely by fully supporting the Kimberley Process Certification Scheme to ban trade in ‘blood diamond’; by introducing obligations for large extractive companies and loggers to disclose payments made to resource-rich countries; and more recently in an attempt to ban trade in ‘conflict minerals’ from countries.

Box 4. CPA Article 9 on human rights***Article 9: Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance***

1. Cooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.

Respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.

2. The Parties refer to their international obligations and commitments concerning respect for human rights. They reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. Human rights are universal, indivisible and interrelated. The Parties undertake to promote and protect all fundamental freedoms and human rights, be they civil and political, or economic, social and cultural. In this context, the Parties reaffirm the equality of men and women.

The Parties reaffirm that democratisation, development and the protection of fundamental freedoms and human rights are interrelated and mutually reinforcing. Democratic principles are universally recognised principles underpinning the organisation of the state to ensure the legitimacy of its authority, the legality of its actions reflected in its constitutional, legislative and regulatory system, and the existence of participatory mechanisms. On the basis of universally recognised principles, each country develops its democratic culture.

The structure of government and the prerogatives of the different powers shall be founded on rule of law, which shall entail in particular effective and accessible means of legal redress, an independent legal system guaranteeing equality before the law and an executive that is fully subject to the law.

Respect for human rights, democratic principles and the rule of law, which underpin the ACP–EU Partnership, shall underpin the domestic and international policies of the Parties and constitute the essential elements of this Agreement.

3. In the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law, good governance is the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption.

Good governance, which underpins the ACP–EU Partnership, shall underpin the domestic and international policies of the Parties and constitute a fundamental element of this Agreement. The Parties agree that serious cases of corruption, including acts of bribery leading to such corruption, as referred to in Article 97 constitute a violation of that element.

4. The Partnership shall actively support the promotion of human rights, processes of democratisation, consolidation of the rule of law, and good governance.

These areas will be an important subject for the political dialogue. In the context of this dialogue, the Parties shall attach particular importance to the changes underway and to the continuity of the progress achieved. This regular

assessment shall take into account each country's economic, social, cultural and historical context.

These areas will also be a focus of support for development strategies. The Community shall provide support for political, institutional and legal reforms and for building the capacity of public and private actors and civil society in the framework of strategies agreed jointly between the state concerned and the Community.

The principles underlying the essential and fundamental elements as defined in this Article shall apply equally to the ACP States on the one hand, and to the European Union and its Member States, on the other hand.

All EPAs make explicit reference, in one way or the other, to the CPA, as indicated by Table 1 (Annex 1 provides a comparative overview of the relevant clauses). As a result, the human rights and sustainability dimensions of the Cotonou Agreement appear to be relevant for all EPAs.

Table 1. Human Rights provisions under EPAs³¹

	Preamble	Principles	Relations with other agreements (non-execution clause)
CARIFORUM	Reaffirms commitment under CPA	Explicit reference to Art. 2 and 9 of CPA	Explicit reference to CPA Art. 96 and 97, including on 'trade-related measures'
EAC	Reference to objectives and principles of CPA	No explicit reference to articles CPA, but only to the 'acquis' of Cotonou	Explicit reference to CPA (but no specific reference to Art. 96 and 97)
SADC	No reference to CPA; Reference to MDGs	Explicit reference to Art. 2 and 9 of CPA	Explicit reference to CPA (but no specific reference to Art. 96 and 97)
ECOWAS	Reaffirms commitment under CPA; Reference to UN Charters "particularly the observance of human rights"	Explicit reference to Art. 2 and 9 of CPA	Explicit reference to CPA (but no specific reference to Art. 96 and 97)
ESA IEPA	Reference to objectives and principles of CPA	Reference to the 'Cotonou Acquis' but no explicit reference to essential clause; Reference to MDGs	Explicit reference to CPA (with specific reference to Art. 96 and 97)
Cameroon IEPA		No reference to essential clause	Explicit reference to CPA (with specific reference to Art. 96 and 97)

However, the way the Cotonou Agreement is referred to varies across the agreements. Table 1 highlights the main differences and similarities among the African and CARIFORUM EPAs.

In the *preamble*, the CARIFORUM EPA stands out by reaffirming the commitments under the CPA with respect to 'essential elements' defined as human rights, democratic principles and rule of law. More broadly, the CARIFORUM EPA sets the tone about the very wide coverage regarding sustainable

³¹ For the sake of comparison, this table also covers the interim EPA (IEPA) concluded in 2007 with Cameroon and with four countries (Madagascar, Mauritius, Seychelles and Zimbabwe) of the East and Southern Africa (ESA) grouping.

development, labour standards, political environment etc. (Schmieg, 2014). It is also worth noting that it explicitly contains the words *human rights*:

REAFFIRMING their commitment to the respect for human rights, democratic principles and the rule of law, which constitute the essential elements of the Cotonou Agreement, and to good governance, which constitutes the fundamental element of the Cotonou Agreement.

The ECOWAS EPA is the only other EPA to also explicitly mention human rights, though in the parties do not commit to it, but only consider “the importance attached by the Parties to the principles of the United Nations Charter, particularly the observance of human rights”. The Agreement also makes an explicit reference to the CPA although it has not lifted the wordings related to essential elements in the Preamble. The preamble of the other two African regional EPAs, namely SADC and EAC, only make a general reference to sustainable development, but without specific reference to the Cotonou Agreement. These differences in the preamble do not have substantive legal implications though. The preamble has more of a political signalling function. For a legal perspective, a preamble can however be an aid for the interpretation of other legally binding provisions in the agreement.

The main reference to *essential elements* is found in the Principles (Art. 2 in SADC, ECOWAS and CARIFORUM respectively; and Article 4 in EAC).

In addition, with the exception of EAC, all three EPAs have an explicit reference to Article 9 (among others) of the CPA, which means that all the commitments taken in the Cotonou Agreement would apply in the same way for the same conditions under the EPAs. In the case of the EAC, ESA and Cameroon, reference is made to the ‘acquis’ of the CPA, without explicit reference to the specific Article in the CPA, which relate to essential elements. But since CPA Article 9 (and all other CPA articles) are part of the acquis of the Cotonou Agreement, the general reference to the CPA has in principle the same effect as specific ones.

The CARIFORUM, ECOWAS and SADC EPAs also commit the parties “take full account of the human, cultural, economic, social, health and environmental interests of their respective people and their future generations” as an objective of sustainable development.

Similarly, all recently concluded EPAs contain a non-execution clause, which allows any party to take ‘appropriate measures’ in case of a breach of the ‘essential elements’. The only EPAs to explicitly mention the relevant articles (CPA Art. 96 and 97) are those with CARIFORUM, with the four countries of East and Southern Africa (ESA-4: Madagascar, Mauritius, Seychelles and Zimbabwe) and with Cameroon. The others only refer to the CPA in general. However, the legal value of the different articles seems to have equivalent effect, since CPA Art.96 and 97 are an integral part of the Cotonou Agreement; any party can take ‘appropriate measure’ in case of breach of the ‘essential elements’. Referring to specific CPA provisions arguably only clarifies the legal commitments by confirming specific obligations, hence reducing the scope for legal interpretation.

Finally, the Caribbean EPA also contains a chapter on the protection of personal data, where the parties recognise “their common interest in protecting fundamental rights and freedoms of natural persons, and in particular their right to privacy, with respect to the processing of personal data” (Art. 197.1(a)).³² Other EPAs do not mention data protection (though it is included the rendezvous clause of the ECOWAS EPA).

³² CARIFORUM Art. 119.2, in the Chapter on electronic commerce, also refers to developing e-commerce “fully compatible with the highest international data protection standards”.

3.3. Potential applicability and impact of human rights in EPAs

It is common practice for EU FTAs to refer to political framework agreements or partnership and cooperation agreements, which provide the overall framework of the EU with its partner. The FTA can then refer to the broader framework, including with respect to human rights (EC, 2016c). In the case of EPAs, it is therefore natural that reference is made to the Cotonou Agreement.

The specificity for the ACP is that the Cotonou Agreement was signed in 2000 for a 20-year period, and thus will expire in 2020. A major issue relates therefore to the validity of the reference to the Cotonou Agreement in the EPA post-2020. There starts the legal argument.

The Vienna Convention on the Law of Treaties (VCLT) provides the legal body of rules that governs international treaties. It is thus the reference to assess the legal obligations under the Cotonou Agreement. With respect to the termination of a treaty as foreseen in the Cotonou Agreement, two provisions are of direct relevance:

- VCLT Art.54.1(a) states that “The termination of a treaty or the withdrawal of a party may take place: in conformity with the provisions of the treaty”, which in the case of the Cotonou Agreement means in 2020;
- VCLT Article 70.1 on the consequences of the termination of a treaty, indicates that “Unless the treaty otherwise provides or the parties otherwise agree, the termination of a treaty under its provisions or in accordance with the present Convention: releases the parties from any obligation further to perform the treaty”.

The legal interpretation and case is rather straightforward (Binder, 2018; Dorr and Schmalenbach, 2012; and Hefner, 2012), which implies that the Cotonou Agreement ceases to have effect after its termination in 2020.

The possible legal uncertainty comes from the fact that the EPAs relate to the Cotonou Agreement. An apparently straightforward interpretation is that with the expiry of the Cotonou Agreement in 2020, the reference to the CPA in an EPA will entail no legal obligation on the parties after 2020, and that such reference will cease to be relevant.³³ This is the fear of some Members of the European Parliaments (MEPs) for instance, who would like to see therefore stronger, more direct commitments to human rights (and sustainability) clauses in all the EPAs.

However, legal commitments may be subject to different interpretations, depending on the approach taken (e.g. Pauwelyn and Elsig, 2012). One alternative interpretation is that the EPAs reaffirm the commitments of the Cotonou Agreement and recognise its *acquis*. The will of the parties is thus clearly that such principles and commitments are relevant for the EPAs, and thus will remain legally valid even after the termination of the Cotonou Agreement. This is the interpretation adopted by the European Commission for instance.

Since there seems to be no directly relevant case law to refer to, there is some uncertainty as to which legal interpretation will prevail. In this respect, EPA texts with more direct references to human rights

³³ For instance, Bartels (2014: 13) states that “The Cotonou Agreement will expire in 2020, and when that occurs, these clauses will lose their effect, unless the replacement of the Cotonou Agreement (assuming there is one) continues the effect of the clauses mentioned. This is a difficulty with linkage clauses that must be addressed in connection with any framework cooperation agreement of limited duration.”

(and other sustainability) clauses appear to indeed provide greater legal certainty, though general reference to the Cotonou Agreement may have equivalent effect.

To date, human rights clauses have been applied in cases involving gross human rights violations and military coups, but they have the potential to cover a range of other matters, including any violations of labour or environmental rights that rise to the level of ‘human rights’, as discussed in Sections 4 and 5. All EPAs concluded by the EU contain references to ‘essential elements’ of human rights, which could be applied if needed. However, in practice, it is too early to assess the applicability of human right clauses in the three recently concluded regional EPAs because they are not yet in force. In the context of the Caribbean, the clause has so far not been invoked.

The human rights clauses of the EU FTAs have been referred to as the equivalent of an ‘atomic bomb’ of trade.³⁴ The purpose is rather dissuasion and possibility to engage in a political dialogue on human rights issues. This might explain why sanctions are seldom.

A criticism has however been that greater attention has been paid by the EU to civil and political human rights (so called first generation), related to democratic process (or lack of it), rather than social and economic rights (so-called second generation of human rights) (Hachez, 2015). This relates to the practice of the EU, and not based on different legal ground for these two generations of human rights (see also Koch, 2015).

A couple of additional observations can be made. First, in addition to a systematic inclusion of strong essential element clauses in trade agreements, since 2009, there have also been some other developments relevant to human rights clauses, in particular relating to ‘sectoral’ agreements. For example, the EU-Cote d’Ivoire Fisheries Partnership Agreements (FPAs), which is not part of the ECOWAS EPA, contains specific commitments that relate to human rights clauses in other applicable agreements.

Second, since the 2009 Lisbon Treaty, with the EU’s ‘new’ competence in foreign direct investment (FDI), investment obligations in its trade agreements also include human rights obligations. While the CARIFORUM EPA contains specific clauses regarding investors and FDI (see Box 5). It is however unclear to what extent such clauses can deal effectively with the types of human rights issues that can arise in the context of investment obligations. Besides, it would also be interesting to consider how new investment obligations might unduly infringe the policy space of some developing countries, in a way that could impede their human rights.

Box 5. Caribbean EPA Articles 72 and 73 on investment

Article 72 Behaviour of investors

The EC Party and the Signatory CARIFORUM States shall cooperate and take, within their own respective territories, such measures as may be necessary, *inter alia*, through domestic legislation, to ensure that: (a) Investors be forbidden from, and held liable for, offering, promising or giving any undue pecuniary or other advantage, whether directly or through intermediaries, to any public official or member of his or her family or business associates or other person in close proximity to the official, for that person or for a third party, in order that the official or third party act or refrain from acting in relation to the performance of official duties, or in order to achieve any favour in relation to a proposed investment or any licences, permits, contracts or other rights in relation to an investment. (b) Investors act in accordance with core labour standards as required by the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work, 1998, to which the EC Party and the Signatory CARIFORUM States are parties. (2) (c) Investors do not manage or operate their investments in a

³⁴ Interview by a DG Trade official with the author.

manner that circumvents international environmental or labour obligations arising from agreements to which the EC Party and the Signatory CARIFORUM States are parties. (d) Investors establish and maintain, where appropriate, local community liaison processes, especially in projects involving extensive natural resource-based activities, in so far that they do not nullify or impair the benefits accruing to the other Party under the terms of a specific commitment.

Article 73 Maintenance of standards

The EC Party and the Signatory CARIFORUM States shall ensure that foreign direct investment is not encouraged by lowering domestic environmental, labour or occupational health and safety legislation and standards or by relaxing core labour standards or laws aimed at protecting and promoting cultural diversity.

4. Labour rights and social standards

Since 2008, the EU's FTAs have included 'sustainable development' chapters.³⁵ Partly inspired by US and Canadian FTAs, these chapters contain obligations requiring signatory parties to comply with labour and environmental standards (including ILO core labour standards), and, conversely, not to use labour and environmental regulation as a means of economic protection. It is worth noting that while the EU tends to combine these issues under one single sustainable chapter, the US and Canada deal with labour and environment issues in two separate chapters in their FTAs. As a result, the EU-Canada FTA contains three chapters to cover these issues: one on labour, one on the environment, and one on sustainability.

For the sake of presentation, this Section will discuss labour and social issues, and Section 5 will briefly cover the environment. Besides, since core labour standards are also basic human rights, there is some overlap with specific human rights clauses as contained in essential clauses. This is analysed below.

4.1. EU's approach to labour rights and social standards in FTAs

The EU's approach³⁶ to labour rights and social standards in bilateral FTAs is relatively recent: in 1995, it adopted an approach involving both a withdrawal mechanism and an incentive mechanism for additional preferences, linking trade preferences and labour standards (Tsogas, 2000; Orbie and de Ville, 2010).

But this differs significantly from the approach used in the context of human rights. Over time, the approach has evolved³⁷ and the levels of commitments have deepened and widened³⁸, although there remain important differences across agreements (see Bartels: 2008; Van den Putte & Orbie, 2015).

³⁵ The first agreement was the EU-CARIFORUM Economic Partnership Agreement [2008] OJ L289/II/3.

³⁶ "EU policy on trade and labour is based on the principle that good social conditions underpin sustainable productivity growth and promote the efficient production of high quality goods" (European Commission Directorate General Trade 2006).

³⁷ For example, the 'Global Europe' strategy emphasises 'social justice' and 'sustainable development' in the context of labour standards promotion. The follow-up communication 'Trade, Growth and Development' links labour standards promotion to the objectives of growth, social justice and development.

³⁸ The evolution can be summarised in two periods: (i) A first period, ranging from the EuroMed agreements until the agreement with Chile (1990s–2003), where there was a limited but gradually increasing social ambition; and (ii) a second period, starting with the CARIFORUM agreement and continuing with the 'Global Europe' free trade agreements (since 2008), where it is observed that the labour provisions have significantly deepened and widened.

The *content* of the provisions relate to two distinct but inter-related issues, social policy and labour rights.

Provisions that argue for '*social policy*'.³⁹ These are generally 'soft' policies that endorse for instance, the recognition that social policies such as decent work that take into account gender and youth dimensions are conducive for development. Other provisions also engage countries in agreeing not to use social policies as protectionist trade measures. There are generally no enforcement mechanisms since most clauses are best endeavoured in nature but nevertheless provide for an 'implementation' mechanism done through cooperation with its partner countries.

Second, labour '*rights*', which essentially call for legal commitments to respect core labour standards as '*rights*'. These are conditional clauses as countries have an obligation to effectively enforce national labour laws. They also relate to legally binding international commitments such as those set out in the 1998 Declaration of the International Labour Organization (ILO) on the Four Core Labour Standards. But contrary to the GSP+, EU FTAs do not require the partner countries to ratify ILO Conventions. Besides an obligation to enforce labour laws, these provisions also require countries not to reduce their levels of protection, and encourage countries to even raise their levels of protection, subject to a proviso that this is not done for protectionist purposes.

The EU does not have a specific definition of social standards. Labour issues are covered under the rubrics of 'social aspects', 'social matters', or 'sustainable development', although specific reference is made to the implementation of core labour standards (and respect for the environment).

In terms of implementation, contrary to the US approach⁴⁰, the EU adopts a more nuanced approach, with a preference for dialogue and capacity building and against sanctions.

4.2. Social standards and labour rights in EPAs

Social issues are recognised as an integral part of sustainability dimension of the EPA, and thus are given careful recognition.

The CARIFORUM EPA was a turning point in the EU's approach to social standards and labour rights. It was the first agreement that combined promotional and conditional aspects, which was somehow influenced by the trends in the US and Canada post-NAFTA.⁴¹ Agreements signed by the EU with South Korea in 2011, Peru/Colombia and Central America in 2012 followed similar content. The CARIFORUM EPA is arguably the most far-reaching agreement in terms of labour standards than most, if not all, subsequent EU FTAs (Van den Putte, 2016). In a nutshell, these agreements reaffirm existing international obligations and contain substantial commitments on labour standards. In terms of implementation, they involve knowledge-sharing and technical assistance and include the possibility of consultations between the parties including with civil society actors. Table 2 highlights the key similarities and differences in EAC, SADC, ECOWAS and CARIFORUM EPAs.

³⁹ For an outline of what social policy means for the EU, see <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:ai0023>

⁴⁰ Based on congressional and civil society pressure, the US also provides clear avenues for sanctions, making labour issues actionable under regular dispute settlement processes.

⁴¹ In fact, the North American Free Trade Agreement (NAFTA) led to the adoption of the North American Agreement on Labour Cooperation (NAALC) in 1995.

The CARIFORUM EPA is by far the most complete in coverage (goods, services and investment), obligations and cooperation, whereas the EAC and ECOWAS EPAs are the shallowest in commitments and thus contain rendez-vous clauses. They do not make any reference to internationally agreed social and labour standards and frameworks. Instead, ‘social issues’ are treated under the generic definition of ‘sustainable development’, which does not include specific implementation mechanisms.

The language and coverage varies across EPAs varies. In the CARIFORUM EPA for instance, there is a specific chapter covering social aspects (Chapter 5, Arti.191-196), which also include labour rights. It explicitly mentions ILO obligations, where “The Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant ILO Conventions” (Art.191.1), as well as “to the 2006 Ministerial declaration of the UN Economic and Social Council on Full Employment and Decent Work (Art. 191.2); it covers labour issues such as industrial relations, equal treatment of men and women, unemployment, vocational training, and work safety”.⁴² Other EPAs do not go that far. The ECOWAS EPA refers to the “social goals of the EPA” (Art.3.5).

The SADC EPA recalls “the Agenda 21 on Environment and Development of 1992, the 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 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 and the UN Conference on Sustainable Development of 2012 entitled *The Future We Want* (Art.6.1)”. As for social issues, they are framed entirely under the three pillars of sustainability: economic, social and environmental, as mentioned in Art.6.2. The parties refrain from taking any binding commitment, as illustrated in Article 11 where the parties only commit to work together on trade and sustainable development (see Box 6). In this regard, it is worth noting however that the SADC EPA is the only EPA, with the CARIFORUM EPA (Art.196.2(d)), to explicitly refer to corporate social responsibility (CSR).

Box 6. SADC EPA Article 11 - Working together on trade and sustainable development

1. The Parties recognise the importance of working together on trade related aspects of environmental and labour policies in order to achieve the objectives of this Agreement.
2. The Parties may exchange information and share experience on their actions to promote coherence and mutual supportiveness between trade, social and environmental objectives, and shall strengthen dialogue and cooperation on sustainable development issues that may arise in the context of trade relations.
3. In respect of paragraphs 1 and 2, the Parties may cooperate, *inter alia*, in the following areas:
 - a) the trade aspects of labour or environmental policies in international fora, such as the ILO Decent Work Agenda and MEAs;
 - b) the impact of this Agreement on sustainable development;
 - c) corporate social responsibility and accountability;
 - d) trade aspects of mutual interest to promote the conservation and sustainable use of biological diversity;
 - e) trade aspects of sustainable forest management; and
 - f) trade aspects of sustainable fishing practices.

⁴² In other bilateral FTAs, e.g. the EU-Israel agreement, the chapters go beyond core labour standards to encompass disabled people.

There is also recognition in the EPAs that safeguard measures can be used when “disturbances in a sector of the economy [...] produce major social problem”. Besides, social and labour issues are also an integral part of the constructive engagement and dialogue among the parties; social actors and trade unions are included in the Consultative Committee (Caribbean, EAC and ECOWAS), and social and labour issues, as other sustainability dimensions, should be part of the monitoring.

It is interesting to note that while the EAC EPA does not make specific provisions regarding labour rights and social standards overall, it is the only EPA that has a specific ‘sectoral’ coverage regarding social standards. In effect, the Marine Fisheries chapter of the EAC EPA expressly refers to the fundamental principles of the ILO and the rights to work for seamen signed on European vessels. The EAC EPA also foresees that “The principles of cooperation in fisheries shall include: [...] ensuring functioning monitoring system of the environmental, economic and social impacts in the EAC Partner States” (Article 52.1(e)). The EAC EPA also recognises the social dimension (e.g. diversity of social characteristic in Art.59.3; social impact and social integration in Art.57.2 and Art.72(a)) in agriculture. It does so also in the energy sector, calling for the “diversification of the energy mix to include other potential sources of energy that are socially and environmentally acceptable [...]” (Art. 80.3(b)).

Table 2. Social standards and labour rights in EPAs

Agreement	Reference to minimum international labour standards	Commitments to implement international commitments	Commitments not to encourage trade /or investment through weakening of labour laws	Level of protection	Cooperation on labour issues	Institutional frameworks	Dispute settlement/ consultation mechanism	Remedies
CARIFORUM	Yes: ILO, ECOSOC	Yes	Yes	Domestic Also agree to ‘promote’ decent work at regional level	Yes	Cooperation and dialogue framework (consultative committee); Consultation mechanism Optional ILO consultation	Consultation and monitoring incl. through committee of experts; In case of failure in consultation, regular DSM applies	No suspension of trade concessions Agreement
SADC	Yes: ILO	Yes	Yes	Domestic	Yes including through CSR	Cooperation in various labour issues; Trade and Development Committee (investment)	Not subject to DSM	No suspension of trade concessions
EAC	No	Reference to Cotonou only Applicable only to Marine Fisheries (seamen)	No	n/a	n/a	n/a	n/a	n/a
ECOWAS	No	Reference to Cotonou only	No	n/a	n/a	n/a	n/a	n/a

Despite the decision not to include specific obligation in EPAs, it is however worth noting that fundamental labour rights are ‘universal’ in nature, provided EAC and SADC member governments

have signed and ratified a number of internationally agreed conventions. In that sense, these fundamental rights must be respected, regardless of their inclusion in bilateral trade relationships. It is true that without specific reference to labour rights, the trade agreements cannot contribute to this respect. The situation is however slightly different for EPAs, where such rights are always implicitly recognised through the reference to the Cotonou Agreement. Indeed, all EPAs (including ECOWAS and EAC) refer to the Cotonou Agreement, which include CPA Articles 9 and 50⁴³ (relating to Trade and Labour Standards), which indicates that those fundamental social rights are applicable to the EPAs (at least as specified under the Cotonou Agreement).

Although non trivial, the reference to Article 9 of Cotonou is nonetheless not sufficient to secure an obligation on the part of countries that they would not use establish labour standards in a trade-distorting or anti-competitive manner. The EAC EPA (and the ESA IEPA) only refers to ILO fundamental principles and standards in the context of marine fisheries, where these apply only to seamen signed on EU vessels.

Finally the CARIFORUM EPA provides for a consultation and political process involving various stakeholders involved in the implementation of the labour provisions, such as business and civil society actively involved in the promotion and monitoring of the implementation of the labour provisions. The CARIFORUM and SADC EPAs make an additional reference to CSR, with an aim to encourage companies to comply with social (and environmental) standards. The CARIFORUM, EAC and ECOWAS EPAs involve civil society actors through their participation in the Consultative Committee (notably absent in the SADC EPA).

The CARIFORUM EPA also includes a number of other social and labour elements not necessarily covered in other EPAs. For instance, the provisions under the CARIFORUM EPA encourage both parties to provide higher levels of social and labour regulations (Art. 192). They also require that each party would not reduce its level of protection in a way that might undermine existing labour (and environmental) standards (Art. 193). Further, the clauses provide for the prevention of social dumping, notably through lowering of standards for competitiveness purposes. By doing so, the CARIFORUM EPA prevents the parties (including the EU) from weakening their existing domestic labour and social regulation, for instance as a result of competitive pressures (Häberli *et al.* 2012). Contrary to the SADC EPA (and all other EU FTA post-CARIFORUM EPA), which has comparable clauses, the ECOWAS and EAC EPAs, as well as other interim EPAs, do not contain similar provisions. This is a major difference in the depth of sustainability coverage regarding labour and environmental standards across various EPAs, where the Caribbean EPA is clearly more explicit and comprehensive, compared to the shallower ECOWAS and EAC EPAs in that respect.

In addition, the CARIFORUM EPA covers trade in services and investment provisions and there are explicit commitments to deal with the behaviour of investors and with foreign direct investment in general. Investors should act in accordance to core international labour standards and environmental obligations (Art. 72(b&c)). But the agreement goes beyond that, as the parties very explicitly commit to not weaken their standards to attract investment: “The EC Party and the Signatory CARIFORUM States shall ensure that foreign direct investment is not encouraged by lowering domestic environmental, labour or occupational health and safety legislation and standards or by relaxing core labour standards or laws aimed at protecting and promoting cultural diversity” (Art.73), arguably the most explicit

⁴³ All EPAs refer to the CPA, which includes all articles that have not been abrogated. As indicated in Table 1, CARIFORUM, ECOWAS and SADC EPAs even make explicit reference to CPA Art.9.

commitment in any FTA (Häberli *et al.* 2012). Other EPAs cover trade in goods only and therefore fall short of addressing possible challenges that may arise as a result of investments.

Like other EPAs (with the exception of the SADC EPA), the CARIFORUM EPA provides for a ‘monitoring mechanism’ notably through joint committees or consultative committees. The normal dispute settlement provisions⁴⁴ apply if there is a failure to comply with relevant obligations, once consultations have been made, although the agreement does not allow the suspension of provisions (unlike in the case of human rights). It is however interesting to note that this remedies carve-out only applies to violations of obligations set out in the sustainable development chapter but not to violations of the sustainable development obligations detailed in the chapter on investment in goods (Bartels: 2014). In the case of the Caribbean EPA, in place since 2009, it is worth noting the outcomes of the official five-year review (B&S Europe and Linpico, 2014). While efforts have been undertaken to implement the agreement, the review was not able to identify noticeable impact on sustainability or employment and wages. This is mainly due to the lack of overall significant effect of the EPA so far, and the lack of proper indicators and methods to measure the impact on the various sustainability dimensions of the EPA. As such, it illustrates the need to have proper monitoring processes in place (see also Hauser and Humphrey, 2016; and Schmieg, 2015).

One of the key differences between the EU’s approach regarding social standards and human rights is the level of protection and the enforcement mechanism. Contrary to human rights, where the reference laws are international conventions, while social standards recognise ILO conventions as the important standards, enforcement is done through domestic laws. Countries maintain the right to regulate while agreeing not to use domestic legislation as protectionist barriers or uncompetitive practices. In terms of enforcement, although non-respect of social standards and labour rights are subject to a dispute settlement mechanism, there are no equivalent sanctions such as suspension of trade preferences as may be the case if there are human rights violations. Parties instead agree to take into account the report from the arbitration panel which could potentially be addressed through possible dialogue and technical assistance.

4.3. Reference to domestic (regional) commitments

Labour provisions are also strongly anchored in regional economic communities’ (RECs) policy frameworks. Given the regional dimension of the EPAs, it is worth pointing at the synergy between EPA provisions and the domestic and regional commitments of EPA countries.

In ECOWAS, the implementation of labour provisions was initiated in the annual forum of labour ministers created in 2005 to discuss labour and employment issues at the regional level. It led to the ECOWAS Labour and Employment Policy of 2009, which includes, among others, labour standards and social protection issues. ECOWAS also works closely with the ILO, in particular in establishing a child labour programme, knowledge-sharing and the training of the Secretariat on child labour issues to strengthen regional capacity in this regard (ILO/IPEC, 2010).

In SADC, although there is no specific policy on labour issues, those are discussed by the specific committee put in place by the Ministers of Labour of the SADC member states. Within this framework, a number of activities have been initiated including the development of tools to evaluate the incidence of

⁴⁴ When a Panel submits its final report the Parties should implement its conclusions but no provisions are included to enforce their compliance. As such, enforceability has increased, but it appears that only soft pressure can be exerted on the Parties.

child labour at the national level as well as data collection on occupational accidents. The organisation has also facilitated the ratification of ILO conventions.

Similarly, in the EAC, labour-related issues have also gradually gained more attention. In 2011 the Social Development Framework was amended to provide for the establishment of a Social Sectors Department, including an increasing number of staff specialised in social issues. But so far, there is no regional policy framework to commit member countries scale up labour standards.

Finally, in the Caribbean, a Council for Human and Social Development, consisting of delegated ministers of the CARICOM member states, has been instituted to deal with labour and other social issues. The region has often facilitated the harmonisation of the labour law among its member states but without a single 'model'. Countries still have their own laws and regulations (Deacon, 2010).

Table 3. Labour standards in regional configurations

Agreement	Specific legal instrument adopted	Commitments to certain minimum labour standard	Ability to adopt secondary legal instruments on labour standards	Implementation framework
Treaty of the Economic Community of West African States (ECOWAS) (1993 revised in 2005)	Agreement	-	-	Cooperation regarding labour law harmonisation and improvement of working conditions in the rural sector
Agreement Establishing the Common Market for Eastern and Southern Africa (COMESA) (1994)	Agreement	-	Yes (in the area of elimination of discriminatory legislation against women)	Cooperation regarding employment conditions, labour law and gender issues
Revised Treaty on the Caribbean Community and Common Market (1997)	Agreement	-	-	Cooperation and dialogue within the Council for Human and Social Development
	Charter of Civil Society for the Caribbean Community of 1995	Yes	-	Review of progress by the Secretary-General foreseen
	Declaration of Labour and Industrial Relations Principles of 1998	Yes	-	-
Treaty for the Establishment of the East African Community (EAC)	Agreement	-	Yes	Cooperation on working conditions and gender equality

Source: ILO, 2015.

5. Environmental provisions

Environmental issues are often mentioned together with economic and social issues, the two other traditional pillars of sustainable development. There are therefore some similarities with the social and labour issues addressed in Section 4. However, one can also identify a specific approach and focus to environmental dimensions, which are addressed in this section.

5.1. EU approach to environmental provisions

Substantive environmental provisions were introduced in most EU agreements at the same time as social standards and labour rights, under sustainable development clauses in 2006⁴⁵ (see Jinnah and Morgera: 2013). The approach is therefore similar to that used to foster social standards and labour conditions. It also contrasts with the US approach, which focuses on the enforcement and improvement of legislation already in place in partner countries, as well as the enforcement of particular international treaties that both Parties have passed. EU FTAs focus instead on cooperation, capacity building and technical assistance.

The EU-South Africa Trade, Development and Cooperation Agreement (TDCA) was the first one to include an environmental chapter requiring parties to maintain an adequate level of environmental protection and not to lower it for trade purposes. A new generation of EU PTAs concluded after the publication of the European Commission's communication "Global Europe: Competing in the World" in 2006 is modeled after the 2010 EU-South Korea PTA which contains one legally binding sustainable development chapter with both environmental and labour standards. These chapters also demand parties to comply with MEAs.

It is important to highlight that compared to the approach in human rights, the approach to environmental standards in EU FTAs is based on 'persuasion' rather than 'coercion', like in the case of labour and social provisions, therefore relying on soft mechanisms of enforcement. Thus, even if environmental standards are legally binding, which implies that when parties do not comply with commitments, they can be brought to the expert panel, failing to comply with the rulings of such a panel do not however result in any real penalty. Instead, the EU only relies on the civil society dialogue, a mechanism where governments and civil society actors meet on a regular basis to work together on implementation. This dialogical approach with regard to environmental standards in its FTAs is a testimony of the idea of Normative Power Europe that projects EU norms and values through persuasion and not coercion (Manners 2002). In this respect, the environmental approach tends to be the same as the one adopted for labour and social issues.

5.2. Environmental clauses in EPAs

The CARIFORUM-EU EPA was the first FTA to have a comprehensive chapter on environment clauses, with fully enforceable environmental clauses within its investment provisions. It also converges with the

⁴⁵ The 1992 Rio Declaration is one of the earliest examples of trade-environment policy linkages. Principle 12 of the Declaration urges countries to ensure that any environmentally focused domestic trade policies do not unnecessarily restrict international trade. Article XX of the GATT provides environmental exemptions for domestic policies that would otherwise violate trade obligations, provided those policies meet certain environmental criteria. This environmental exemption clause has been reproduced prolifically, including in most subsequent American and EU FTAs. However, the 2006 Global Europe Strategy streamlined efforts in this regard.

US approach to “seek to ensure” high levels of environmental protection. The latter is, however, not fully subject to dispute settlement.

Environmental provisions fall into two broad categories:

- (i) Provisions that seek to *protect or enhance the environment*. Parties are required to enforce existing domestic environmental laws and regulations and are required not to weaken their environmental regimes to attract investment. These provisions also aim to improve domestic laws and their enforcement, maintain environmental standards, and promote corporate environmental stewardship. They recognise countries’ ‘right to regulate’, which means that the agreement does not ‘impose’ standards. Countries also recognise and agree to support and comply with multilateral Environmental Agreements (MEA) to which the parties are members.
- (ii) *Environmental cooperation*, where parties agree to cooperate on a list of agreed areas but without taking binding commitments to regulate trade through environmental standards. Instead, cooperation seeks to enhance countries’ capabilities to deal with environmental issues and support them to develop projects to improve the environment. This is often done through the provision of financial resources and technical assistance to improve the countries’ capability to monitor their environment, improve enforce environmental laws or develop infrastructure facilities necessary to achieve the objectives set in the agreement.

Table 4. Overview of environmental provisions in EPAs

Agreement	Reference to international environmental agreements	Commitments to implement international commitments	Commitments not to encourage trade /or investment through weakening of environmental laws	Level of protection	Cooperation on environmental issues	Institutional frameworks	Dispute settlement/ consultation mechanism	Remedies
CARIFORUM	2002 Johannesburg declaration; WTO; Multilateral and regional Agreements	Yes	Yes	Domestic	Yes	Cooperation and dialogue	Yes for consultation	No suspension of trade preferences
SADC	2002 Jo'burg action plan of implementation of SD 2012 UN Conference on sustainable development Reference to MEAs	Yes	Yes	Domestic	Yes	Cooperation and dialogue	No	No
EAC	No	No	No	No	No	No	No	No
ECOWAS	No	No	No	No	No	No	No	No

The approach towards environmental issues in EPAs is similar to that used to foster social standards and labour rights, although there are additional references to the environment in specific chapters such as agriculture and fisheries. These are framed in best-endeavour terms, meant to enhance cooperation.

There are no particular mechanisms to trigger sanctions in case parties do not respect their commitments.

Compared to the TDCA, the SADC EPA is more explicit as it refers to the international environmental governance and agreements, including the Multilateral Environmental Agreements, as well as the Cotonou Agreement, in particular CPA Art.49 (SADC EPA Art.8).⁴⁶

6. Beyond FTAs: How does the EU foster sustainable development?

As this paper highlights, Europe already has a strong political stand in supporting human rights, rule of law, social and environmental standards, notably through its policy to promote free and fair trade practices. These are strongly anchored in trade agreements. This is even more important when considering the large number of EU companies involved in global value chains – which include ‘parent companies’.

But while necessary, trade policies alone are not sufficient to address the root causes and triggers of human or labour rights violation or social and environmental challenges in developing countries. Trade agreements are only one of the tools and approaches the EU uses to foster sustainable development. As already indicated in Section 2 and in Box 3, the EU approach should be comprehensive and coherent towards sustainability. This includes synergy between trade policy related instruments, development cooperation, political dialogue and diplomatic engagement, and other policies and initiatives, as framed under the concept of policy coherence for sustainable development (ECDPM, 2016; OECD, 2015).

Indeed, over the years, the European Union has adopted an integrated and comprehensive approach to sustainable development in an attempt to prevent and mitigate the risks or to support its partner countries in dealing with those problems at home (see Annex 2 for a summary of EU's approach). The approach consists of a series of complementary trade, foreign and development cooperation policies and strategies implemented with partner countries. In addition, it increasingly engages with businesses, through a regulatory mix, which either encourages or legally requires companies to take a number of steps to ensure their supply chains are, as far as possible, sustainable, transparent and respectful of the human rights. This also includes a call from the EU to its member states to develop by the end of 2012 national action plans for the implementation of the UN Guiding principles (although so far only eight have produced theirs). A quick scan of the plethora of instruments and tools available within the EU however suggests that policy effectiveness will depend on how well all those efforts are coordinated so that they deliver on their ambitions while avoiding unnecessary costs for companies.

It would be beyond the scope of this paper to address such a coherence agenda in the context of the EU FTAs, and in particular the EPAs (e.g. Orbie and Van den Putte, 2016; Peels *et al.*, 2016). For the sake of illustration, we focus instead on some business related endeavours, as they are pertinent for human rights, social and labour standards, environmental standards and broad economic sustainability.

⁴⁶ The SADC EPA also recognises “environmentally harmonious production methods on labels for wine”.

Businesses must respect and comply with all applicable laws and respect human rights wherever they operate and “independently of States’ abilities and/or willingness to fulfil their own human rights obligations”, as spelt out in the UN Guiding Principles on Business and Human Rights (UNGPs) (UNHR, 2011). Businesses are in fact responsible for the footprint left on the socio-economic fabric and on the local environment in countries where they operate. This is particularly relevant when countries where human rights, social or environmental standards are lower than in their home countries. These past few years have seen a number of serious incidents related to workers conditions in developing countries⁴⁷ and has raised the question of the role of businesses in acting responsibly.

As a result, a number of voluntary codes and mechanisms have been put in place in Europe and globally⁴⁸ to improve business conduct in developing countries (Annex 2), many of them focusing on working conditions and human rights. Although laudable initiatives and generally seen to have a positive effect, it is usually difficult to measure the long-term impact of these standards on working conditions (Newitt, 2013).

These voluntary initiatives have emerged as a response from the international community to address challenges such as social and ethical issues, human rights violation, environmental degradation and so on. These initiatives have been recognised and acknowledged as bringing forward a broad sense of corporate responsibility, in particular when companies operate in difficult contexts (such as in fragile states or countries with weak institutions).

Companies have started responding to these challenges for different motives (ethical and/or commercial) and objectives (reputational, funding and/or business risks and opportunities).

First, companies can choose not to invest in a context where the likeliness of their business activities causing human rights violations is high, making sure they do not contribute to human rights violations. This can be assimilated to a ‘do no harm’ strategy.

When companies invest in a context where human rights violations may happen, some companies conduct a human rights due diligence, whereby they “identify, prevent, mitigate and account for how they address their adverse human rights impacts” (UNHR, 2011). This process is slowly being used by the business communities.⁴⁹ In case they fail respecting all human rights, they are to address such impacts when they occur, by providing for instance company level grievance mechanisms, and remediation. This follows thus a ‘do good’ approach.

⁴⁷ On 24 April 2013, the most deadly industrial accident since the 1984 Bhopal disaster in India occurred in Dhaka, Bangladesh. An entire eight-storey building – the Rana Plaza – containing five clothing factories, a bank and shops collapsed completely, killing 1138 workers and injuring over 2500. At least 27 global garment brands had recent or current orders with the factories in the building. The Rana Plaza disaster has overshadowed another major accident, which occurred on the outskirts of Dhaka in November 2012: the Tazreen factory fire. A multi-floor fashion garment factory burned down, taking 112 workers' lives. The scale of these tragedies has raised awareness of issues linked to the responsibilities of Western global fashion brands, governments' and international organisations' policies, and even the individual choices of consumers.

⁴⁸ In the case of minerals for example, Section 1502 of the 2010 Dodd-Frank Act requires companies listed on US stock markets to disclose annually whether any conflict minerals that are necessary to the functionality or production of a product, originated in the Democratic Republic of the Congo or an adjoining country and, if so, to provide a report describing, among other matters, the measures taken to exercise due diligence on the source and chain of custody of those minerals, which must include an independent private sector audit of the report that is certified by the company filing the report.

⁴⁹ Examples of Human Rights Due Diligence can be found in MNCs such as Coca Cola company; Nestle; Arla Foods, Siemens etc. showing that all sectors are affected by human rights issues that need to be addressed by businesses among other actors.

Some of these companies even report on human rights, as part of their reporting tools (UNGPs, Global Reporting Initiative - GRI, UN Global Compact) or policy compliance (UK Modern Slavery Act). The emphasis of these reporting frameworks is on progress rather than perfection, meaning that it encourages companies to acknowledge challenges and human rights related issues; demonstrate how they address these challenges; and how they can further improve. This in turn favours peer-to-peer learning. The practice remains rather sobering though: in the case of the GRI, only 17 per cent reported negative human rights impacts and how they dealt with it – this comes to question the reporting motives of companies and transparency of the reports.

That said, businesses face some limitations: in situations where human rights issues are complex, multi-stakeholder actions are often required, meaning that each stakeholder - private sector, state and civil society - has a key role to play (see Box 7 for the example Yves Nissim Orange). Besides, they also express the need for more clarity and coherence between these voluntary initiatives: what are the minimum standards?; how can companies raise their ambitions? In other words, there is a need to make these guidelines more operational for businesses.

Box 7. Orange experience

When the Arab Spring came in some countries, the local government tried to remain in power and asked Orange to do things they did not want to do – e.g. cut the networks, support some political party by sending messages, or give data... which is in contradiction with political and civil liberties, and rights to privacy. Orange alerted the civil society, which then helped put the information in the public (explaining government's demands)... and the day after the government stepped back and did not force Orange to breach human rights. Multi-stakeholder dialogue is therefore key, and since then Orange has initiated and fostered industry dialogue including civil society organisations and businesses.

The adoption of sectoral voluntary agreements or initiatives, sponsored by EU member states or the EU, can provide a useful framework to promote respect for human, social, labour and environmental rights in a coherent manner. Beyond national initiatives such as the German Partnership for Sustainable Textiles, the recent case of the EU Garment Initiative is in that respect quite illustrative (Box 8).

Again, public-private endeavours in such sectoral initiatives make sense only if considered in a broader policy framework, seeking coordination and coherence among the tools, voluntary and binding, which are adopted. The EU roadmap on Business and Human Rights is attempting to provide such a conducive framework (Box 9).

Box 8. Aligning National Initiatives with an EU Garment Initiative

After the tragic event in 2013 in Rana Plaza, Bangladesh, the EU launched a joint initiative “Bangladesh Sustainability Compact” with the Bangladeshi government, the International Labour Organization (ILO) and the US, *to improve the labour standards in the garment industry in Bangladesh and encourage the signing, ratification and implementation of relevant international conventions and multilateral agreements and to strengthen global governance on these issues.*⁵⁰ The EU garment initiative broadens the scope of the “Bangladesh Sustainability Compact” to other countries in the garment supply chain and promotes successful existing initiatives, including from member states and industry, and provide a platform for continuing the multi-stakeholder dialogue at EU level. On 16 October 2014, the German Partnership for Sustainable Textiles was founded under the auspices of German Federal Development Minister Dr. Gerd Müller. The Textiles Partnership aims at improving the social and environmental conditions along the entire textile and garment supply chain and currently counts more than 180

⁵⁰ <http://dr2consultants.eu/918/>

members; its 120 more than member companies represent approximately 55 per cent of the German textile and garment retail market.

Slightly before the soft launch of the EU Garment Initiative on 25 April 2016, the Netherlands developed The Dutch Agreement on Sustainable Garments and Textiles. The approach is similar as it provides a platform for multi-stakeholder dialogue, and aims at addressing issues such as child labour, forced labour, a livable wage, safe working conditions, and animal welfare. But companies that wish to join such an agreement must conduct a due diligence in accordance with international standards.

Sources: https://ec.europa.eu/europeaid/news-and-events/high-level-conference-responsible-management-supply-chain-garment-sector_en and <https://www.government.nl/documents/speeches/2016/04/25/speech-minister-lilianne-ploumen-at-the-eu-garment-initiative-meeting>

Box 9. EU roadmap on Business and Human Rights

More recently during the EU roadmap on Business and Human Rights, several measures to foster business respect for human rights came to conclude this conference:

- “The EU and member states should take steps to remove legal, procedural, and institutional barriers that prevent victims of business-related human rights abuse from gaining **access to judicial remedy** in both transnational and domestic cases (The Council of Europe Recommendation on Human Rights and Business provides useful guidance in this regard).
- The EU and member states should strengthen **access to non-judicial remedy**, including strengthening the capacity of OECD National Contact Points within as well as outside the EU.
- The EU and member states should **promote human rights due diligence** by the private sector. This entails clarifying what is expected as a minimum standard, as well as explaining how companies can raise their ambition. Different **instruments** to promote due diligence can be considered, including multi-stakeholder agreements with specific (high-risk) sectors, as well as reforms of tort/civil law and company law. Additional efforts are needed when the EU or member states support or procure from companies.
- Examples of multi stakeholder agreements include the recently signed EU Garment initiative and The Dutch Agreement on Sustainable Garments and Textiles.
- The UNGPs should be integrated into financing of the global goals, including through public-private partnerships. The EU should also support integration of the UNGPs into national development plans.
- The EU and member states must honour their human rights commitments including under the UNGPs in the context of **public procurement**. They should further develop law, policy, guidance, and training resources on public procurement and human rights to this end.
- The EU and member states should complement their efforts to implement the UNGPs with engagement in processes aimed at enhancing the international normative and legal framework, such as those initiated within the ILO, the OECD, the Council of Europe and the UN.
- Transparency is critical in enabling markets and society to recognise, incentivise and reward respect for human rights by companies. The EU and member states should include **due diligence information in reporting requirements** such as the Non-Financial Reporting Directive, for example by using reporting standards involving the concept of salient human rights risks.
- Pressure on companies to focus on **short-term** financial results should be mitigated, in order to promote respect for human rights and sustainability as factors in business decisions.
- Stronger engagement with businesses operating in conflict-affected areas is necessary to prevent and address business-related human rights abuse and to promote accountability.”

Source: <http://eu-roadmap.nl/>

Before turning to the implications for the EPA in the next section, it is important to stress the role that development cooperation can play in accompanying the implementation of trade agreements and supporting human rights and sustainability dimensions. There too, coherence and coordination is required. All development cooperation initiatives addressing one or the other dimensions of sustainability and human rights are of course pertinent. These need to be combined with development cooperation which is trade-related, under aid for trade. This can focus on trade policy design, implementation and accompanying measures, as well as trade-related productive capacity and infrastructure development. Such aid for trade must contribute to PCSD objectives, notably in terms of human rights, social, labour and environmental issues. Business support is also covered by aid for trade, though it is also done by donors under the umbrella of private sector development, which is not necessarily related, or coordinated with trade support. Coherence of approaches and synergy is particularly relevant when promoting more sustainable and responsible business conduct, as discussed here.

Besides, given the increasing role of private finance and public financial institutions in development, as recognised by the 2030 Agenda, investor behaviour, in the form of FDI, public investment and public financial support, should also be considered. Some investors (public and commercial financial institutions) have set up their own social and environmental policies and standards. This in turn affects their business model, where they look at project or company's environmental social and governance policies, performance and footprint before deciding to make their own investments. In such case, businesses have to comply to get access to finance, meaning undertaking environmental and social impact assessment, and sometimes a human rights impact assessment. Although this has been the case of public financial institutions for some time (EIB, World Bank...), commercial financial institutions/investment funds are increasingly adopting sustainability standards as they see an opportunity to broaden their market.

7. EPA process: key considerations and conclusions

When considering the sustainability dimension of the EPAs, it is important to remember that these agreements are meant to be first and foremost development agreements. That is all dimensions of an EPA are ultimately relevant for its impact on sustainability. This is a somewhat unique feature of the EPAs, which are couched around development objectives. It makes the assessment of its sustainability more complex than traditional FTAs, as it cannot be circumscribed to its trade and sustainable development chapter. But it also makes an EPA more relevant for sustainability, as it offers more avenues to pursue its development goals.

In addition, all EPAs are enshrined in the Cotonou Agreement, which they all refer to, at least as a whole and often in more specific ways. By doing so, they explicitly, or *de facto*, import the sustainability, human rights, social, labour and environment commitments and endeavours of the Cotonou Agreement, which then have at least equivalent effect. Specific references to provisions of the Cotonou Agreement (such as CPA Art. 9)⁵¹ might arguably provide greater legal certainty, whereas limited references to more general principles (such as 'acquis') might more easily be subject to legal challenge in case of contentious interpretation of the EPA obligations. But these are highly speculative legal considerations, which may not turn out to be significant. Of greater potential concern is the pertinence of the reference

⁵¹ As in the case of CARIFORUM, ECOWAS and SADC EPAs – see Table 1 (and Box 4 on CPA art.9).

to the Cotonou Agreement after its termination in 2020. A narrow interpretation may suggest that these will have no legal effect once the Cotonou Agreement expires. However, given the recognition of the parties in the EPAs of the provisions of the CPA and its acquis, the sustainability principles could be considered as valid beyond 2020, as agreed by the Parties. This may be subject to legal arbitration though. In practice, it seems unlikely however that a legal challenge will take place, as any difference of interpretation is more likely to be addressed through dialogue (and political pressure).

Some EPAs also contain explicit provisions, referring to international standards and agreements, or specific additional commitments. The CARIFORUM EPA is clearly the most comprehensive EPA, not only in terms of its general coverage (by covering beyond goods issues, including services and investment), but also in terms of its coverage of sustainability and human rights issues. As such, the CARIFORUM EPA, concluded in 2007, can be viewed as a benchmark agreement. Its labour clauses are arguably also the most advanced of the EU FTAs. Somewhat surprisingly, the succeeding EPAs, concluded with ECOWAS, SADC and EAC, have been less thorough, including in their sustainability and human rights provisions. One possible explanation is that the partners have focused first and foremost on reaching an acceptable deal for all, concentrating on key substantive provisions of the agreements, including product coverage, liberalisation schedules, and a series of contentious issues, before the EU imposed an October 2014 deadline (Bilal and Ramdoo, 2010; Bilal, 2014). With this objective in mind, the EU negotiators may not have pushed as much as expected by some to include more specific provisions on sustainability and human rights as key conditions to conclude an agreement, probably being satisfied with references to the Cotonou Agreement, and adding clauses wherever possible.

This arguably sub-optimal outcome has raised concerns among some stakeholders, in particular among civil society organisations, trade unions and members of (European) parliament, which see the EPAs recently concluded as not matching EU current standard and practice in negotiations FTAs, and as not living up to the ambitions of the 2030 Agenda and the new *Trade for All* strategy (e.g. CONCORD, 2015; EP, 2016b).

It is true that African EPAs have weaker provisions in that respect than the CARIFORUM EPA and following EU FTAs. And the references to the Cotonou Agreement can be viewed as positive, but still insufficient in that respect. This may imply possible lower legal certainty as to what standards have to be met. There may also be possible legal challenges as to whether the principles and rules of the Cotonou Agreement will continue to apply in the EPAs beyond its expiry in 2020.

Yet, this controversy should be put in perspective. Most EU FTAs provisions are meant for constructive engagement, rather than following a punitive, sanction-driven approach, at least so far. In this respect, it is important to also look beyond the specific sustainability and human rights clauses and consider in particular the following elements:

- **EPA institutional framework:** any issue arising from the implementation of the agreement can be addressed in the partners' joint institutions. This includes of course the joint EPA council and the EPA Trade and Development Committee. But it also includes a Committee of Senior Officials (in EAC), corresponding to the Trade and Development Committee (in CARIFORUM and ECOWAS) and the Implementation Committee (in SADC). The CARIFORUM and ECOWAS EPAs also comprise a Joint Parliamentary Committee, which may make any recommendation to the Joint Council and Trade and Development Committee. It is expected that parliamentary scrutiny will closely watch the sustainability and human rights dimensions of the agreement. Such

a **Parliamentary Committee** is however absent from the EAC and SADC EPAs. A clear innovation and potential strong asset of the CARIFORUM, EAC and ECOWAS EPAs is the setting of a Consultative Committee, which provides a dialogue platform and gives non-state stakeholders (i.e. civil society, trade unions, business and academics) a consultative role in the oversight and monitoring of the agreement. Recent EU FTAs (e.g. with Korea, Moldova, Central America, Peru and Columbia) also provide for similar consultation, called Domestic Advisory Groups (DAG), but their remit is usually focused on specific issues (e.g. labour and environment) (Orbie et al., 2016). On the contrary, the EPA Consultative Committee can address any issue regarding the agreement, including of course sustainable development issues. It is worth noting that these are thus not limited to trade-related issues, but can also include broad commitments by the parties to respect and promote sustainability and human rights issues, including those not resulting from the EPA.

- **Review and monitoring of the EPAs:** all EPAs contain provisions aimed at ensuring the regular review and monitoring of the EPA. These are crucial, as they allow flagging and identifying remedies for any problem that may arise from the implementation of the agreement, including in terms of sustainability and human rights commitments. In this respect, it is crucial to take the monitoring and review exercise seriously, and ensure that the tools and mechanisms to conduct such monitoring are effectively in place.
- **Development cooperation chapter of EPAs** are another key dimension to accompany the implementation of the agreements and ensure their positive contribution to sustainability and human rights.
- **Rendezvous and revision clauses** also allow for the future extension, strengthening and adjustments of some of the EPA provisions. The agreement should therefore not be seen as static, but as having the possibility to evolve and adjust over time, including in terms of sustainability and human rights commitments.

It is clear that the EPAs are far from perfect, and will present many challenges to the parties. But they also offer opportunities for strengthening the sustainability and human rights dimensions of the trade and development relations of the parties. For this to materialise, some recommendations can be identified, including:

- **Support EPA monitoring mechanisms and institutions:** the monitoring and review provisions of the EPAs can have far reaching impact on the implementation of the EPAs. But this requires that proper tools and mechanisms are put in place, and this at an early stage of the implementation process. In this regard, it is worrying that there is still no monitoring mechanism set up for the CARIFORUM EPA signed in 2008 (e.g. B & S Europe and Linpico, 2014; Byiers and Roquefeuil, 2012; Hauser and Humphrey, 2016; Schmieg, 2015). The **Consultative Committee** has the potential to play an important role in this respect, both in advising the parties and flagging potential issues of concerns, as well as by fostering dialogue among the concerned stakeholders at regional level and between the parties. The absence of such institution, in particular in SADC, is a legitimate cause for concern. As suggested by the preliminary recommendation of the European Parliament, “it is important to strengthen the monitoring provision” in the SADC EPA and in the regrettable absence of a Consultative Committee (and a Joint Parliamentary Committee), “existing structures can be used (regional Joint Parliamentary Assembly meetings; EU-South Africa parliamentary committee, etc.) [...] and pragmatic solutions will need to be found to address this weakness” (EP, 2016c). This

means that structures and mechanisms to allow joint multi-stakeholders consultation and dialogue, as well as joint parliamentary scrutiny need to be found, and more generally, that such structures, mechanisms and tools for consultation and monitoring need to be supported, included through development cooperation. Of course, political dialogue is another key dimension that must be given full attention in the implementation of the EPAs.

- **Monitor beyond compliance and the EPAs:** to address sustainability and human rights dimensions, the monitoring process must address but not be limited to compliance with international and EPA obligations in that respect. It should also consider the possible negative impact of the EPA itself on sustainability and human rights (as for instance the right to food and food security; CONCORD, 2015), including on restricting policy space or people's voice in the context of the EPA implementation. EPA monitoring should also relate to and build synergy with other monitoring endeavours, in particular on regional integration related issues, as well as the monitoring of the specific sustainability and human rights dimensions (e.g. by ILO), and more broadly the 2030 Agenda for Sustainable Development and the commitments under the Paris Agreement, as indicators and monitoring frameworks are currently developed for these (e.g. Adams and Jude, 2016; UNESCO, 2016).⁵²
- **Provide adequate development cooperation:** the implementation of EPAs and their sustainability dimensions requires support, which is explicitly recognised in all EPAs. The EU and its member states must live up to expectations. In their development support, they should also pay attention to human rights, social, labour and environmental dimensions of the EPA. They should do so in the context of their aid for trade. The review of the Joint EU Aid for Trade Strategy foreseen this year is also a good opportunity to better address these issues. Even more importantly, such principles should be translated into concrete development cooperation activities. Direct support should also be provided to ensure the operationalisation of monitoring and institutional mechanisms such as the consultative committees. As importantly, development cooperation support should not be limited to aid for trade, but be part of a more coherent development package, covering other issues not directly related to the trade agreement (such as human rights, civil society support, environmental support, etc.). And effort should be made to leverage development cooperation endeavours with other sources of financing, from public financial institutions (such as the EIB for instance), private finance, and domestic sources of resources.
- **Support multi-stakeholders approaches, and foster responsible business conduct initiatives:** as part of the policy coherence for sustainable development commitment, the EU and its member states should continue to promote multi-stakeholders initiatives, along the 2030 Agenda principles. In this regard, particular attention should be paid to initiatives aimed at enhancing responsible business, on voluntary and mandatory manner (Byiers and Bessems, 2015), in line with the EPA objectives.
- **Consider rendezvous and revision clauses** as an opportunity to negotiate an update and strengthening of the human rights and sustainability provisions of the EPAs, to bring greater coherence and uniformity among the EPAs, adapting to the CARIFORUM EPA standards, and if possible to state-of-the-art human rights and sustainability clauses (EC, 2016c).

Given the multi-dimensions of the sustainable objectives of the EPAs, these recommendations are not meant to be exhaustive, but rather highlight some issues that definitely deserve some greater immediate attention.

⁵² See also <http://unstats.un.org/sdgs/> and <http://indicators.report/>

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Annex 1: Comparing S&D clauses in EPA texts

Explanatory note:

Sustainable development in the context of trade agreements is generally understood to include the following categories:

1. Human rights;
2. Social standards, and labour rights;
3. Environmental standards, in particular with reference to environmental protection, climate change and environmental sustainability;
4. Economic sustainability, through trade defense instruments; specific provisions in sectoral agreements (in particular in agriculture; food security and fisheries).

In addition, most agreements, in particular with developing countries, have references to political dialogue on specific political issues of mutual concern, often called essential elements. In addition to human rights, these contain provisions relating to democratic principle, rule of law and good governance.

Finally, monitoring, review clauses and development cooperation clauses all contain institutional mechanisms that aim at supporting sustainable development objectives, and at monitoring their implementation over the lifetime of the agreement.

This table is organised along the three above-mentioned categories. It also highlights the spirit of the Agreements, as referenced in the Preamble of the text. In order to keep the table short, the section on 'economic sustainability' only makes references to the various provisions in the text (but without the text themselves). With regards to social standards, human rights and social standards and environmental standards, only the relevant extracts from the texts are mentioned. For the full text, please refer to the legally scrubbed texts.

EAC EPA	SADC EPA	ECOWAS EPA	CARIFORUM EPA
Cross-cutting references to sustainability			
Preamble			
CONSIDERING that the EAC Partner States and the EU and its member states have agreed that their trade and economic cooperation shall aim at fostering the smooth and gradual integration of the ACP states into the world economy with due regard to their political choices, levels of development and development priorities, thereby promoting their sustainable development and contributing to poverty eradication in the EAC Partner States;	DESIRING to create new employment opportunities, attract investment and improve living standards in the territories of the Parties while promoting sustainable development ; RECOGNISING the efforts by the SADC EPA States to ensure economic and social development for their peoples in the context of deepening regional integration in the Southern African Development Community region ("SADC region");	MINDFUL of the need to promote the economic and social progress of the people in a way that takes account the need for sustainable development and environmental protection ; CONSIDERING the importance attached by the Parties to the principles of the United Nations Charter, particularly the observance of human rights ; REAFFIRMING their commitment to working	REAFFIRMING their commitment to the respect for human rights, democratic principles and the rule of law, which constitute the essential elements of the Cotonou Agreement, and to good governance, which constitutes the fundamental element of the Cotonou Agreement; CONSIDERING the need to promote and expedite the economic, cultural and social development of the CARIFORUM states, with a view to contributing to peace and security and to promoting a stable and democratic political

		<p>together towards the achievement of the ACP-EU partnership as defined in the Cotonou Agreement, namely the reduction and long-term eradication of poverty, sustainable development and the successful and harmonious integration of the ACP states in the world economy;</p>	<p>environment;</p> <p>CONSIDERING the importance that they attach to the internationally agreed development objectives and to the United Nations Millennium Development Goals;</p> <p>CONSIDERING the need to promote economic and social progress for their people in a manner consistent with sustainable development by respecting basic labour rights in line with the commitments they have undertaken within the International Labour Organization and by protecting the environment in line with the 2002 Johannesburg Declaration;</p> <p>REAFFIRMING their commitment to work together towards the achievement of the objectives of the Cotonou Agreement, including poverty eradication, sustainable development and the gradual integration of the African, Caribbean and Pacific (ACP) States into the world economy;</p>
<p>Art 2: General Objectives</p> <p>1. The objectives of this Agreement are: (a) to contribute to economic growth and development through the establishment of a strengthened and strategic trade and development partnership consistent with the objective of sustainable development;</p>	<p>Art 1: Objectives</p> <p>The objectives of this Agreement are: a) to contribute to the reduction and eradication of poverty through the establishment of a trade partnership consistent with the objective of sustainable development, the MDGs and the Cotonou Agreement;</p>	<p>Art 1: Objectives</p> <p>The objectives of this Agreement are: (a) to establish an economic and trade partnership to achieve rapid and sustained economic growth that creates employment, to reduce and then eradicate poverty, to raise living standards, to achieve full employment, to diversify economies and raise real income and output in a way that is compatible with the needs of the West African region while taking account of the Parties' different levels of economic development;</p>	<p>Art 1: Objectives</p> <p>The objectives of this Agreement are: (a) contributing to the reduction and eventual eradication of poverty through the establishment of a trade partnership consistent with the objective of sustainable development, the Millennium Development Goals and the Cotonou Agreement;</p>

<p>Art 4: Principles</p> <p>This Agreement is based on the following principles:</p> <p>1. (a) building on the acquis of the Cotonou Agreement</p>	<p>Art 2: Principles</p> <p>1. This Agreement is based on the Fundamental Principles, as well as the Essential and Fundamental Elements, as set out in Articles 2 and 9, respectively, of the Cotonou Agreement.</p>	<p>Art 2: Principles</p> <p>1. The EPA is based on the principles and essential points of the Cotonou Agreement, as set out in Articles 2, 9, 19 and 35 of the said Agreement. The EPA is founded on the achievements of the Cotonou Agreement and previous EPA-EU conventions in the areas of financial cooperation, regional integration and economic and trade cooperation.</p> <p>5. While observing the trade commitments made under this Agreement, the Parties shall refrain from undermining the implementation of agricultural and food security, public health, education and any other economic and social policies adopted by the West African region under its sustainable development strategy.</p>	<p>Art 2: Principles</p> <p>1. This Agreement is based on the Fundamental Principles as well as the Essential and Fundamental Elements of the Cotonou Agreement, as set out in Articles 2 and 9, respectively, of the Cotonou Agreement. This Agreement shall build on the provisions of the Cotonou Agreement and the previous ACP-EC Partnership Agreements in the area of regional cooperation and integration as well as economic and trade cooperation.</p>
	<p>Art 6: Context and objectives</p> <p>The Parties recall the Agenda 21 on Environment and Development of 1992, the 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 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 and the UN Conference on Sustainable Development of 2012 entitled "The Future We Want".</p> <p>The Parties reaffirm their commitments to promote the development of international</p>	<p>Art 3: Economic growth and sustainable development</p> <p>1. The Parties reaffirm that the objective of sustainable development is to be applied and integrated at every level of their economic partnership, in fulfilment of their commitments set out in Articles 1, 2, 9, 19, 21, 22, 23, 28 and 29 of the Cotonou Agreement, and especially the general commitment to economic development and reducing and eventually eradicating poverty in a way that is consistent with the objectives of sustainable development.</p> <p>2. Under this Agreement, the Parties view the objective of sustainable development as a commitment to take full account of the human,</p>	<p>Art 3: Sustainable development</p> <p>1. The Parties reaffirm that the objective of sustainable development is to be applied and integrated at every level of their economic partnership, in fulfilment of the overarching commitments set out in Articles 1, 2 and 9 of the Cotonou Agreement, and especially the general commitment to reducing and eventually eradicating poverty in a way that is consistent with the objectives of sustainable development.</p> <p>2. The Parties understand this objective to apply in the case of the present Economic Partnership Agreement as a commitment that:</p> <p>(a) the application of this Agreement shall fully take into account the human, cultural, economic, social, health and environmental best interests</p>

	<p>trade in such a way as to contribute to the objective of sustainable development, in its three pillars (economic development, social development, and environmental protection) for the welfare of present and future generations, and will strive to ensure that this objective is integrated and reflected at every level of their trade relationship.</p> <p>Art 7: Sustainable development</p> <p>The Parties reaffirm that the objective of sustainable development is to be applied and integrated at every level of their economic partnership, in fulfilment of the overriding commitments set out in Articles 1, 2 and 9 of the Cotonou Agreement, and especially the general commitment to reducing and eventually eradicating poverty in a way that is consistent with the objectives of sustainable development.</p> <p>The Parties understand this objective to apply in the case of this Agreement as a commitment that:</p> <p>(a) the application of this Agreement shall fully take into account the human, cultural, economic, social, health and environmental best interests of their respective populations and of future generations; and</p> <p>(b) the decision-making methods embrace the fundamental principles of ownership, participation and dialogue.</p> <p>As a result, the Parties agree to work cooperatively towards the realisation of people-centred sustainable development.</p>	<p>cultural, economic, social, health and environmental interests of their respective people and their future generations.</p> <p>3. In the fight against poverty the Parties reaffirm their commitments to draw up and implement programmes likely to strengthen the macro-economic framework, promote rapid and sustainable economic growth and create the infrastructures essential for the development of the intra-regional and international trade of the West African region. The Parties therefore support the institutional reforms intended to adapt the national and regional administrative authorities to the requirements of trade liberalisation and strengthen the capacity of the production sectors in the West African region.</p> <p>4. The Parties support the efforts of the West African region with regard to the sustainable management of forests, fisheries and the emergence of modern agriculture. They shall therefore initiate and implement innovative forms of trade favourable to the preservation of natural resources.</p> <p>5. The Parties shall work on strengthening the technical capacities and abilities of the operators in order to promote the creation of jobs and provide for adjustments to achieve the social goals of the EPA.</p>	<p>of their respective population and of future generations;</p> <p>(b) decision-taking methods shall embrace the fundamental principles of ownership, participation and dialogue.</p> <p>3. As a result the Parties agree to work cooperatively towards the realisation of a sustainable development centred on the human person, who is the main beneficiary of development.</p> <p>Art 183: Objectives and sustainable development context</p> <p>1. The Parties reaffirm that the principles of sustainable management of natural resources and the environment are to be applied and integrated at every level of their partnership, as part of their overriding commitment to sustainable development as set out in Articles 1 and 2 of the Cotonou Agreement.</p>
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	<p>Art 8: Multilateral environmental and labour standards and agreements</p> <p>The Parties recognise the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems as well as decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation.</p> <p>Taking into account the Cotonou Agreement, and in particular its Articles 49 and 50, the Parties, in the context of this Article, reaffirm their rights and their commitment to implement their obligations in respect of the Multilateral Environmental Agreements (MEAs) and the International Labour Organization (ILO) conventions that they have ratified respectively.</p>		<p>Art 183. 2:</p> <p>2. The Parties recall that Article 32 of the Cotonou Agreement includes environment and natural resources as thematic and cross-cutting issues, and that the fundamental principles of ownership, participation, dialogue and differentiation set out in Article 2 of the Cotonou Agreement are therefore particularly relevant.</p> <p>Art 183.3:</p> <p>The Parties and the Signatory CARIFORUM States are resolved to conserve, protect and improve the environment, including through multilateral and regional environmental agreements to which they are parties.</p>
	<p>Art 9: Right to regulate and levels of protection</p> <p>The Parties recognise the right of each Party to establish its own levels of domestic environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, consistently with internationally recognised standards and agreements to which they are a party.</p> <p>The Parties reaffirm the importance of protection as afforded in domestic labour and environmental laws.</p>		<p>Article 184: Levels of protection and right to regulate</p> <p>1. Recognising the right of the Parties and the Signatory CARIFORUM States to regulate in order to achieve their own level of domestic environmental and public health protection and their own sustainable development priorities, and to adopt or modify accordingly their environmental laws and policies, each Party and Signatory CARIFORUM State shall seek to ensure that its own environmental and public health laws and policies provide for and encourage high levels of environmental and public health protection and shall strive to</p>

	<p>Recognising that it is inappropriate to encourage trade or investment by weakening or reducing domestic levels of labour and environmental protection, a Party shall not derogate from, or persistently fail to effectively enforce, its environmental and labour laws to this end.</p>		<p>continue to improve those laws and policies.</p> <p>2. The Parties agree that the special needs and requirements of CARIFORUM States shall be taken into account in the design and implementation of measures aimed at protecting environment and public health that affect trade between the Parties.</p> <p>3. "...nothing in this Agreement shall be construed to prevent any Party and the Signatory CARIFORUM States from adopting or maintaining measures necessary to protect human, animal or plant life or health, related to the conservation of natural resources or protection of the environment.</p> <p>Art 188: Upholding levels of protection</p> <p>1. Subject to Article 184(1), the Parties agree not to encourage trade or foreign direct investment to enhance or maintain a competitive advantage by:</p> <p>(a) lowering the level of protection provided by domestic environmental and public health legislation;</p> <p>(b) derogating from, or failing to apply such legislation.</p> <p>2. The Parties and the signatory CARIFORUM States commit to not adopting or applying regional or national trade or investment-related legislation or other related administrative measures as the case may be in a way which has the effect of frustrating measures intended</p>
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			to benefit, protect or conserve the environment or natural resources or to protect public health.
			<p>CHAPTER 5: Social aspects</p> <p>Art 191: Objectives and multilateral commitments</p> <p>1. The Parties reaffirm their commitment to the internationally recognised core labour standards, as defined by the relevant ILO Conventions, and in particular the freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of the worst forms of child labour and non- discrimination in respect to employment. The Parties also reaffirm their obligations as members of the ILO and their commitments under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998).</p> <p>2. The Parties reaffirm their commitment to the 2006 Ministerial declaration by the UN Economic and Social Council on Full Employment and Decent Work, promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all, including men, women and young people.</p> <p>3. The Parties recognise the beneficial role that core labour standards and decent work can have on economic efficiency, innovation and productivity, and they highlight the value of greater policy coherence between trade policies, on the one hand, and employment and social policies on the other.</p> <p>4. The Parties agree that labour standards</p>

			<p>should not be used for protectionist trade purposes.</p> <p>5. The Parties recognise the benefits of commerce in fair and ethical trade products and the importance of facilitating such commerce between them.</p> <p>Art 192: Levels of protection and right to regulate</p> <p>Recognising the right of the Parties and the Signatory CARIFORUM States to regulate in order to establish their own social regulations and labour standards in line with their own social development priorities, and to adopt or modify accordingly their relevant laws and policies, each Party and Signatory CARIFORUM State shall ensure that its own social and labour regulations and policies provide for and encourage high levels of social and labour standards consistent with the internationally recognised rights set forth in Article 191 and shall strive to continue to improve those laws and policies.</p> <p>Art 193: Upholding levels of protection</p> <p>Subject to Article 192, the Parties agree not to encourage trade or foreign direct investment to enhance or maintain a competitive advantage by:</p> <p>(a) lowering the level of protection provided by domestic social and labour legislation;</p> <p>(b) derogating from, or failing to apply such legislation and standards.</p>

	<p>Art 10: Trade and investment favouring sustainable development</p> <p>The Parties reconfirm their commitment to enhance the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions.</p> <p>A Party may request, through the Trade and Development Committee, consultations with the other Party regarding any matter arising under this Chapter.</p>		<p>Art 183.4: The Parties reaffirm their commitment to promoting the development of international trade in such a way as to ensure sustainable and sound management of the environment, in accordance with their undertakings in this area including the international conventions to which they are party and with due regard to their respective level of development.</p> <p>Art 183. 5: The Parties and the Signatory CARIFORUM States are resolved to make efforts to facilitate trade in goods and services which the Parties consider to be beneficial to the environment. Such products may include environmental technologies, renewable and energy-efficient goods and services and eco-labelled goods.</p>
	<p>Art 11: Working together on trade and sustainable development</p> <p>The Parties recognise the importance of working together on trade related aspects of environmental and labour policies in order to achieve the objectives of this Agreement.</p> <p>The Parties may exchange information and share experience on their actions to promote coherence and mutual supportiveness between trade, social and environmental objectives, and shall strengthen dialogue and cooperation on sustainable development issues that may arise in the context of trade relations.</p> <p>In respect of paragraphs 1 and 2, the Parties may cooperate, <i>inter alia</i>, in the following</p>		

	<p>areas:</p> <p>(a) the trade aspects of labour or environmental policies in international fora, such as the ILO Decent Work Agenda and MEAs;</p> <p>(b) the impact of this Agreement on sustainable development;</p> <p>(c) corporate social responsibility and accountability;</p> <p>(d) trade aspects of mutual interest to promote the conservation and sustainable use of biological diversity;</p> <p>(e) trade aspects of sustainable forest management; and</p> <p>(f) trade aspects of sustainable fishing practices.</p>		
Title VI: Trade defence measures	Chapter II: Trade defence instruments	Chapter 2: Trade defence instruments	Chapter 2: Trade defence instruments
Art 48: Anti-dumping and CVM	Art 32: Anti dumping and CVM	Art 19: Objectives	Art 23: Anti-dumping and countervailing measures
Art 49: Multilateral safeguards	Art 33: Multilateral safeguards	Art 20: Anti-dumping and countervailing duties	Art 24: Multilateral safeguards
Art 50: Bilateral safeguards	Art 34: General Bilateral safeguards	Art 21: Multilateral safeguard measures	Art 25: Safeguard clause
	Art 35: Agricultural safeguards	Art 22: Bilateral safeguard measures	
	Art 36: Food security safeguards	Art 23: Fledgling industries clause	
	Art 37: BLNS transitional safeguards	Art 24: Cooperation	
	Art 38: Infant industry protection safeguards		
Sectoral dimensions			
Part III: Fisheries			
Title I: General provisions		Chapter 6: Agriculture, fisheries and food security	Chapter 5 Agriculture and fisheries
Art 51: scope and objectives		Art 46: Objectives	Art 37: Objectives
3. The Parties further recognise that fisheries resources are also of considerable interest to both the EU and		2. This Agreement, through its economic and trade effects, and actions in connection with	1. The Parties agree that the fundamental objective of this Agreement is the sustainable development and the eradication of poverty in

<p>the EAC Partner States, and agree to cooperate for the sustainable development and management of the fisheries sector in their mutual interests taking into account economic, environmental and social impacts.</p> <p>4. The Parties agree that the appropriate strategy to promote the economic growth of the fisheries sector and to enhance its contribution to the economy of the EAC Partner States, while taking into consideration its long term sustainability, is through increasing value-adding activities within the sector.</p> <p>Art 52: Principles of cooperation</p> <p>2. These guiding principles should contribute to sustainable and responsible development of the living inland, marine resources, aquaculture and to optimising the benefits of this sector for present and future generations, through increased investment, capacity building and improved market access.</p>		<p>the EPA Development Programme, should ...” also facilitate the development of the processing sector and increase trade in agricultural, food and fisheries products between the Parties in a way that is consistent with the sustainable development of natural resources”.</p> <p>4. The Parties recognise that fisheries, biological and maritime resources are of great interest to the European Union and the West African region and that the real risk of stock exhaustion, in particular as a result of industrial fishing, make it necessary for them to promote the sustainable management of fish and aquatic resources.</p> <p>7. The Parties recognise that securing the food security of the population and raising the means of subsistence in a rural environment are essential for reducing poverty and must be viewed in the wider context of sustainable development and the Millennium Development Goals. They therefore agree to work together to avoid any breakdown in the agricultural and food products markets in West Africa.</p>	<p>CARIFORUM States, and the smooth and gradual integration of these economies into the global economy. In the agricultural and fisheries sectors, this Agreement should contribute to increasing the competitiveness of production, processing and trade in agricultural and fishery products in both traditional and non-traditional sectors, between the Parties, consistent with the sustainable management of natural resources.</p>
		<p>Art 48: Cooperation in the areas of agriculture and food security</p> <p>2. To enable the countries of the West African region to ensure the food security of their people and promote viable and sustainable agriculture, both Parties shall examine all the cooperation measures “...with a view, in particular, to:</p> <p>(c) popularising the use of agricultural inputs</p>	

<p>Title II: Marine Fisheries</p> <p>Art 53: Scope and objectives</p> <p>1. The provisions of this Title shall apply to the utilisation, conservation and management of marine fisheries resources to optimise the benefits from fisheries for the EAC Partner States through investment, capacity building and improved market access.</p> <p>Art 54: Fisheries Management and Conservation Issues</p> <p>2. Each EAC Partner State may take appropriate measures, including seasonal and gear restrictions in order to protect its territorial waters and ensure the sustainability of the artisanal and coastal fisheries.</p> <p>5. The Parties agree to take appropriate measures where an increase in effort results in catch levels above the target sustainable level established by the competent national authority.</p> <p>Art 55: Vessel Management and Post Harvest Arrangements</p> <p>2. "... The International Labour Organisation (ILO) Declaration on fundamental principles and rights at work shall apply as of right to seamen signed</p>		<p>that are environmentally friendly".</p> <p>Art 49: Fisheries cooperation</p> <p>1. With a view to developing and promoting cooperation with regard to fisheries, "... the Parties undertake to:</p> <p>(a) collaborate with a view to sustainable development of the fish resources of the West African region and apply the precautionary principle when determining the sustainable level of catches and defining the conditions for access to fish resources that must be observed to avoid overexploitation of stocks and any negative impact on the environment and the ecosystem;</p> <p>(d) collaborate with a view to the sustainable management of small-scale fisheries and the preparation and implementation of a policy for the development of aquaculture in West Africa;</p>	
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on European vessels”.			
Chapter IV: Agriculture			
<p>Art 57: Scope and Definition</p> <p>2. “...the following definitions shall apply: (g) livelihood security is defined as adequate and sustainable access to income and resources to meet basic needs in an equitable mannee”.</p> <p>(j) sustainable development in the context of this Part includes the management and protection of the natural resource base for economic and social development in such a manner as to aim at meeting human needs for present and future generations.</p>	<p>Art 68: Cooperation on agriculture</p> <p>The Parties underline the importance of the agricultural sector to the SADC EPA States for food security, generating rural employment, increasing incomes of farm households, creating an inclusive rural economy, and as a basis for wider industrialisation and sustainable development, as well as to contribute to the objectives of this Agreement.</p>		
<p>Art 58: Objectives</p> <p>1. The Parties agree that the fundamental objective of this Part is sustainable agricultural development which includes but is not limited to food and livelihoods security, rural development and poverty reduction in the EAC Partner States.</p> <p>2. The objectives of this Part are to: (e) promote sustainable use and management of natural and cultural resources by developing environmentally friendly and sustainable technologies that improve the agricultural productivity.</p> <p>2. In view of the multi-functional role agriculture plays in the economy of the</p>			

<p>EAC Partner States, the Parties agree to use a comprehensive approach to agriculture as a basis for sustainable development.</p> <p>3. The Parties agree to cooperate in promoting the sustainable growth of the agriculture sector, taking into account its multiple facets and the diversity of the economic, social, environmental characteristics and development strategies of the EAC Partner States.</p>			
<p>Art 63: Sustainable agricultural development</p> <p>The Parties shall cooperate in achieving sustainable agricultural development with special focus on supporting vulnerable rural population in the EAC Partner States in light of the changing world production and trade patterns as well as consumer tastes and preference.</p>			
<p>Art 64: Food and nutrition security</p> <p>1. The Parties agree that the provisions of this Agreement shall enable the EAC Partner States implement effective measures to achieve food and nutrition security and sustainable agricultural development, and to develop commercial agricultural markets in the region to ensure food and nutrition security.</p> <p>2. The Parties shall ensure that actions taken under this Part aim at enhancing food and nutrition security, and avoiding</p>			

adoption of measures that could endanger achievement of food and nutrition security at the household, national and regional levels.			
Political cooperation, institutional provisions			
Art 60: Comprehensive Dialogue 1. The Parties shall establish an EAC-EU Comprehensive Dialogue on Agriculture and Rural Development Policy on all matters covered in this Part. The Agriculture Dialogue shall monitor the progress in implementing this Part and shall provide a forum for exchange and cooperation on the Parties' respective domestic agricultural policies and, in particular, the role of agriculture in the EAC Partner States in raising farm incomes, food security, sustainable use of resources, rural development and economic growth.	Art 4: Monitoring 2. The Parties undertake to continuously monitor the operation and impact of this Agreement through appropriate mechanisms and timing within their respective participative processes and institutions, as well as those set up under this Agreement, in order to ensure that the objectives of this Agreement are realised, that it is properly implemented and that the benefits for their people deriving from it, in particular the most vulnerable groups, are maximised.		Art 5: Monitoring The Parties undertake to monitor continuously the operation of the Agreement through their respective participative processes and institutions, as well as those set up under this Agreement, in order to ensure that the objectives of the Agreement are realised, the Agreement is properly implemented and the benefits for men, women, young people and children deriving from their Partnership are maximised. The Parties also undertake to consult each other promptly over any problem that may arise.
			Art 189: Consultation and monitoring process 1. The Parties recognise the importance of monitoring and assessing the impact of implementation of the Agreement on sustainable development through their respective participative processes and institutions, as well as those set up under this Agreement. 2. The Parties may consult each other and the CARIFORUM-EC Consultative Committee on environmental issues covered by Articles 183 to 188. Members of the CARIFORUM-EC Consultative Committee may submit oral or written recommendations to the Parties for

			<p>disseminating and sharing best practice relating to issues covered by this Chapter.</p> <p>3. On any issue covered by Articles 183 to 188 the Parties may agree to seek advice from the relevant international bodies on best practice, the use of effective policy tools for addressing trade-related environmental challenges, and the identification of any obstacles that may prevent the effective implementation of environmental standards under relevant Multilateral Environment Agreements.</p> <p>4. A Party may request consultations with the other Party on matters concerning the interpretation and application of Articles 183 to 188. The consultations shall not exceed three months. In the context of this procedure any Party may independently seek advice from the relevant international bodies. In this case the limit for the period of consultations is extended by a further period of three months.</p> <p>5. If the matter has not been satisfactorily resolved through consultations between the Parties pursuant to paragraph 3 any Party may request that a Committee of Experts be convened to examine such matter.</p> <p>6. The Committee of Experts shall comprise three members with specific expertise in the issues covered by this Chapter. The Chairperson shall not be a national of either Party. The Committee of Experts shall present to the Parties a report within three month of its composition. The report shall be made available</p>
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			to the CARIFORUM-EC Consultative Committee.
Part V: Economic development and cooperation			
Chapter V: Economic and development cooperation Art 75 – 77: With specific cooperation sections on Infrastructure: Art 78 – 80 Agriculture: Art 82 – 83 Private sector development: Art 84 – 86 Fisheries: Art 87 – 89 Water and environment: Art 90 – 92 SPS: Art 93 – 96 TBT: Art 97 Customs and TF: Art 98 Title IX: EPA Adjustment measures: Art 99 -100 Title X: Resource mobilisation: Art 101	Chapter III: Areas of cooperation Art 12: Development cooperation Art. 13: Cooperation priorities Art 14: Cooperation on fiscal adjustment Art 15: Types of interventions	Part III: Cooperation For Implementation Of Development And Achievement Of The Objectives Of The Agreement Art 52 - 53: Objectives; principles Art 54: Financing arrangements Art 55: PAPED Art 56: Objectives of the EPA Development Programme Art 57: Goals of the EPA Development Programme Art 58: EPA Development Programme implementation arrangements Art 59: Support for implementation of the rules Art 60: Taxation adjustment Art 61: Instruments	Art 7: Development cooperation Art 8: Cooperation priorities
Institutional provisions			
Art 104: EPA Council 6. The EPA Council shall be responsible for: (a) the operation and implementation of this Agreement and the monitoring of the fulfillment of its objectives; (b) the examination of any major issue arising within the framework of this Agreement, as well as any other question of common interest affecting trade between the Parties, without prejudice to the rights conferred in Part VII; and (c) the examination of proposals and recommendations from the Parties for the	Art 100: The Joint Council A Joint SADC EPA States – EU Council (Joint Council) is hereby established, which shall oversee and administer the implementation of this Agreement. Art 101: Composition and functions 3. "... the functions of the Joint Council shall be to: (a) be responsible for the operation and implementation of this Agreement and monitor the fulfilment of its objectives; (b) examine any major issues arising under this Agreement that are of common interest	Art 92: Joint Council of the West Africa - European Union EPA 1. The Joint Council of the West Africa – European Union EPA shall be responsible for supervising the implementation of this Agreement. It shall meet at ministerial level. 2. The Joint Council of the West Africa - European Union EPA shall ensure the operation of the institutional architecture of this Agreement and its implementation and shall monitor the achievement of its objectives. It shall also examine any major issue arising within the framework of this Agreement, as well as any other bilateral, multilateral or international question of common interest	Art 227: Joint CARIFORUM-EC Council 1. A Joint CARIFORUM-EC ... "shall supervise the implementation of this Agreement". 2. The Joint CARIFORUM-EC Council shall generally be responsible for the operation and implementation of this Agreement and shall monitor the fulfilment of its objectives. It shall also examine any major issue arising within the framework of this Agreement, as well as any other bilateral, multilateral or international question of common interest and affecting trade between the Parties. 3. The Joint CARIFORUM-EC Council shall also examine proposals and recommendations from

review and amendment of this Agreement.	<p>and affect trade between the Parties;</p> <p>(f) monitor and assess the impact of the cooperation provisions of this Agreement on sustainable development;</p> <p>(g) monitor and review progress on all matters covered by this Agreement;</p>	affecting this economic and trade partnership between the Parties.	the Parties for the review of this Agreement.
<p>Art 106: Committee of Senior Officials</p> <p>5. The Committee of Senior Officials shall be responsible for:</p> <p>(d) In the area of trade</p> <p>(i) supervising and being responsible for the implementation and proper application of the provisions of this Agreement and discussing and recommending areas of cooperation in this regard;</p> <p>(v) monitoring and assessing the impact of the implementation of this Agreement on the sustainable development of the Parties;</p> <p>(vii) discussing any matters pertaining to this Agreement and any issue liable to affect the attainment of its objectives.</p> <p>(e) In the area of development:</p> <p>(ii) monitoring the implementation of the cooperation provisions laid down in this Agreement and to coordinate such action with third party donors;</p>	<p>Art 103: Trade and Development Committee</p> <p>This Committee shall have, in particular, the following functions:</p> <p>(a) In the area of trade, to:</p> <p>(i) monitor and evaluate the implementation of the decisions of the Joint Council;</p> <p>(ix) discuss any matters under this Agreement and any issue that may affect the attainment of its objectives.</p> <p>(b) In the area of development cooperation, to:</p> <p>(i) monitor the implementation of the cooperation provisions laid down in this Agreement and coordinate such action with third party donors;</p> <p>(v) monitor and assess the impact of the implementation of this Agreement on the sustainable development of the Parties</p>	<p>Art 95: Joint Implementation Committee of the West Africa–European Union EPA</p> <p>The Joint Implementation Committee of the EPA shall perform the following functions in particular;</p> <p>(a) In the area of trade:</p> <p>(i) ensure the implementation and correct application of the provisions of the Agreement and examine and recommend cooperation priorities in this regard;</p> <p>(vi) monitor and assess the impact of the implementation of this Agreement on the sustainable development of the Parties;</p> <p>(viii) discuss any matters relating to this Agreement and any issue liable to affect the attainment of its objectives;</p> <p>(b) in the area of development:</p> <p>(i) assist the Joint Council of the West Africa – European Union EPA in the performance of its functions regarding development cooperation matters falling under this Agreement;</p> <p>(ii) monitor the implementation of the cooperation provisions laid down in this Agreement and coordinate such action with third party donors;</p>	<p>Art 230: CARIFORUM-EC Trade and Development Committee</p> <p>3. The CARIFORUM-EC Trade and Development Committee shall have, in particular, the following functions:</p> <p>(a) in the area of trade:</p> <p>(i) to supervise and be responsible for the implementation and proper application of the provisions of the Agreement and to discuss and recommend cooperation priorities in this regard;</p> <p>(ii) to oversee the further elaboration of the provisions of this Agreement and evaluate the results obtained in its application;</p> <p>(vi) to monitor and assess the impact of the implementation of this Agreement on the sustainable development of the Parties;</p> <p>(b) in the area of development:</p> <p>(i) to assist the Joint CARIFORUM-EC Council in the performance of its functions regarding development cooperation related matters falling under this Agreement;</p> <p>(ii) to monitor the implementation of the cooperation provisions laid down in this Agreement and to coordinate such action with</p>

			third party donors;
		<p>Art 96: Joint West Africa-European Union Parliamentary Committee</p> <p>1. The Joint West Africa-European Union Parliamentary Committee shall provide a framework for consultation and dialogue between Members of the European Parliament and Members of the Parliaments of ECOWAS and the UEMOA. It shall meet at intervals that it shall itself determine. It shall cooperate with the Joint Parliamentary Assembly referred to in Article 17 of the Cotonou Agreement.</p> <p>5. The Joint West Africa-European Union Parliamentary Committee may request the Joint Council of the West Africa-European Union EPA to supply it with any useful information concerning the implementation of this Agreement, and the Joint Council of the West Africa-European Union EPA shall supply it with the requested information.</p>	<p>Art 231: CARIFORUM-EC Parliamentary Committee</p> <p>1. A CARIFORUM-EC Parliamentary Committee is hereby established. It shall be a forum for members of the European Parliament and the CARIFORUM States legislatures to meet and exchange views. It shall meet at intervals which it shall itself determine. It shall cooperate with the Joint Parliamentary Assembly provided for in Article 17 of the Cotonou Agreement.</p> <p>2. The CARIFORUM-EC Parliamentary Committee shall consist of members of the European Parliament, on the one hand, and of members CARIFORUM States legislatures, on the other. Representatives of the Parties may attend the meetings of the CARIFORUM-EC Parliamentary Committee.</p> <p>3. The CARIFORUM-EC Parliamentary Committee shall establish its rules of procedure and inform the Joint CARIFORUM-EC Council thereof.</p> <p>4. The CARIFORUM-EC Parliamentary Committee shall be chaired in turn by a representative of the European Parliament and a representative of a CARIFORUM State legislature, in accordance with the provisions to be laid down in its rules of procedure.</p> <p>5. The CARIFORUM-EC Parliamentary Committee may request of the Joint</p>

			<p>CARIFORUM-EC Council relevant information regarding the implementation of this Agreement, and the Joint CARIFORUM-EC Council shall supply the Committee with the requested information.</p> <p>6. The CARIFORUM-EC Parliamentary Committee shall be informed of the decisions and recommendations of the Joint CARIFORUM-EC Council.</p> <p>7. The CARIFORUM-EC Parliamentary Committee may make recommendations to the Joint CARIFORUM-EC Council and the CARIFORUM-EC Trade and Development Committee.</p>
<p>Art 108: EPA Consultative Committee</p> <p>An EPA Consultative Committee is hereby established with the task of assisting the Committee of Senior Officials to promote dialogue and cooperation between representatives of the private sector, organisations of civil society, including the academic community, and social and economic partners. Such dialogue and cooperation shall include all matters covered under this Agreement as they arise in the context of the implementation this Agreement.</p>	None	<p>Art 97: Joint West Africa-European Union Consultative Committee</p> <p>1. The Joint West Africa-European Union Consultative Committee is responsible for helping the Joint Council of the West Africa-European Union EPA promote dialogue and cooperation between the economic and social partners of the two Parties. Such dialogue and cooperation shall encompass all economic, social and environmental aspects of relations between the Parties as they arise in the context of the implementation of this Agreement.</p> <p>5. The Joint West Africa-European Union Consultative Committee may submit recommendations to the Joint Council of the West Africa-European Union EPA and the Joint Implementation Committee of the EPA.</p>	<p>Art 232: CARIFORUM-EC Consultative Committee</p> <p>1. A CARIFORUM-EC Consultative Committee is hereby established with the task of assisting the Joint CARIFORUM-EC Council to promote dialogue and cooperation between representatives of organisations of civil society, including the academic community, and social and economic partners. Such dialogue and cooperation shall encompass all economic, social and environmental aspects of the relations between the EC Party and CARIFORUM States, as they arise in the context of the implementation of this Agreement.</p> <p>5. The CARIFORUM-EC Consultative Committee may make recommendations to the Joint CARIFORUM-EC Council and the CARIFORUM-EC Trade and Development</p>

<p>Art 136: Relations with other Agreements</p> <p>1. With the exception of development cooperation provisions contained in Title II of Part 3 of the Cotonou Agreement, in case of any inconsistency between the provisions of this Agreement and the provisions of Title II of Part 3 of the Cotonou Agreement, the provisions of this Agreement shall prevail.</p> <p>2. Nothing in this Agreement shall be construed so as to prevent the adoption by either Party of any appropriate measures consistent with this Agreement and pursuant to the Cotonou Agreement.</p>	<p>Art 110: Relations with the Cotonou Agreement</p> <p>With the exception of development cooperation provisions provided for in Title II of Part 3 of the Cotonou Agreement, in case of any inconsistency between the provisions of this Agreement and the provisions of Title II of Part 3 of the Cotonou Agreement, the provisions of this Agreement shall prevail to the extent of such inconsistency.</p> <p>Nothing in this Agreement shall be construed so as to prevent the adoption by either Party of appropriate measures pursuant to the Cotonou Agreement.</p>	<p>Art 105: Relationships with other agreements</p> <p>1. Nothing in this Agreement may be interpreted as preventing the taking by the European Union Party or any of the West African States of any measure deemed appropriate concerning this Agreement in accordance with the relevant provisions of the Cotonou Agreement.</p>	<p>Committee.</p> <p>Art 241: Relations with the Cotonou Agreement</p> <p>1. With the exception of development cooperation provisions contained in Title II of Part 3 of the Cotonou Agreement, in case of any inconsistency between the provisions of this Agreement and the provisions of Title II of Part 3 of the Cotonou Agreement the provisions of this Agreement shall prevail.</p> <p>2. Nothing in this Agreement shall be construed so as to prevent the adoption by the EC Party or a Signatory CARIFORUM State of any measures, including trade-related measures under this Agreement, deemed appropriate, as provided for under Articles 11(b), 96 and 97 of the Cotonou Agreement and according to the procedures set by these Articles.</p>
		<p>Art. 106: Rendezvous clause</p> <p>2. Without prejudice to the following topics and without prejudging the results of these negotiations, the Parties mutually undertake to enter into discussions concerning:</p> <p>(h) sustainable development;</p>	
<p>Art 142: Review Clause</p> <p>1. This Agreement shall be reviewed after every five (5) years from the date of its entry into force.</p> <p>2. As regards the implementation of this</p>	<p>Art 116: Revision clause</p> <p>The Parties agree to review this Agreement in its entirety no later than five (5) years after its entry into force. Such review is without prejudice to instances of adjustments, reviews or revisions otherwise provided for in</p>	<p>Art 111: Revision clause</p> <p>1. The Parties agree, as appropriate and in accordance with the provisions of Article 92 of this Agreement, to assess or review this Agreement every five (5) years from the date of its entry into force.</p>	<p>Art 246: Revision clause</p> <p>1. The Parties agree to consider extending this Agreement with the aim of broadening and supplementing its scope in accordance with their respective legislation, by amending it or concluding agreements on specific sectors or</p>

<p>Agreement, a Party may make suggestions oriented towards adjusting trade related cooperation, taking into account the experience acquired during the implementation of this Agreement.</p> <p>3. Notwithstanding the provisions of paragraph 1, the parties agree that this Agreement may be reviewed in light of the expiration of the Cotonou Agreement.</p>	<p>this Agreement, such as those contemplated under Articles 12(2), 16(8), 17(5), 18(5), 26(10), 33(3), 35(6) and 65(e).</p> <p>As regards the implementation of this Agreement, either Party may make suggestions oriented towards adjusting trade-related cooperation, taking into account the experience acquired during the implementation thereof.</p> <p>The Parties agree that this Agreement may need to be reviewed in light of further developments in international economic relations and in the light of the expiration of the Cotonou Agreement.</p>	<p>2. Twelve (12) months before the end of each five-year period at the latest, the Parties shall inform one another of the provisions of this Agreement that they wish to review with a view to eventual amendment. Ten (10) months before the end of the current five-year period, the Parties shall enter into negotiations in order to discuss any amendments to be made to the Agreement. It shall be reviewed in the light of the experience acquired by the Parties during its implementation.</p> <p>3. Notwithstanding this timing, the Parties may consider reviewing this Agreement as required, in particular on expiry of the Cotonou Agreement.</p>	<p>activities in the light of the experience gained during its implementation. The Parties may also consider revising this Agreement to bring Overseas Countries and Territories associated with the European Community within the scope of this Agreement.</p> <p>2. As regards the implementation of this Agreement, either Party may make suggestions oriented towards adjusting trade related cooperation, taking into account the experience acquired during the implementation thereof.</p> <p>3. The Parties agree that this Agreement may need to be reviewed in the light of the expiration of the Cotonou Agreement.</p>
<p>Art 143: Amendment Clause</p> <p>1. The Parties may agree, in writing, to amend this Agreement. A Party may submit proposals for the amendment of this Agreement to the EPA Council for consideration. The other Party may comment on the proposals for amendment within ninety (90) days from the date of receipt of the proposal.</p> <p>2. Should the EPA Council adopt amendments to this Agreement, such amendments shall be submitted to the Parties for ratification, acceptance or approval in accordance with their respective constitutional or internal legal requirements.</p>	<p>Art 117: Amendments</p> <p>Any Party may submit proposals for amendments to this Agreement to the Joint Council for consideration and adoption. Amendments to this Agreement shall, after adoption by the Joint Council, be submitted to the Parties for ratification, acceptance or approval in accordance with their respective constitutional or internal legal requirements.</p>		

3. An amendment shall enter into force after the Parties exchange written notifications certifying that they have completed their respective applicable legal requirements and procedures, on such date as the Parties may agree.			
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Annex 2: Relevant initiatives on S&D

Summary of initiatives and instruments to address sustainable development relevant to EU and EPA countries

Initiatives/ Instruments	Type	Legal status	Key features
Specific International Policy frameworks relevant to sustainable development (by category)			
General Policies (EU)			
Treaty on the European Union	EU	Mandatory	Human rights are, together with democracy and the rule of law, core values of the EU
European Consensus on Development, 2006	EU Policy framework		Overarching objective of EU development cooperation is the eradication of poverty in the context of sustainable development
EU Agenda for change, 2011	EC Communication		EU's strategy to support developing countries' efforts to eradicate poverty. The Agenda gives a high profile to good governance, human rights and inclusive economic growth. It promotes joint work with the EU's development partners, developing countries' governments, the private sector and international organisations such as the UN
EU Communication for a Strategy on Corporate Social Responsibility (CSR) 2011 -2014	Policy Document		The EC promotes responsible business conduct, in particular with respect to compliance with internationally agreed CSR principles and guidelines such as the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights
EC Communication on a Stronger Role of the Private Sector in Achieving Inclusive and Sustainable Growth in Developing Countries, May 2014	Policy document		To guide EU private sector in achieving development objectives
EU's 2011 Communication on CSR	Policy document		CSR of the private sector in fragile and conflict-affected areas. Expects companies' CSR to be based on OECD guidelines for multinational enterprises and UN principles on business and human rights
Human rights (global initiatives)			
Universal declaration of human rights, 1948	UN	Voluntary to signature, mandatory in application	Sets out fundamental principles of human rights are universally protected
UN Guiding Principles on Business and Human Rights, 2011 (Ruggie Pple)	UN-led	Voluntary	Integrate corporate human right responsibility
Un Voluntary Principles on Security and Human Rights, 2000	Multi-stakeholder initiative	Voluntary	Guide companies in the extractive sector in maintaining safety and security of operations
International Convention on the Elimination of all forms of racial	UN	Voluntary to signature, mandatory in application	Promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion

discrimination, 1965			
International Covenant on Civil and Political Rights, 1966	UN	Voluntary to signature, mandatory in application	Recognise the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world
International Covenant on Economic, Social and Cultural Rights, 1966	UN	Voluntary to signature, mandatory in application	Recognise the need to create conditions whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights
Convention on the Elimination of All Forms of Discrimination against Women, 1979	UN	Voluntary to signature, mandatory in application	The Convention takes an important place in bringing the female half of humanity into the focus of human rights concerns
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	UN	Voluntary to signature, mandatory in application	Provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
Convention on the Rights of the Child, 1989	UN	Voluntary to signature, mandatory in application	Proclaims that childhood is entitled to special care and assistance
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	UN	Voluntary to signature, mandatory in application	Calls for the protection of the interests of workers when employed in countries other than their own
International Convention for the Protection of All Persons from Enforced Disappearance, 2006	UN	Voluntary to signature, mandatory in application	Reaffirms the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end
Convention on the Rights of Persons with Disabilities, 2006	UN	Voluntary to signature, mandatory in application	Proclaims that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind and reaffirms the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination
Convention on the Prevention and Punishment of the Crime of Genocide, 1951	UN	Voluntary to signature, mandatory in application	All participating countries are required to prevent and punish actions of genocide, whether carried out in war or in peacetime
Human Rights: Specific African Initiatives			
African Charter on Human and Peoples' Rights, 1979	OAU	Voluntary to signature, mandatory in application	An international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent. 53 African countries (except South Sudan)
African Charter on the Rights and Welfare of the Child, 1990	OAU	Voluntary to signature, mandatory in application	Children's Charter is a comprehensive instrument that sets out rights and defines universal principles and norms for the status of children. Ratified by 41 countries
The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo	AU	Voluntary to signature, mandatory in application	Guarantees comprehensive rights to women including the right to take part in the political process, to social and political equality with men, to control of their reproductive health, and an end to female genital mutilation. Signed by 46 countries; Ratified by 15 countries

Protocol) 2005			
Human Rights: Specific European Initiatives			
Charter of Fundamental Rights of the European Union	EU	Mandatory	Enshrines certain political, social, and economic rights for European Union(EU) citizens and residents into EU law
Council of Europe Convention on Action against Trafficking in Human Beings	EU	Mandatory	Aims to prevent and combat all forms of human trafficking, including, but not limited to sexual exploitation and forced labour, whether national or transnational, whether or not connected with organised crime; to protect and assist victims and witnesses of trafficking; to ensure effective investigation and prosecution, and to promote international co-operation against trafficking
European Charter for Regional or Minority Languages, 1992	EU	Mandatory	To protect and promote historical regional and minority languages in Europe
European Convention on Human Rights	EU	Mandatory	To protect human rights and fundamental freedoms in Europe
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1987	EU	Mandatory	Provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
European Social Charter, 1965	EU	Mandatory	Sets out human rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the States parties
Framework Convention for the Protection of National Minorities, 1998	EU	Mandatory	Aimed at protecting the rights of minorities
Strategic Framework on Human Rights And Democracy, 2012	Strategic Framework; Action Plan	Mandatory	To promote economic, social and cultural rights; the EU will strengthen its efforts to ensure universal and non-discriminatory access to basic services, with a particular focus on poor and vulnerable groups
The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations, 2012	EC Communication	Mandatory	Objectives: empower CSO in their capacity to reach out to, empower, represent and defend vulnerable and socially excluded groups; to mobilise local resources and social capital, share information and bring marginalised groups into play, thus helping improve local governance and territorial cohesion
Rights-based Approach to Development Cooperation, 2014	Council conclusions	Mandatory	Reaffirms the EU's commitment to promote all human rights, whether civil and political, or economic, social and cultural, in all areas of its external action without exception, in line with the EU Strategic Framework and Action Plan on Human Rights and Democracy and the Council Conclusions on Democracy Support in the EU's External Relations
Social standards and labour rights (general frameworks)			
Equator principles	International Guideline (general)	Voluntary	Risk management framework for social and environmental risks

IFC performance Standards	IFC-led	Voluntary	Sustainability framework to assess social and environmental impact of investments
ILO Declaration on Fundamental Principles and Rights at work, 1998.	ILO	Mandatory	It is a statement made by the International Labour Organisation <i>"that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realise, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions"</i> .
Eight Fundamental ILO Conventions			
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	ILO	Mandatory	Workers and employers, without distinction whatsoever, have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	ILO	Mandatory	Workers enjoy adequate protection against acts of anti-union discrimination in respect of their employment
Forced Labour Convention, 1930 (No. 29)	ILO	Mandatory	Signatories undertake to suppress the use of forced or compulsory labour in all its forms within the shortest possible period
Abolition of Forced Labour Convention, 1957 (No. 105)	ILO	Mandatory	Signatories undertake to suppress and not to make use of any form of forced or compulsory labour (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; (b) as a method of mobilising and using labour for purposes of economic development; (c) as a means of labour discipline; (d) as a punishment for having participated in strikes; (e) as a means of racial, social, national or religious discrimination
Minimum Age Convention, 1973 (No. 138)	ILO	Mandatory	Signatories undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons
Worst Forms of Child Labour Convention, 1999 (No. 182)	ILO	Mandatory	Signatories should take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency
Equal Remuneration Convention, 1951 (No. 100)	ILO	Mandatory	Signatories must, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	ILO	Mandatory	Signatories undertake to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof
Other relevant general international policy frameworks (relevant to HR)			
Section 1502 Dodd-Frank Act, 2010	Regulation (US)	Mandatory, applicable to DR Congo and	Legal obligation for due diligence, reporting and disclosure

		neighbouring countries	
European Commission Proposal 2014 for supply chain due diligence for 3TG	(Draft) Regulation	Voluntary	Self-certification for importers of gold to carry out due diligence
European Parliament, Amended Proposal May 2015	Amendments to Legislation (Draft)	Mandatory (upstream) Voluntary (downstream)	Two track approach: mandatory regulation for importers; Voluntary for downstream users that have to show they are taking steps to reduce risks
UN Security Council Resolution 1952 (2010)	UN Resolution, applicable to Great lakes (Africa)	Mandatory	Calls for due diligence in supply chain management
OECD Guidelines for Multinational Enterprises (2011)	Guidelines	Voluntary and non-binding	Recommendations providing principles and standards for responsible business conduct for multinationals operating in or from countries adhered to the Declaration
OECD Due Diligence Guidance on Responsible Supply Chains of Minerals from Conflict Affected and High Risk Areas supplement Gold	Collaborative government-backed, multi-stakeholder	OECD members Voluntary, applicable to Conflict Affected and high risk areas	To foster responsible supply chain management of minerals from conflict affected areas. Help companies respect human rights, promote sustainability of supply chain and corporate engagement
Policy Coherence For Development			
Policy Coherence for Development, 2009	EC Communication and Council conclusions	Mandatory	The post-2012 negotiation under the United Nations Framework Convention on Climate Change, during 2009, is a critical milestone in combating Climate Change and the promotion of synergies with development cooperation, through instruments addressing vulnerabilities and adaptation to climate change
A decent life for all: ending poverty and giving the world a sustainable future, 2013	EC Communication	Mandatory	Objectives: Integrating sustainable development and poverty in a post 2015 overarching framework
The overarching Post 2015 Agenda, 2013	EC Communication	Mandatory	The post 2015 Agenda should be 'developed and implemented in close partnership with all stakeholders, including the private sector, in a way that ensures that the voices of the poorest and the most vulnerable are heard and that their needs are prioritised
Transformative post-2015 agenda, 2014	EC Communication	Mandatory	It must address, without any discrimination, the needs of the most disadvantaged and vulnerable, including children, the elderly and persons with disabilities, as well as of marginalised groups and indigenous peoples; and it must respond to the aspirations of young people. We should ensure that no person – wherever they live and regardless of ethnicity, gender, age, disability, religion or belief, race, or other status is denied universal human rights and basic economic opportunities
Guidelines on the analysis of human rights impacts in impact assessments for trade-related policy initiatives' [2015]	EU Guidelines	Mandatory	Analysis of the possible human rights impact of a trade-related initiative should look at the potential impact of the proposed initiative on human rights in both the EU and the partner country/ies, and should include consideration of civil, political, economic, social, cultural and core labour rights

Common Security and Defence Policy (CSDP)

Mainstreaming human rights across CFSP and other EU policies, 2006	Council of EU	Mandatory	Implement human rights policy in context of ESDP missions and operations where relevant, in particular s regards women and children, including by monitoring and reporting on human rights related issues
Democracy support in the EU's External Relations- Towards increased coherence and Effectiveness' 16081/09, 2009	Council Conclusions, 2009 Joint Communications, 2011	Mandatory	Democratic and participatory governance and the free will of the people can best assure the right of men and women to live and raise their children in dignity, freedom from hunger and from the fear of violence, oppression or injustice
The European Security Strategy, 2003	Policy framework	Mandatory	
European Strategy for Security and Development in the Sahel, 2011.	Policy framework	Mandatory	

External dimension of the Area of Freedom, Security and Justice

The EU Internal Security Strategy in Action: Five steps towards a more secure Europe, 2010	EC Communication	Mandatory	This communication builds on what Member States and EU institutions have already agreed, and proposes how we over the next four years can work together to be more effective in fighting and preventing serious and organised crime, terrorism and cybercrime, in strengthening the management of our external borders and in building resilience to natural and man-made disasters
Thematic Programme for cooperation with non-EU countries in the areas of migration and asylum – 2011-13 Strategy Paper	Strategic Paper	Mandatory	Operational tools: Asylum, Migration and Integration Fund (AMIF), Regulation (EU) No 516/2014 573/2007/EC Regulation 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC. The MME partnership's Action Plan for 2011-2013
Action Oriented Paper on strengthening the EU external dimension on actions against trafficking in human beings (2009)	Action Plan	Mandatory	
The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016			

About ECDPM

ECDPM was established in 1986 as an independent foundation to improve European cooperation with the group of African, Caribbean and Pacific countries (ACP). Its main goal today is to broker effective partnerships between the European Union and the developing world, especially Africa. ECDPM promotes inclusive forms of development and cooperates with public and private sector organisations to better manage international relations. It also supports the reform of policies and institutions in both Europe and the developing world. One of ECDPM's key strengths is its extensive network of relations in developing countries, including emerging economies. Among its partners are multilateral institutions, international centres of excellence and a broad range of state and non-state organisations.

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ECDPM organises its work around four themes:

- Reconciling values and interests in the external action of the EU and other international players
- Promoting economic governance and trade for inclusive and sustainable growth
- Supporting societal dynamics of change related to democracy and governance in developing countries, particularly Africa
- Addressing food security as a global public good through information and support to regional integration, markets and agriculture

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European Centre for Development
Policy Management

ecdpm

HEAD OFFICE SIÈGE

Onze Lieve Vrouweplein 21
6211 HE Maastricht
The Netherlands *Pays Bas*
Tel +31 (0)43 350 29 00
Fax +31 (0)43 350 29 02

BRUSSELS OFFICE BUREAU DE BRUXELLES

Rue Archimède 5
1000 Brussels *Bruxelles*
Belgium *Belgique*
Tel +32 (0)2 237 43 10
Fax +32 (0)2 237 43 19

info@ecdpm.org
www.ecdpm.org
KvK 41077447