



THE LONDON SCHOOL
OF ECONOMICS AND
POLITICAL SCIENCE ■

Sustainability Impact Assessment in Support of Negotiations with Partner Countries in Eastern and Southern Africa in view of Deepening the Existing Interim Economic Partnership Agreement

SIA Report on the TSD Chapter ▪ May 2021



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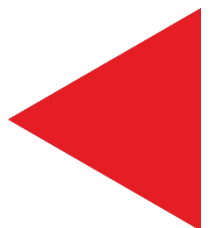


Table of Contents

| | |
|---|-----------|
| Executive Summary | 8 |
| 1. Introduction | 9 |
| 1.1 The study | 9 |
| 1.2 Context | 9 |
| 1.3 Methodology | 9 |
| 2. Screening of the potential provisions for environment, social issues, employment, gender and human rights | 10 |
| 2.1 Introduction | 10 |
| 2.2 Overview of the screening results | 10 |
| 3. Detailed assessment | 11 |
| 3.1 Introduction | 11 |
| 3.2 Better implementation of multilateral environmental agreements | 12 |
| 3.2.1 <i>Overview of the potential provisions</i> | 12 |
| 3.2.2 <i>Baseline</i> | 13 |
| 3.2.3 <i>Key elements for implementation</i> | 16 |
| 3.2.4 <i>Potential impacts</i> | 19 |
| 3.3 Multilateral labour standards and agreements | 21 |
| 3.3.1 <i>Overview of the potential provisions.</i> | 21 |
| 3.3.2 <i>Baseline.</i> | 21 |
| 3.3.3 <i>Key elements for implementation.</i> | 24 |
| 3.3.4 <i>Potential impacts</i> | 27 |
| 3.4 Promotion of gender equality | 28 |
| 3.4.1 <i>Overview of the potential provisions</i> | 28 |
| 3.4.2 <i>Baseline</i> | 29 |
| 3.4.3 <i>Key elements for implementation</i> | 32 |
| 3.4.4 <i>Potential impacts</i> | 34 |
| 3.5 Promotion of responsible supply chain management | 35 |
| 3.5.1 <i>Overview of the measure</i> | 35 |
| 3.5.2 <i>Baseline</i> | 35 |
| 3.5.3 <i>Key elements for implementation</i> | 37 |
| 3.5.4 <i>Potential impacts</i> | 39 |
| 3.6 Greater transparency and greater civil society participation | 40 |
| 3.6.1 <i>Overview of the potential provisions</i> | 40 |
| 3.6.2 <i>Baseline</i> | 41 |
| 3.6.3 <i>Key elements for implementation</i> | 43 |
| 3.6.4 <i>Potential impacts</i> | 44 |
| 4. Recommendations to consider for the TSD Chapter and possible accompanying measures. | 44 |
| 4.1 Objectives and approach | 44 |
| 4.2 Additional elements for consideration in the negotiating text | 44 |
| 4.2.1 <i>Reinforcing environmental provisions</i> | 44 |

| | | |
|-----------|---|-----------|
| 4.2.2 | <i>Reinforcing social, gender and human rights provisions</i> | 45 |
| 4.2.3 | <i>Strengthening links to CSR/RBC</i> | 46 |
| 4.2.4 | <i>Strengthening transparency, participation and monitoring</i> | 46 |
| 4.3 | Avenues for EU development cooperation | 46 |
| 5. | Conclusions | 47 |
| | Appendix I. Overview of the five ESA countries | 49 |
| | Appendix II. Screening of provisions for the TSD Chapter | 51 |
| | Appendix III. Ratification of international conventions | 58 |
| | Appendix IV. ESA and EU initiatives for CSR and RBC | 64 |
| | Appendix V. Overview of strengths, weaknesses, opportunities and threats of the key provisions | 70 |
| | Appendix VI. Overview of potential impacts on the SDGs | 75 |

List of Tables

| | |
|---|----|
| Table 1: National policies on climate and the environment in ESA5 | 13 |
| Table 2: Relevant legal framework on gender in ESA5 | 30 |
| Table 3: National policies on gender in ESA5 | 31 |
| Table 4: Key areas for EU development cooperation | 47 |
| Table 5: Key economic, environmental, social, gender and human rights indicators (2019 or latest year available) | 49 |
| Table 6: Screening of potential provisions for the deepening of the EPA and their impacts | 51 |
| Table 7: Main multilateral agreements and international conventions on social, gender and human rights policy in ESA5 countries | 58 |
| Table 8: Ratification (or accession) of key international conventions on environment, including oceans and climate change | 60 |
| Table 9: ESA and EU government initiatives on CSR and RBC | 64 |
| Table 10: Business initiatives on CSR and RBC in ESA countries | 67 |
| Table 11: Better implementation of MEAs, climate and biodiversity – potential strengths and weaknesses | 70 |
| Table 12: Better implementation of MEAs, climate and biodiversity – potential opportunities and threats | 70 |
| Table 13: Better implementation of multilateral labour standards and agreements – potential strengths and weaknesses | 71 |
| Table 14: Better implementation of multilateral labour standards and agreements – potential opportunities and threats | 71 |
| Table 15: Promotion of gender equality – potential strengths and weaknesses | 71 |
| Table 16: Promotion of gender equality – potential opportunities and threats | 72 |
| Table 17: Promotion of responsible supply chain management – potential strengths and weaknesses | 72 |
| Table 18: Promotion of responsible supply chain management – potential opportunities and threats | 72 |
| Table 19: Greater transparency and greater civil society participation – potential strengths and weaknesses | 73 |
| Table 20: Greater transparency and greater civil society participation – potential opportunities and strengths | 73 |
| Table 21: Potential results of the TSD Chapter in terms of the SDGs | 75 |

List of Figures

| | |
|---|----|
| Figure 1: Causal pathways for trade agreement provisions related to labour provisions | 11 |
| Figure 2: Quantity in kilograms of products from CITES Appendix II listed species traded from ESA5 states to the EU, with importer and exporter reported quantities | 16 |
| Figure 3: Evolution of Voice and Accountability indicator for ESA5 countries, 2010-2019 | 41 |

Abbreviations

| | |
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| ACP | African-Caribbean-Pacific |
| CBD | Convention on Biological Diversity |
| CEARC | Committee of Experts on the Application of Conventions and Recommendations |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CITES | Convention on International Trade in Endangered Species |
| COMESA | Common Market for Eastern and Southern Africa |
| CSR | Corporate Social Responsibility |
| DG Trade | Directorate-General for Trade |
| EALA | East Africa Legislative Assembly |
| EAC | Eastern African Community |
| ESA | Eastern and Southern Africa |
| EPA | Economic Partnership Agreement |
| EC | European Commission |
| EITI | Extractive Industry Transparency Initiatives |
| EPZ | Export Processing Zones |
| EU | European Union |
| ESA5 | Five ESA Countries |
| FDI | Foreign Direct Investment |
| FTA | Free Trade Agreement |
| GHG | Greenhouse Gas |
| GDP | Gross Domestic Product |
| HDI | Human Development Index |
| IUU | Illegal, Unreported and Unregulated Fishing |
| IOC | Indian Ocean Commission |
| IOTC | Indian Ocean Tuna Commission |
| ILO | International Labour Organisation |
| ITC | International Trade Centre |
| IL | Intervention Logic |
| LDC | Least Development Country |
| LSE | London School of Economics and Political Science |
| MEA | Multilateral Environmental Agreement |
| MFN | Most Favoured Nation |
| MNE | Multinational Enterprises |
| MOSC | Maison des Organisations de la Société Civile |
| MSEs | Micro and Small Enterprise |
| MSME | Micro, Small & Medium Enterprises |
| MPAs | Marine Protected Areas |
| NGO | Non-Governmental Organisation |
| NTM | Non-tariff Measures |
| OECD | Organisation for Economic Co-operation and Development |
| ORs | EU's Outermost Regions |
| OCT | Overseas Countries and Territories |

| | |
|---------|--|
| OSH | Occupational Safety and Health |
| PPPs | Public-private Partnerships |
| PPP | Purchasing Power Parity |
| RECs | Regional Economic Communities |
| RBC | Responsible Business Conduct |
| ROO | Rules of Origin |
| SEATINI | The Southern and Eastern Africa Trade Information and Negotiations Institute |
| SPS | Sanitary and Phytosanitary Measures |
| SME | Small and Medium Size Enterprise |
| SAPSN | Southern Africa People's Solidarity Network |
| SADC | Southern African Development Community |
| SFPA | Sustainable Fisheries Partnership Agreement |
| SITC | Standard International Trade Classification |
| SOE | State-owned Enterprises |
| SIA | Sustainability Impact Assessment |
| SDGs | Sustainable Development Goals |
| SFPA | Sustainable Fishery Partnership Agreement |
| TBT | Technical Barriers to Trade |
| TSD | Trade and Sustainable Development |
| TFA | Trade Facilitation Agreement |
| TOR | Terms of Reference |
| UNFCCC | UN Framework Convention on Climate Change |
| UK | United Kingdom |
| UN | United Nations |
| UNCTAD | United Nations Conference on Trade and Development |
| WTO | World Trade Organisation |

Executive Summary

The topics covered in the ongoing negotiations to deepen the Economic Partnership Agreement (EPA) with five countries in Eastern and Southern Africa (ESA) include a Chapter on Trade and Sustainable Development (TSD). The analysis of the text proposed by the European Union (EU)¹ suggests the following provisions could have the greatest impacts in the ESA countries:

- **Better implementation of multilateral environmental agreements (MEAs).** While the five ESA countries have ratified a broad range of MEAs, their implementation varies. This provision – if supported by policy development and capacity building – **could strengthen efforts to address illegal trade in endangered species**, especially in Madagascar and Zimbabwe, which are particularly rich in biodiversity. **Implementation could also further protect forests, develop new forms of renewable energy to address climate change, and strengthen climate adaptation actions.**
- **Multilateral labour standards and agreements.** Here too, while ESA countries have ratified many International Labour Organisation (ILO) treaties, further efforts are needed for their implementation. This provision could – if accompanied by policy development and by capacity building for inspectorates, unions and civil society and enterprises – **could help to address key concerns such as child labour** (in particular in lower-income ESA countries), improve working conditions.
- The proposed Article on **the promotion of gender equality** could lead to strengthening the legal and policy frameworks in ESA countries and thus to improving wage equality, women's participation in the formal workforce and women's conditions of work.
- **Promotion of responsible supply chain management could lead to legislation** promoting corporate social responsibility (CSR) and responsible business conduct (RBC), **which in turn could improve the practices of ESA businesses as well as foreign investors.** Consequently, this provision could support the other provisions in the TSD Chapter.
- **Greater transparency and greater civil society participation**, together with strong monitoring requirements, would support awareness of the EPA and facilitate its implementation by strengthening information actions taken for the other sustainability provisions, as well as the results achieved.

The five ESA countries – Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe – have very different economic, social and environmental conditions. Consequently, both the implementation of the provisions of a TSD Chapter as well as the effects would be different among them. To varying degrees, the provisions will require the development of legal and policy frameworks as well as capacity building – consequently, many results in terms of better environmental, social, gender and human rights trends may be visible only in the longer term.

The EU and ESA could consider opportunities to strengthen the provisions in the TSD chapter. These include developing national action plans for its implementation, ensuring links among the different articles, including with CSR/RBC provisions, and establishing strong monitoring requirements.

EU development cooperation will also be valuable to build capacity in ESA countries, support civil society and raise awareness in enterprises. As the countries vary greatly, these measures will need to be tailored to national conditions and kept in EAS5 countries' responsibility. Preparing national implementation plans and related needs assessments can help to pinpoint key areas for development cooperation.

¹ Available at: https://trade.ec.europa.eu/doclib/docs/2020/november/tradoc_159083.pdf

1. Introduction

1.1 The study

This report is part of the project to prepare a *Sustainability Impact Assessment (SIA) in support of negotiations with partner countries in ESA in view of deepening the existing interim EPA*. Under this project, a brief evaluation of the existing, interim EPA has been prepared. The study is also developing a series of SIA reports for the deepening of the EPA. In particular, **this report presents an assessment of potential provisions for the Chapter on TSD**, which covers environmental, social, gender and human rights issues. This report builds on the analysis in the evaluation, which included an assessment of environmental, social, gender and human rights impacts of the interim EPA.

The Sustainability Impact Assessment for the deepening of the EPA includes this report on the TSD Chapter as well as five other thematic reports, covering the following topics:

- Trade in Goods
- Trade in Services, Digital Trade and Investment
- Public procurement and competition
- Intellectual Property Rights
- Dispute avoidance and settlement and Institutional structure

Each of these reports will also include an assessment of environmental, social, gender and human rights impacts, proportionate to the expected importance of the impacts for each area of negotiation.

1.2 Context

In 2007, six countries of the ESA region – Comoros, Madagascar, Mauritius, Seychelles, Zambia and Zimbabwe – concluded an interim EPA with the EU. In 2009, four of these countries (Madagascar, Mauritius, Seychelles and Zimbabwe) signed the agreement, and it has been provisionally applied in these countries since May 2012. Comoros signed the agreement in July 2017 and ratified it in January 2019. The interim EPA includes a ‘Rendez-vous clause’ (Article 53), by which the Parties ‘agree to continue negotiations... with a view to concluding a full and comprehensive EPA’. The Article includes trade, environment and sustainable development among the areas for further negotiation.

In October 2019, the EU and the five countries that had signed the EU-ESA interim EPA started EPA negotiations on the deepening process. In 2020, the European Commission (EC) proposed a text for the negotiations on the Chapter on Trade and Sustainability Development:² this provides the basis for the analysis in this report. The analysis also builds on the preliminary work for the project Inception Report,³ which reviewed the provisions of recently negotiated EU Agreements, notably those with Australia and with Vietnam.

For a brief overview of the five ESA countries, please see Appendix I and, the Ex-Post Evaluation within this SIA of January 18, 2021.

1.3 Methodology

The analytical work for this report involved, as a first step, a screening of potential provisions set out in the draft text for the TSD Chapter presented by the EC: the results of this screening are provided in Section 2

² Available at: https://trade.ec.europa.eu/doclib/docs/2020/november/tradoc_159083.pdf

³ Available at: <http://research-sia-esa.eu/en/reports/>

below. This screening includes an identification of those provisions likely to have major impacts (and those where impacts will be comparatively minor).

Based on the screening, scoping and deeper analysis of the provisions with potentially major impacts was undertaken. This is presented in Section 3. For each provision covered in this deeper analysis, the relevant baseline is presented, and then actions needed for implementation are considered. Potential impacts of each provision are then described. Finally, for each topic, a brief analysis presents the key strengths and weaknesses of the proposed provisions together with indications of external opportunities and threats that might affect implementation and the achievement of results.

The analysis in Section 3 is then used to develop a set of recommendations, which are presented in Section 4. Finally, the conclusions (Section 5) highlight key potential results of the provisions in terms of the themes of the Sustainable Development Goals.

Desk research and analysis has provided the main source of information for this report. Although interviews have been carried out in the ESA countries, many of the interviewees did not have a strong awareness of the interim EPA and did not have specific comments on the potential impacts of a TSD Chapter. The online consultation similarly did not bring results that could be used for this Chapter.

2. Screening of the potential provisions for environment, social issues, employment, gender and human rights

2.1 Introduction

While the existing, interim EPA contains certain social, human rights and environmental provisions, for the most part, these are not extensive, nor are they gathered in a dedicated section of the Agreement. The comprehensive EPA is expected to contain further provisions presented in a chapter on TSD. As noted in section 1, the EC has presented a draft negotiating text for the TSD Chapter. A detailed screening was carried out of the provisions proposed in this draft: the detailed results are provided in Appendix II, and these have been used to identify the most important provisions, which are outlined in section 2.2 and addressed in the detailed analysis (section 3).

2.2 Overview of the screening results

The screening has identified a range of potential provisions in the TSD Chapter that could have major impacts on environmental, social, gender or human rights conditions. These provisions will be analysed more closely in the detailed assessment (Section 3, below).

- Better implementation of multilateral environmental agreements
- Multilateral labour standards and agreements (and in particular their better implementation)
- Promotion of gender equality
- Promotion of responsible supply chain management
- Transparency and civil society participation: these provisions are assessed together, as the screening has shown that they are closely linked

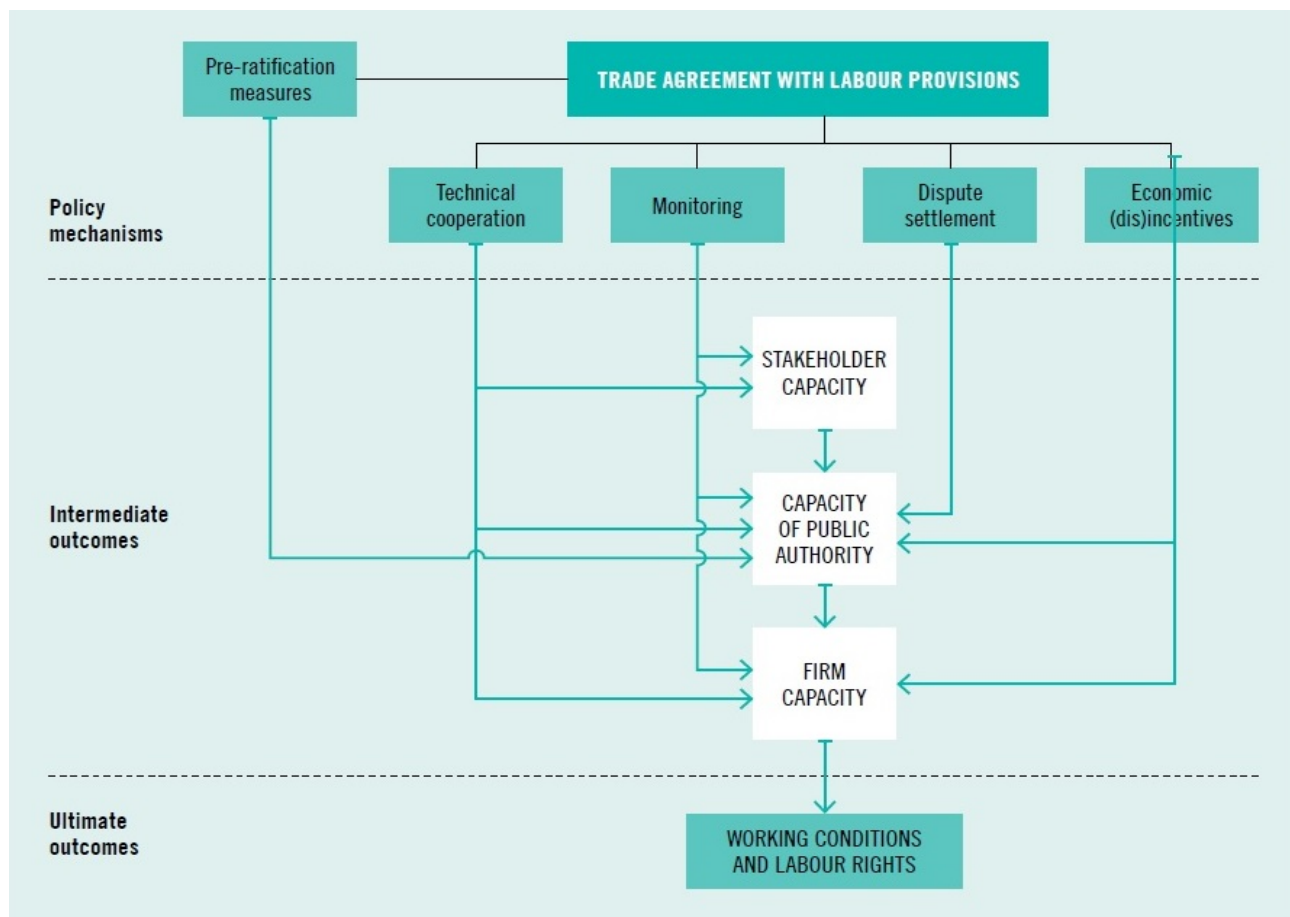
3. Detailed assessment

3.1 Introduction

This section provides an in-depth analysis of the provisions identified in the screening (Section 2 and Appendix II) as having major impacts on environmental, social, gender or human rights conditions in ESA countries.

Each sub-section addresses one topic, either a single article in the proposed text or a group of related articles. For each topic, a *summary of the proposed text* is presented. These summaries are intended to provide key background information for the analysis and are not intended to be full or definitive descriptions (for the articles themselves, please see the proposed negotiating text itself).⁴ Each section then summarises the *baseline* in the five ESA countries.⁵ These summaries draw on the detailed information found in the separate Annex to this report: please refer to the Annex for further information as well as references.

Figure 1: Causal pathways for trade agreement provisions related to labour provisions



Source: ILO, 2017, *Handbook on assessment of labour provisions in trade and investment arrangements*, p. 38.

⁴ Available at: https://trade.ec.europa.eu/doclib/docs/2020/november/tradoc_159083.pdf

⁵ This study focuses on the conditions and possible impacts in ESA countries, as per the terms of reference and agreed with the EC. Moreover, as the EU has a much larger economy, the agreement will have comparatively low impacts on Europe compared to those on ESA countries. This is not intended to imply that the EU has fully addressed the issues dealt with in the TSD Chapter. The European Environment Agency, for example, has highlighted biodiversity loss, climate impacts and overconsumption of natural resources among key areas for attention in the coming decades, all of which have global implications. See: EEA, *The European environment — state and outlook 2020: knowledge for transition to a sustainable Europe*, available at: <https://www.eea.europa.eu/soer/2020>. The European Foundation for the Improvement of Living and Working Conditions carries out similar overviews of labour and social issues in the EU: <https://www.eurofound.europa.eu/>.

The proposed text for the TSD Chapter sets out areas for national actions and cooperation between the EU and the ESA countries. To achieve results in terms of improvements in environmental, social, gender and human rights conditions, a set of intermediate actions will need to be put into place. In many cases, the pathways to achieving final results will need to be implemented via a set of legal and policy measures, which in turn will include actions to strengthen institutional capacities. The ILO has set out a schematic view of potential pathways for labour provisions (see Figure 1 above), identifying areas for policy mechanisms, intermediate outputs (strengthening capacities) and final outcomes in terms of working conditions and labour rights (the final outcomes are referred to as results and impacts in this report).

Each section below follows this approach and identifies *key elements needed for the implementation* of the draft provisions of the TSD Chapter, including elements set out in the draft text as well as other elements that appear necessary to implement the text. Given the range of the provisions as well as the broad differences across the five ESA countries, it has been possible only to provide broad indications of the elements for implementation (after formal agreement on the TSD Chapter, a more detailed analysis, possibly carried out jointly by the Parties, could be valuable to support good implementation and positive results).

Following the review of key elements for implementation, each sub-section then addresses the *potential impacts* of the provisions.

The implementation of the provisions of the TSD Chapter will interact with a range of other policy developments as well as ongoing economic and social changes at national, regional and global scales. For each topic, a brief analysis of *strengths, weaknesses, opportunities and threats* has been prepared: these can be found in Appendix V.

On the basis of the in-depth analysis, a set of recommendations have been proposed: these are presented in Section 4. Finally, Section 5 of this report concludes by identifying how the provisions of the proposed TSD Chapter may affect the achievement of the sustainable development goals (SDGs) in the ESA countries.

The analysis in this section does not address the Covid-19 pandemic that started in 2020. The pandemic has had and will have wide-ranging effects on EU and the ESA economies, including on social, gender and human rights conditions. Although the analysis has not focused on how the pandemic may influence the impacts of the TSD Chapter, it may increase attention to social conditions and equity – as well as key environmental issues such as the illegal wildlife trade. The pandemic is also bringing out the strengths and weaknesses of governance in countries around the world, including both EU Member States and the ESA countries. An analysis of these strengths and weaknesses will help to identify key steps and needs for the proper implementation of the TSD Chapter's provisions.

3.2 Better implementation of multilateral environmental agreements

3.2.1 Overview of the potential provisions

The EU proposes several articles relevant to the environment and the better implementation of MEAs in its proposed chapter on trade and sustainable development. Article X.4 on Multilateral Environmental Governance and Agreements highlights the important role of such agreements in facing environmental challenges. Under this Article, the Parties engage to effectively implement the MEAs they have ratified. Parties may take policy measures that further the objectives of the MEAs. Parties also engage to cooperate more closely on a range of relevant environmental topics in bilateral relations but also regionally and in international contexts, with examples given of potential areas. These areas include sustainable production and consumption, promotion of the circular economy, green growth and reduction of pollution; reducing trade barriers for environmental goods and services; and the relationship between environmental law and trade and investment standards.

Two other articles address the high climate vulnerability and rich biodiversity respectively of the ESA5 states.

Article X.5 covers trade and climate change. Pursuant to this article, 'Parties recognise the importance of taking urgent action to combat climate change and its impacts, and the role of trade in pursuing this objective', citing the goals of the 2015 Paris agreement, the UNFCCC and other MEAs tackling climate change. Parties engage to effectively implement the UNFCCC and Paris Agreement and to ratify the Kigali Amendment to the Montreal Protocol. They will promote the mutual supportiveness of trade and climate measures to reduce emissions and improve resource efficiency and climate resilience. Parties will tackle obstacles to trade and investment relevant to climate mitigation and adaptation, including facilitating the deployment of the best available technologies. In addition to these things, Parties will strengthen cooperation aspects of trade and climate change in bilateral relations but also regionally and in international contexts. The Article identifies potential areas for cooperation in the context of the Paris Agreement, including the promotion of climate resilience, renewable energy, low-carbon technologies, sustainable transport, sustainable and climate resilient infrastructure development and emissions monitoring. Also mentioned are 'ambitious' reductions of ozone-depleting substances and hydrofluorocarbons under the Montreal Protocol.

Article X.6 regards trade and biological diversity and primarily concerns the implementation of the Convention on Biological Diversity (CBD) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Parties engage to tackle illegal wildlife trade, including with third countries. They engage to conserve biodiversity affected by trade, particularly concerning the prevention of the spread of invasive alien species. Parties will conduct regular reviews of the conservation status of species; where species are considered at risk because of international trade, they Parties will support their inclusion in the appendices of the CITES. They will promote conservation and sustainable use of CITES-listed species and products from sustainable biodiversity resources. Parties engage to cooperate on trade and biodiversity in bilateral relations but also regionally and in international contexts. Potential areas for cooperation include sharing of good practices in trading products from natural resources while conserving biodiversity; valuation of ecosystem services; policies to reduce demand for illegal wildlife products; and access to genetic resources along with fair and equitable sharing of the benefits, as set out in the Nagoya Protocol of the CBD.

3.2.2 Baseline

The five ESA countries have produced strategic documents to guide their response to environmental pressures and climate change. The ambition of the documents varies between countries.

Table 1: National policies on climate and the environment in ESA5

| Country | Policy |
|------------|---|
| Comoros | <ul style="list-style-type: none"> National Environmental Policy (1993) Accelerated Growth and Sustainable Development Strategy (2018-2021) |
| Madagascar | <ul style="list-style-type: none"> National Climate Change Policy (2011) National Strategy to Face Climate Change in Agriculture-Livestock-Fishery 2012-2025 2015-2030 energy policy National Biodiversity Strategy and Action Plans 2015-2025 National Disaster Risk Management Strategy 2016-2030 |
| Mauritius | <ul style="list-style-type: none"> National Environment Policy (2007) Renewable Energy Roadmap 2030 for the Electricity sector Protected Area Network Expansion Strategy (2017 – 2026) <i>Maurice Ile Durable</i> Policy, strategy and action plan (2013) Strategic plan on food crops, livestock and forestry sectors 2016-2020 National Biodiversity Strategy and Action Plan 2017-2025 |
| Seychelles | <ul style="list-style-type: none"> Sustainable Development Strategy 2012-2020 |

| Country | Policy |
|----------|---|
| | <ul style="list-style-type: none"> National Climate Change Strategy (2009) National Biodiversity Strategy and Action Plan 2015-2020 Marine Spatial Plan (2020) |
| Zimbabwe | <ul style="list-style-type: none"> National Climate Change Response Strategy (2019) National Climate Policy (2017) National Renewable Energy Policy (2020) National Biodiversity Strategy and Action Plan (2014) Climate Smart Agriculture Framework (2018-2028) |

Source: Own compilation

All five ESA counties have ratified important multilateral environmental agreements on biodiversity and climate, including the Conventional on Biological Diversity (CBD), CITES and the Paris Climate Agreement.

All five ESA states have ratified the **Convention on Biological Diversity** and its Nagoya and Cartagena protocols. **Nevertheless, gaps remain in the implementation of the Convention.** Comoros, Madagascar, Mauritius and Seychelles are all part of the Madagascar and Indian Ocean Islands biodiversity hotspot, with high levels of endemic species.

Three of the five countries have seen significant deforestation over the previous decades, which has had a negative effect on biodiversity. Forest cover loss has been caused by a range of factors; two of the principal factors in Comoros, Madagascar and Zimbabwe are repurposing of land for agriculture and use of wood as fuel. Implementation of the Convention varies between the different countries, but common themes amongst the countries with relatively less economic resources, i.e., Comoros, Madagascar and Zimbabwe, are precisely lack of funds to **implement measures and lack of political impetus when the country has severe needs in many areas. Greater implementation could be achieved by better mainstreaming biodiversity into all policy-making areas. Improved monitoring could also assist implementation.**⁶ Where protected areas have been significantly increased in recent years in response to the Convention, as in Madagascar, greater enforcement is needed to ensure that the protected areas are respected.⁷ In Mauritius and Seychelles, biodiversity has been mainstreamed into more areas but issues remain, such as improving the appreciation of the importance of biodiversity by the population, further designation of protected areas and stricter enforcement of them from pressures of activity such as agriculture and fisheries.^{8 9}

CITES has been ratified by all ESA5 countries. Due to the high levels of biodiversity and endemism in ESA5 countries, they are vulnerable to illegal trade in wildlife. Legislative implementation of the Convention in Madagascar, Mauritius and Zimbabwe is considered by CITES Secretariat to meet the requirements for implementation of CITES. Legislation in Comoros and Seychelles is considered to not meet the requirements for the implementation of CITES.¹⁰ Comoros is considered as a country requiring attention of the standing committee as a priority.¹¹ The CITES Secretariat reports that draft legislation has been prepared

⁶ CBD (2020), 'Comoros: Measures to Enhance Implementation of the Convention', <https://www.cbd.int/countries/profile/?country=km>

⁷ Charlie J. Gardner, Martin E. Nicoll, Christopher Birkinshaw, Alasdair Harris, Richard E. Lewis, Domoina Rakotomalala, Anitry N. Ratsifandrihamanana (2018), 'The rapid expansion of Madagascar's protected area system' *Biological Conservation*, Volume 220, Pages 29-36, <https://doi.org/10.1016/j.biocon.2018.02.011>.

⁸ Republic of Mauritius (2017), *National Biodiversity Strategy and Action Plan*, <https://www.cbd.int/doc/world/mu/mu-nbsap-v2-en.pdf>

⁹ Government of Mauritius (2017), *Protected area network expansion strategy 2016-2026*, <https://npes.govmu.org/Documents/Useful%20Documents/Protected%20Area%20Network%20Expansion%20Strategy%20%202017%20-2026.pdf#search=Protected%20Area%20Network%20Expansion%20Strategy%20%282016%20%E2%80%932026%29>

¹⁰ CITES (2020), 'Status of legislative progress for implementing CITES (updated October 2020)', https://cites.org/sites/default/files/LAC/Legislative_status_table_October_2020.pdf

¹¹ CITES (2020), 'National Legislation Project', website, https://cites.org/eng/legislation/National_Legislation_Project

in Seychelles but is waiting to be submitted for adoption, and in Comoros, draft legislation has been reviewed by the CITES secretariat and is waiting for finalisation and submission for adoption.¹²

Researchers have found that incidence of illegal trade in wildlife listed under CITES Appendix I from Madagascar has increased in recent years and that this has strongly impacted wild populations.¹³ In particular, poaching of the ploughshare tortoise, an endemic species in the north-west of the island, has increased dramatically since 2010 to feed the international pet trade. The species is considered to be at serious risk of extinction.¹⁴ Rosewood and ebony timber from Madagascar is particularly prized, and a report by the non-governmental organization (NGO) Traffic has found that significant quantities are being felled in protected areas and illegally exported.¹⁵ The report notes that there is a disconnect between political declarations and international commitments and their implementation, citing poor governance and corruption.

In Zimbabwe, there is evidence that authorities are taking a tough stance against the trade of some animals, for example, the endangered pangolins, which researchers say have resulted in increased confiscations in recent years.¹⁶ **In 2020 Zimbabwe adopted an amendment to strengthen its legislation to curb illegal trade in animals and animal products.** The amendment extends the range of animals protected and includes pangolins.¹⁷ Nevertheless, the Organisation for Economic Co-operation and Development (OECD) has identified Zimbabwe as a major transit point for ivory.¹⁸ Illegal exploitation of endangered wood species, in particular rosewood, had proliferated during the political instability around 2009 and following years, driven by demand in foreign markets. The government put in place a policy in 2019 to halt all exploitation, transport and export of legal wood on the island, in an attempt to reduce illicit practices in the logging trade and the pressure on forests and take an inventory of existing timber stocks. The effect of this on illegal logging is still to be seen.

Figure 2 shows the evolution of the quantity in kilograms of products from Appendix II-listed species from ESA5 states to the EU over the period 2010-2018. The figure shows separately quantities as recorded by exporting country and by importing country. Appendix II includes “species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival”. The figure shows a considerable increase in recorded quantities of products from Appendix II-listed species moving from ESA5 countries to the EU over the period 2010-2018.

¹² CITES (2020), ‘Status of legislative progress for implementing CITES (updated October 2020)’, https://cites.org/sites/default/files/LAC/Legislative_status_table_October_2020.pdf

¹³ Janine E. Robinson, Iain M. Fraser, Freya A.V. St. John, J. Christian Randrianantoandro, Raphali R. Andriantsimanarilafy, Julie H. Razafimanahaka, Richard A. Griffiths, David L. Roberts (2018), ‘Wildlife supply chains in Madagascar from local collection to global export’, *Biological Conservation*, Volume 226, Pages 144-152, <https://doi.org/10.1016/j.biocon.2018.07.027>

¹⁴ Mandimbihasina, A., Woolaver, L., Concannon, L., Milner-Gulland, E., Lewis, R., Terry, A., Young, R. et. al. (2020), ‘The illegal pet trade is driving Madagascar’s ploughshare tortoise to extinction’ *Oryx*, 54(2), 188-196. <https://doi.org/10.1017/S0030605317001880>

¹⁵ Ratsimbazafy, Newton, Ringuet (2017), ‘Timber Island: The Rosewood and Ebony Trade of Madagascar’, *Traffic*, <https://www.traffic.org/publications/reports/timber-island-the-rosewood-and-ebony-trade-of-madagascar/>

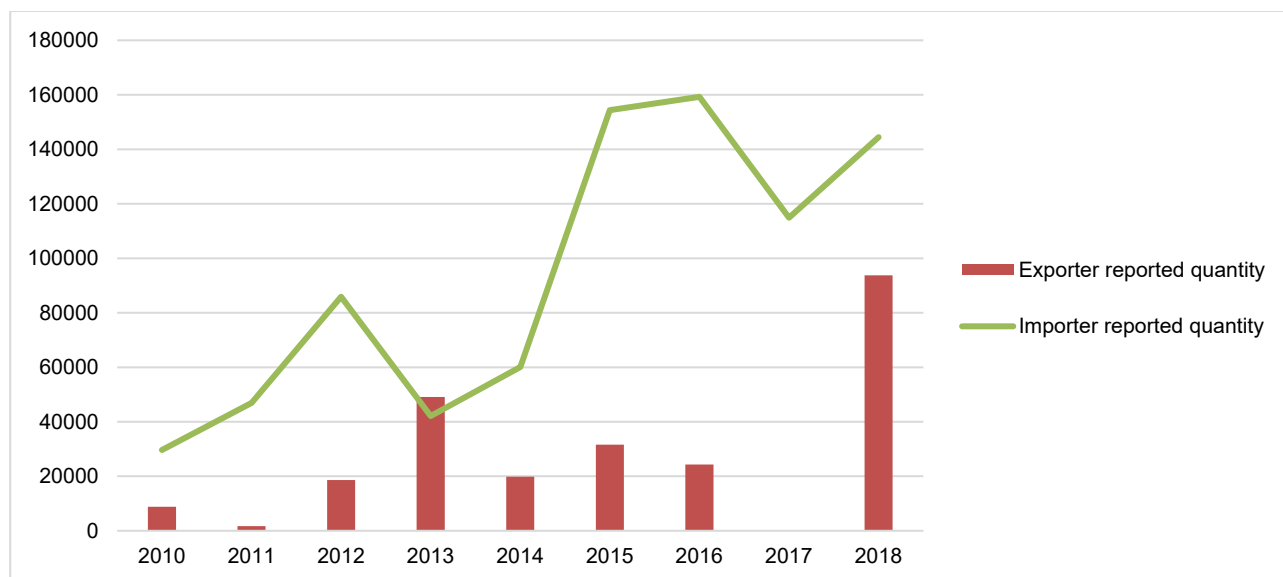
¹⁶ Shepherd, Chris & Connelly, Ellen & Hywood, Lisa & Cassey, Phillip. (2016). Taking a stand against illegal wildlife trade: the Zimbabwean approach to pangolin conservation. *Oryx*. -1. 1-6.

<https://www.researchgate.net/deref/http%3A%2F%2Fdx.doi.org%2F10.1017%2FS0030605316000119>

¹⁷ Government of Zimbabwe, Statutory Instrument 71 and 72 of 2020, Parks and Wild Life (Specially Protected Animals) Regulations, 2020

¹⁸ OECD (2016), *Illicit Trade: Converging Criminal Networks*, <http://www.oecd.org/corruption-integrity/reports/charting-illicit-trade-9789264251847-en.html>

Figure 2: Quantity in kilograms of products from CITES Appendix II listed species traded from ESA5 states to the EU, with importer and exporter reported quantities¹⁹



Source: CITES Trade Database

Climate change

All five ESA countries have ratified the Paris Agreement. All five ESA countries are at risk of the effects of climate change. As island states, Comoros, Madagascar, Mauritius and Seychelles share similar risks of raised sea levels and changing weather patterns, often made worse by deforestation on land and human marine activity. In Zimbabwe, effects of human activity such as deforestation, soil degradation and water pollution are likely to exacerbate more unpredictable and uneven distribution of rainfall and reduced groundwater recharge, resulting in an increased risk of famine and drought.²⁰ Programs exist in these countries to improve resilience to climate change, particularly targeting food security. In Madagascar and Zimbabwe, specific national policies have been adopted to improve the resilience of agriculture in the face of climate change. Strategic plans on increasing the use of renewable energy have been developed in Mauritius and Zimbabwe and are included in the Madagascar energy policy. Madagascar is participating in the United Nations (UN) Reducing Emissions from Deforestation and Forest Degradation (REDD+) programme, for which it has developed a national strategy and action plan to reduce emissions and enhance removals of greenhouse gas (GHG) through sound management of its forests, including monitoring. Three of the five countries (Comoros, Mauritius and Seychelles) have ratified the Kigali Amendment of the Montreal Protocol limiting the use of hydrofluorocarbons.

3.2.3 Key elements for implementation

The proposed Chapter on Trade and Sustainable Development sets out in Articles 4, 5 and 6 areas for action by Parties concerning MEAs, climate change and biodiversity. The following key elements for the implementation of the Chapter highlight steps that would likely be needed in order to address gaps identified in the baseline.

¹⁹ CITES trade statistics derived from the CITES Trade Database, UNEP World Conservation Monitoring Centre, Cambridge, UK.

²⁰ Brazier, A. (2015), 'Climate Change in Zimbabwe: Facts for planners and decision makers', Konrad Adenauer Stiftung, https://www.kas.de/c/document_library/get_file?uuid=6dfce726-fdd1-4f7b-72e7-e6c1ca9c9a95&groupId=252038

1. Ensure effective monitoring systems are in place in order to be able to assess the implementation of key MEAs that have been ratified and include discussion of the impact of trade on the environment in all talks related to the EPA

The proposed article X.4 calls for the effective implementation of MEAs that Parties have ratified. As noted in the baseline section, most of the most relevant MEAs have been ratified by all Parties to the EPA. The issue is often in achieving a high level of implementation of the MEAs. Firstly, it should be ensured that ESA national legislation incorporates commitments made in MEAs. Following this, putting in place more effective monitoring systems will give Parties access to more accurate data, which should enable Parties to better track progress in implementation of MEAs, and therefore identify where gaps in implementation are and address them. The CBD reporting exercise includes the biodiversity targets framework, featuring key indicators for monitoring biodiversity, a central environmental concern for ESA5 Parties given the richness of biodiversity in these countries. Review of progress towards Aichi targets could be integrated into monitoring systems, which could help to improve implementation of the CBD. For Madagascar, the extent of deforestation and drivers are monitored as part of the REDD+ programme, which could also be used to inform monitoring. Various projects use satellite imagery to monitor deforestation; this could also be integrated into monitoring processes. Data from the Indian Ocean Tuna Commission could contribute to the monitoring of fishing stocks.

The article also calls for monitoring of the impacts of trade on the environment. For this to be achieved effectively, it would be important for Parties to have a regular forum in which to report impacts. This could take the form of a working group or committee. The group would act as a monitoring mechanism, able to gather together data on the impacts of trade on the environment, make comparisons between the different Parties and provide analysis of the data. This would help to inform Parties in their work to strengthen cooperation on trade-related aspects of environmental policies, as set out in point 5 of Article X.4.

2. Strengthen institutions so that they are able to enforce MEAs

One major gap found in the baseline is the ability of countries to enforce MEAs. While the draft text for the TSD Chapter does not explicitly refer to capacity building for the environment, the following areas have been identified as being important steps for improving implementation. Any strengthening of enforcement through the strengthening of institutions will require strong political will at the highest level, particularly in those countries where environmental degradation has been associated with corruption.

Across the three areas, essential to improving enforcement will be achieving buy-in from citizens and important stakeholders through clear, adapted communication and making educational opportunities available. Where relevant, strategic tools for strengthening institutions so that they are better able to enforce MEAs should be shared between the EU and ESA countries.

- a) *Review protected areas in line with commitments under the CBD and ensure that protected areas are enforced.*

Whilst countries have made progress increasing the area of land and sea territory given protected status, the 17% Aichi target has not been reached by three of the ESA5 countries for terrestrial protected areas.²¹ One of the countries has met the 10% target for protected marine areas. Questions have been raised as to the level of enforcement of protected areas. For example, there have been reports of continued illegal logging activity in protected forest area.²² This has a negative effect not only on the trees but the ecosystem that they are part of. Countries should ensure that a framework is in place for good management practices of protected areas,

²¹ Aichi Target 11. See annex Section 2 Overview of the environmental context, sub-section Policy developments for more information for each country.

²² See annex Section 2 Overview of the environmental context, sub-section Environmental trends for more information on the situation in each country.

with sufficient tools for monitoring the areas, evaluating protection and raising awareness of the value brought by preserved ecosystems, including through the provision of essential services.

The baseline also identified gaps in enforcement of fishing rights in countries' marine territory. Strengthening of patrols of these areas can help to reduce incidences of illegal fishing by discouraging vessels from attempting to fish without a license and thereby contribute to maintaining stocks of marine life at sustainable levels.

- b) Review endangered species in line with conservation status and bolster enforcement of protection of endangered species.*

The baseline suggests that the richness of ESA5 countries' biodiversity makes them vulnerable to illegal trade in endangered species. Protecting endangered species from illegal trade can be aided by limiting demand for these species and thereby reducing the economic incentive for illegal trade. Bolstering of capacity to tackle supply chains, going beyond seizures, is necessary. This may require financial assistance to improve capacity and offer essential training.

- c) Strengthening of inspection of import and export, in particular for invasive species and substances regulated by the Montreal Protocol.*

Pursuant to Article X.5 point 3c, cooperation on trade-related aspects of climate and environment policy could include the establishment of licensing systems for import and export of ozone-depleting substances and hydrofluorocarbons. This links to the Kigali Amendment of the Montreal Protocol, ratified by three of the ESA5 countries. Greater cooperation between Parties could include sharing licensing strategies and technical assistance in putting in place licensing systems. Article X.6 point 2d states that Parties will pay particular attention to developing measures to prevent the spread of invasive alien species. This links to Aichi Target 9 on managing pathways for alien species. Parties may wish to introduce strategies for dealing with invasive alien species, including plans for early detection and rapid response and development of capacity to implement these plans.

3. Monitor and take into consideration environmental and carbon impact of maritime and air transport of goods, in line with the goals of the Paris Agreement

Article X.5 point 3b notes that cooperation between Parties could include support for the development of emissions reduction measures by the International Maritime Organization. The International Maritime Organization appeals to ports and shipping to take voluntary measures to reduce emissions. **These include: provision of onshore power supply from renewable sources; incentives for the development of zero- and low-carbon shipping; bunkering of low- and zero-carbon fuels; support efforts to improve quality and availability of data exchanged between ship and shore, optimising journeys and port calls.**²³

4. Continue to mainstream environmental and climate concerns in all development cooperation and assistance

Under X.5 point 3, Parties shall work together to strengthen cooperation on trade and climate change. An important aspect of this will be through development cooperation between the EU and the ESA5 parties. Sharing of technology between parties would be an effective means of supporting the implementation of the Paris agreement and could be an important aspect of cooperation. In particular, this could include support for renewable energy and low-carbon technologies, as well as sustainable and climate-resistant infrastructure and transport. These aspects are mentioned as possible areas of cooperation in Article X.5 point 3a. This must be

²³ Marine Environment Protection Committee 74, Resolution MEPC.323(74), adopted on 17 May 2019, available at [https://wwwcdn.imo.org/localresources/en/OurWork/Environment/Documents/Resolution323\(74\).pdf](https://wwwcdn.imo.org/localresources/en/OurWork/Environment/Documents/Resolution323(74).pdf)

backed up with financial and technical support as part of a comprehensive plan to ensure that ESA5 countries can develop climate resilient transport and energy infrastructure.

3.2.4 *Potential impacts*

The initial impacts of the proposed article are likely to be seen in the development of the legal and policy frameworks in ESA countries. If domestic resources and EU cooperation are provided for the implementation of these conventions, along with the necessary high-level political commitment, further steps will include institutional strengthening in areas such as biodiversity protection, adaptation to climate change and energy management.

Impacts of the proposed articles on MEAs, trade and climate and trade and biodiversity should be seen in the environmental and climate performance of the Parties. In the short term, impacts could include strengthening of policy and legal frameworks to deal with a range of environmental issues as well as ratification of MEAs where gaps remain. Equally, effective monitoring of the impacts of trade on the environment and climate should provide Parties with better, more precise data that can be used for evidence-based policymaking on the environment and climate in the future. An important short – to medium-term impact would be a reduction in the illegal trade of endangered species, particularly in Zimbabwe and Madagascar, with reinforced implementation of CITES. The concerns of links between wildlife trade and the current pandemic (as well as past ones) highlight the need for greater attention to better enforcement and biodiversity protection globally as well as in ESA countries. Better implementation of the CBD should in the short term bring a reduction in the rate of deforestation and forest degradation; in the medium - to long term, the rate of deforestation and forest degradation should reach zero and begin to be reversed.

Better implementation and cooperation in multilateral agreements on waste and chemicals should also bring improved management of waste and hazardous chemicals. The Basel Convention on movement and disposal of hazardous waste has been ratified by all ESA5 countries but the Rotterdam Convention on shared responsibility and information exchange on hazardous chemicals is only ratified by Madagascar, Mauritius and Zimbabwe.

The MEAs considered as part of this analysis do not deal directly with water and air pollution. However, actions taken as part of environmental MEAs will affect both water and air quality. Implementation of MEAs concerning the climate will accelerate the shift towards renewable energy, reducing the use of fossil fuels. This will reduce emissions from fossil fuels and so reduce harmful emissions causing air pollution such as particulate matter and nitrogen sulphur oxides. Actions towards climate adaptation involve changes in land and water management practices that will improve water security, reducing the risk of drought and flood and therefore increasing long-term climate resilience. Better implementation of MEAs should ultimately have the long-term impact of better preserving ecosystems for future generations.

Social

Better protection of ecosystems through improved implementation of EMAs has a social impact in that ecosystems provide essential services for humans, including water, and contribute to the right to an adequate standard of living and poverty reduction. Steps taken towards climate adaptation will have an impact on agricultural practices and improve food security, helping to reduce the negative social and human effects of climate change, including by reducing the influence of climate change on exacerbating poverty. Climate mitigation measures, such as the adoption of renewable energy, could help to reduce air pollution in large cities and therefore improve the health of citizens. It can also be a source of job creation.

Better protection of forests will affect agricultural practices of smallholder farmers practising slash and burn agriculture in the short term, which could have short-term impacts on food supply. In the medium, to long term, this can be countered by making training available on climate resilient agriculture. Stricter forest management could also affect fuel supply in rural areas that rely heavily on wood for household

energy. Improved forest management will need to be accompanied by providing access to sustainable forms of energy.

More generally, the current pandemic (as well as past ones) have highlighted the health risks related to illegal wildlife trade as well as hunting. While better enforcement can address this issue in part, addressing the needs of rural communities must also play a role.

Stronger enforcement of MEAs could force industrial practices to use less hazardous substances, which would reduce risk of exposure and health risks for workers.

Economic

Improved implementation of MEAs could have an impact on the industry by forcing industrial practices to be more respectful of the environment. This could, for example, reduce the ability of certain industries, such as mining or logging, to exploit protected areas. It could also inhibit practices involving hazardous substances that had previously been tolerated. Increased use of sustainable industry practices could lead to more stable economic development because negative externalities and their impact on essential ecosystems are reduced.

Any changes in industrial practices must be accompanied by inclusiveness measures to ensure that communities are involved in the process and fully informed about reasons for transferring to sustainable practices. This could be accompanied by the offer of access to technical knowledge through education programs.

Changes in economic practices could also lead to diversification of production, as with the sugar industry in Mauritius. In agriculture, the implementation of MEAs targeting biodiversity could force countries to reduce dependency on the cultivation of a small number of products and by diversifying the economy improve its stability and resilience. The promotion of trade in sustainable products could benefit from the increasing market demand for such products in the EU.

The development of renewable energy production would require changes to infrastructure and therefore investment support, knowledge transfer and a period of adaptation. It could increase the demand for skilled workers. It will mean that there is less of a reliance on fossil fuel imports. Better protection of forests would require diversification of energy forms for those in rural areas that rely on wood as their principal source of energy. Potential impacts are dependent on the timeframe for implementation and adoption of renewable energy, particularly in large countries such as Madagascar and Zimbabwe where there remain significant challenges to widespread adoption. Zimbabwe has set a target of 26.5% of energy mix coming from renewable sources by 2030.²⁴ In its 2015 energy policy, Madagascar aims to increase electricity production from hydroelectric sources and extend electricity to 70% of the population.²⁵

Better protected ecosystems will improve climate resilience and food security, and thus have long-term economic gains for ESA countries.

²⁴ Ministry of energy and power development (2019) National Renewable Energy Policy, Republic of Zimbabwe, <https://t3n9sm.c2.acecdn.net/wp-content/uploads/2019/08/Zimbabwe-RE-Policy-2019.pdf>

²⁵ Madagascar Ministry of energy and hydrocarbons (2015), Lettre de politique de l'énergie de Madagascar 2015-2030, <http://www.ore.mg/Publication/Rapports/LettreDePolitique.pdf>

3.3 Multilateral labour standards and agreements

3.3.1 Overview of the potential provisions.

Article X.3 of the draft TSD chapter focuses on effective implementation of the fundamental ILO Conventions and ensuring decent work. While the Article does not explicitly request the Parties to ratify other ILO Conventions or protocols, it contains a provision on exchanging information on ratifications, implying that the Parties at least discuss and consider these additional ILO treaties. Another aspect contained in the article is that the Parties cannot use low labour standards or violation of fundamental rights as a comparative trade advantage.

More in detail, the Article contains provisions that call on the parties to promote the development of international trade in a way that is conducive to decent work for all (corresponding to the ILO Declaration on Social Justice for a Fair Globalization of 2008); and to respect, promote and effectively implement the four core labour standards as defined in the fundamental ILO Conventions:

- Freedom of association and the effective recognition of the right to collective bargaining;
- Elimination of all forms of forced or compulsory labour;
- Effective abolition of child labour;
- Elimination of discrimination in respect of employment and occupation.

The Article also calls on Parties to implement the ILO Decent Work Agenda, in particular regarding decent working conditions for all and social dialogue, and to adopt and implement measures and policies regarding occupational health and safety, including compensation in case of occupational injury or illness. It calls for Parties to maintain an effective labour inspection system and to work together to **strengthen their cooperation** on trade-related aspects of labour policies and measures. (Multilateral labour standards and agreements also affirm gender equality: this is addressed in a separate Article of the proposed TSD Chapter which is assessed in section 3.4 below).

3.3.2 Baseline.

The ESA countries have ratified a broad range of ILO Conventions, though with some gaps (see Appendix III for further details). The implementation of the Conventions and, in relation to this, **working conditions and labour rights vary across the five ESA countries, although some common challenges also emerge.** Since the variation is mostly along the line of the different economic development (as noted in section 1.3), this section provides an overview of key labour issues for low-income and high-income ESA-5 countries. References to individual countries are made where it is most relevant or where a comparison is necessary. However, the separate Annex to this report, chapter 1, provides detailed country information regarding the issues mentioned below.

A cross-cutting issue is the extent of informal work. Informal work in the non-agricultural sectors ranges from 93% in Comoros, over 84% in Madagascar, 74% in Zimbabwe, and 54% in Mauritius to 14% in Seychelles. Informal employment is consistently higher in the agricultural sector – in Comoros, Madagascar and Zimbabwe it is at 90% or higher, and Mauritius at 73% and Seychelles also much higher 44% than in the non-agricultural sectors. Developments over the past years indicate very different trends: in Zimbabwe, informal employment in the non-agricultural sector increased compared to 2014 by almost 10 percentage points. whereas it decreased in the agricultural sector; in Mauritius, informal employment in the non-agricultural sectors remained at a similar scale since 2012; in agriculture, it increased between 2012 and 2014, then decreased slightly. Data for the other three countries is only available for one year.

In relation to labour rights and social development, the main problem with informality is the coverage of labour laws and enforcement. A further cross-cutting issue is an insufficient capacity for labour inspections, a problem in particular in lower-income ESA countries.

High levels of child labour are a concern, in particular in low-income ESA countries. While all ESA countries have ratified the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No 182 (1999), the detailed analysis has pointed to legislative gaps in some countries.²⁶ Furthermore, implementation is in some countries not effective as child labour is reported to be widespread in agriculture in Madagascar and Zimbabwe and is an issue also in mining. Child labour is also reported for agricultural products for EU export, for example, tobacco²⁷ (in Zimbabwe) and Vanilla (in Madagascar). Around 20,000 children between 12 and 17 years old are estimated by the ILO to work in vanilla fields in only one of Madagascar's regions (Sava) and children make up around one-third of the vanilla workforce.²⁸ Child labour is reported to be widespread in mining in Madagascar, with up to 86,000 children working in this sector;²⁹ harsh conditions that pose serious risks to their health have been reported in mica mining, for example.³⁰ Whereas most mica from Madagascar is exported to China, some European companies make use of the processed mineral further down the supply chain.³¹ Child labour in mines also still occurs in Zimbabwe³² although advances have been made and child labour has become less common.

Policy developments to improve the situation could be observed in several countries over the past years.³³ For example, Madagascar has developed a national action plan to combat child labour, however, the results are not yet clear.³⁴ Furthermore, in 2018, Madagascar amended its legal framework on child labour to prohibit the worse forms of child labour.³⁵ The government has also established institutional mechanisms for the enforcement of laws and regulations on child labour, for example, the Adoption of a Code of Conduct for combating child labour in the vanilla sector in 2015. In Comoros, the government has carried out more and more labour inspections, including child labour, but the number of those is still very low.

Gaps in implementation reported by the Committee of Experts on the Application of Conventions and Recommendations (CEARC) often relate to institutional gaps (e.g., lack of number of inspectors) and enforcement gaps (e.g. lack of sanctions or fines).

Forced labour is also a concern, in particular concerning human trafficking, especially in low-income countries. In Zimbabwe's mining sector, for example, there is evidence of forced labour by armed forces and violent reactions to workers' protests by soldiers and the police.³⁶ Some policy actions have been taken, for example, the set-up of a National Monitoring Committee in relation to forced labour and human trafficking.³⁷

In higher-income ESA countries, the risk of forced labour, in general, is fairly low. Cases of forced labour are purportedly mainly among migrant workers, such as domestic workers in fishing, farming and construction. Mauritius has reportedly the lowest prevalence of modern slavery in the African region – mainly as a result of

²⁶ Such gaps were reported in Comoros, Madagascar and Zimbabwe, but also in the Seychelles – see Annex to this report, chapter 1, country-specific sections on 'policy developments'.

²⁷ Human Rights Watch, *Zimbabwe: Tobacco Work Harming Children*, <https://www.hrw.org/news/2018/04/05/zimbabwe-tobacco-work-harming-children>.

²⁸ Danwatch, 2016, *The Hidden Cost of Vanilla : Child Labour and Debt Spirals*, available at: <https://old.danwatch.dk/en/undersogelse/thehiddencostofvanilla/>

²⁹ Ibid.

³⁰ Van der Waal, S., 2019, *Child labour in Madagascar's Mica Sector*, Centre for Research on Multinational Corporations (Stichting Onderzoek Multinationale Ondernemingen, SOMO), commissioned by Terre des Hommes Netherlands.

³¹ Ibid.

³² *Child Labor and Forced Labor Reports: Zimbabwe*, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/zimbabwe>.

³³ See Annex to this report, country-specific sections on 'policy developments'.

³⁴ European Parliament resolution of 13 February 2020 on child labour in mines in Madagascar (2020/2552(RSP)).

³⁵ Decree No. 2018-009 of 11 January 2018 amending and supplementing certain provisions of Decree No. 2007-563 of 3 July 2007.

³⁶ Felt, A., Soares, B., Bolding, J.T., Itzkowitz, X., 2020, *A comparative case study of diamond mining in Guinea, Sierra Leone and Zimbabwe*.

³⁷ Walk Free Foundation, 'The Global Slavery Index 2018' (2018).

measures taken, such as labour inspections in the informal sector to identify cases of forced labour or the establishment of an Equal Opportunity Commission to empower disenfranchised groups.³⁸ Labour inspections to discover forced labour, as well as awareness-raising measures, have also been carried out in Seychelles. However, criminal justice responses to identified cases are still weakened by the lack of a specialised law enforcement unit and the lack of training of the judiciary or prosecutors.³⁹

Issues about decent working conditions are seen in particular in lower-income countries, in mining and among groups at risk such as workers in remote rural areas, temporary and seasonal workers, workers in subcontracting enterprises and fishermen. Workplace violence, bribery and sexual harassment have been reported. Despite the ratification of ILO Conventions and the development of domestic legal and policy frameworks, there have been gaps in legal guarantees and labour inspections and enforcement, in particular in lower-income ESA countries. For example, in Madagascar, the Labour Code does not define penalties for non-compliance with occupational safety and health (OSH) standards. Lack of compliance with OSH standards has also been reported for high-income countries, in particular in relation to migrant workers who fill labour shortages, often positions requiring low skill levels (for example, in the textile sector in Mauritius which employs around 90% of migrant workers in the country).^{40, 41}

Both in low-income and high-income countries problems with the respect of OSH standards in export processing zones (EPZs) have been reported since those are subject to exemptions from labour legislation⁴² In Madagascar, for example, gaps were reported in effective protection related to night work and precarious working conditions. This issue raised by the ILO CEARC was still pending in 2019.⁴³ For example, it has become a common practice among EPZ companies in Madagascar to avoid paying overtime by continuously raising production targets.⁴⁴ In Mauritius, the clothing and textile industry is very important in the EPZs, where many migrant workers are employed.⁴⁵ Within this group of workers, bad working and housing conditions (housing provided by the employer) were observed (deplorable sanitation systems, lack of living space) have led to unrest among workers in the past which in return led to the deportations. While legal provisions may be in place to ensure adequate working conditions, in practice, there seems to be discrimination against migrant workers who constitute an important part of the labour force.⁴⁶ In 2015, the 22 576 migrant workers accounted for around 40% of all 56 601 workers employed in Export Oriented Enterprises in Mauritius, and their share was even higher in the Clothing and Textile Industry. The high share of migrant workers is not reflecting an actual labour shortage among Mauritian workers, but rather the reluctance among local workers to take on such jobs which are considered low paid and highly insecure.⁴⁷ For Zimbabwe, it has been reported that labour inspectors are not allowed to enter EPZs.⁴⁸

Policy developments in this regard have been, for example, the implementation of a Decent Work Country Programme (2015-2019) in Madagascar; in Mauritius, a national minimum wage was established in 2018 – however, there are exceptions in some sectors, for example, the sugar sector.⁴⁹

³⁸ Walk Free Foundation, 'The Global Slavery Index 2018' (2018).

³⁹ *Ibid.*

⁴⁰ Chan Sun, C., Chitto, H., Sukon, L.S., 2016, A proposed Framework for the recruitment of Temporary Foreign Labour (TFL) for the Clothing and Textile industry in Mauritius, in: *International Journal of Management Sciences and Business research*, Vol.5 Issue 11.

⁴¹ Chan Sun, C.A., Chitto, H., Sukon, K.S., 2016, *The Labour Market: A Mismatch in the Clothing and Textile Industry in Mauritius*.

⁴² See also below re. social dialogue and specific Annex to this report, chapter 1 chapter 1. country-specific sections on 'policy developments'.

⁴³ Normlex; US Department of Labor, '2019 Country reports on human rights practices. Madagascar'.

⁴⁴ US Department of Labor, '2019 Country reports on human rights practices. Madagascar'.

⁴⁵ Chan Sun, C.A., Chitto, H., Sukon, K.S., 2016, *The Labour Market: A Mismatch in the Clothing and Textile Industry in Mauritius*.

⁴⁶ Chan Sun, C., Chitto, H., Sukon, L.S., 2016, A proposed Framework for the recruitment of Temporary Foreign Labour (TFL) for the Clothing and Textile industry in Mauritius, in: *International Journal of Management Sciences and Business research*, Vol.5 Issue 11.

⁴⁷ Chan Sun, C.A., Chitto, H., Sukon, K.S., 2016, *The Labour Market: A Mismatch in the Clothing and Textile Industry in Mauritius*.

⁴⁸ Interview with NGO (SE).

⁴⁹ UNHCR, *Concluding observations of the Committee on Economic, Social and Cultural Rights*, 5 April 2019.

Further concerns include **discrimination** against women in terms of wages and advancement (see section 3.4) as well as against migrant workers, in particular in the informal sector.

In several ESA countries, challenges regarding **social dialogue** persist, according to observations by the ILO CEARC.⁵⁰ Often, these are specific to certain sectors or areas of the economy. The situation seems particularly challenging in Zimbabwe where disrespect of trade union-related rights was observed, to the extent where legal sanctions and violence were applied against trade unionists and persons involved in strikes. An absence of protection against anti-union discrimination was reported in the construction sector as well as multinational and foreign-owned companies. In 2013, Zimbabwe's constitution established a Declaration of Rights that recognized labour rights. A labour law reform has been ongoing, but so far does not include measures against anti-union discrimination. In Comoros, the CEARC reported anti-union discrimination in para-public (education and health) and the port sectors. In Madagascar, attempts to prevent trade union organisation have also been reported as well as a lack of collective bargaining processes in the context of privatizations of companies. In Mauritius, prevention of trade union activities has been reported in the sugar and the textile sector – in these as well as the manufacturing sector there is in general a low use of collective bargaining.

The legal and policy frameworks of the ESA countries have advanced: for example, Zimbabwe's 2013 Constitution recognises and protects labour rights. Nonetheless, **social dialogue, freedom of association, collective bargaining** all remain limited in some locations, including some export processing zones. Informal workers and migrant workers lack access to these rights.

3.3.3 *Key elements for implementation.*

To implement the measures provided for in Article X.3, it would be beneficial if the countries undertook, among others, the following steps:

Ratification of additional ILO Conventions and protocols.

Article X.3 includes a call for the ratification of ILO Conventions and Protocols. All five ESA countries have ratified the Fundamental ILO Conventions already one or more decades ago (see Appendix III). While all have ratified the Convention on Forced Labour, a gap is seen concerning its 2014 Protocol, which as of late 2020 had only been ratified by Madagascar and Zimbabwe.

Furthermore, the ratification of all ILO governance conventions would help to ensure the implementation of labour standards. For example, Comoros, Mauritius and Seychelles have not ratified the Convention concerning Labour Inspection in Agriculture (C 129, 1969). The Employment Policy Convention⁵¹ (C 122, 1964) has not been ratified by Mauritius, Seychelles and Zimbabwe.

Several other (technical) ILO Conventions and protocols that touch upon the issues identified above have already been ratified by the five ESA countries. However, some have not been ratified by all ESA countries, such as:

- Workers' Representatives Convention, No. 135 (1971) – only ratified by Zimbabwe.
- Labour Inspection (Seafarers) Convention, No. 178 (1996) – not ratified by any ESA5 country.
- Violence and Harassment Recommendation, No. 206 (2019) – not ratified by any ESA5 country.
- Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 – only ratified by Madagascar.

⁵⁰ See: <https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-of-experts-on-the-application-of-conventions-and-recommendations/lang--en/index.htm>.

⁵¹ Requiring Parties to pursue an 'active policy designed to promote full, productive and freely chosen employment'.

- Migrant Workers (Supplementary Provisions) Convention, No. 143 (1975) – only ratified by Madagascar.

Promote transition to a formal economy.

As mentioned above, **the reasons for the persistent widespread of informal employment are numerous and depend, of course, on the country and region in question: for example, these grown structures also may have advantages for the workers, as employment may be created more quickly and wages may be higher than in formal employment.** A panel analysis in Madagascar, for example, found that wages were higher or the same for self-employed and for male wage workers in the informal than in the formal sector. However, informal work was found to be systematically financially disadvantageous for women.⁵² Wage advantages are, of course, strongly related to the lack of taxation. An underlying purpose of the informal labour market is, among others, to cushion negative developments of the formal economy. Especially in rural areas, informal work is often deeply anchored in customary rights and norms, relies on strong social trust and often co-exists with formal work (e.g. through side-selling). Informal economic activity may also be a form of resistance against the introduction of formal rules or land allocation processes seen as unjust by rural actors.⁵³

The ILO however states that the informal economy poses a challenge to decent work and recognises that 'workers and economic units in the informal economy are generally characterised by poverty, leading to powerlessness, exclusion and vulnerability'.⁵⁴ It has therefore worked on strategies for a transition from an informal to a formal economy and developed a policy framework for this transition.⁵⁵ Accordingly, coordinated action in the following policy areas should be taken: 'quality employment generation and growth strategies; the regulatory environment; social dialogue, organisation and representation; promoting equality and addressing discrimination; measures to support entrepreneurship, skills and finance; the extension of social protection; and local development strategies'.⁵⁶ It stresses that countries need individual strategies to address informal labour. Most important, however, is a macroeconomic approach that allows generating employment and ensuring macroeconomic stability. Foreign and domestic investment should be allocated in a way that ensures labour absorption and productivity and allows for a diversification of production. The concentration of investment in specific sectors that do not create employment, such as mining, risks being conducive to informal work, unless this activity is managed in a way that it contributes indirectly to poverty reduction (e.g. by generating tax revenues that can be reinvested).⁵⁷ The ILO also points out that there is a lack of research on the link between growth and the informal economy and that data should be considering the situation of men and women separately.⁵⁸ Further steps by the ESA5 countries could therefore include investigation such paths through enhanced research and by strengthened institutions and also the trust in institutions.

Invest in resources to enforce compliance with OSH standards.

While labour inspections are carried out, their effectiveness seems to be limited. To properly enforce compliance with OSH requirements, countries would need to invest in more resources for labour inspections

⁵² Nordman, C.J. et al. (2016), *Informal versus Formal: A Panel Data Analysis of Earnings Gap in Madagascar*, IZA DP No.9970

⁵³ Weng, X. (2015), *The rural informal economy. Understanding drivers and livelihood impacts in agriculture, timber and mining*. IEED Working paper, available at: https://www.researchgate.net/publication/284727260_The_rural_informal_economy_Understanding_drivers_and_livelihood_impacts_in_agriculture_timber_and_mining.

⁵⁴ ILO (2002), *Resolution concerning decent work and the informal economy*.

⁵⁵ ILO (2015), *The transition from the informal to the formal economy. International Labour Conference 104th Session, 2015, Geneva*.

⁵⁶ Labour and Economic Development Research Institute of Zimbabwe and Friedrich-Ebert-Stiftung (2015), *Strategies for Transitioning the Informal Economy to Formalisation in Zimbabwe*, quoting: ILO (2013), *Transitioning from the informal to the formal economy*.

⁵⁸ ILO (2009), *The informal economy in Africa: Promoting transition to formality: Challenges and strategies*, Geneva, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_policy/documents/publication/wcms_127814.pdf

and tackle certain barriers labour inspectors face while conducting inspections. Another point would be to raise awareness and knowledge on OSH risk analysis and prevention, especially in remote rural areas.

Strengthen trade unions and civil society participation.

The TSD chapters relying on soft enforcement mechanisms, their effectiveness, in general, requires a strong civil society.⁵⁹ In general, civil society organisations (CSO) should be more involved in the EPA negotiations and related monitoring mechanisms. As stakeholder interviews have shown, CSO are often not aware of the EPA and its content.⁶⁰ Therefore, the implementation of EPA provisions on civil society participation (see section 3.6) is crucial for the proper implementation of labour standards and agreements.

Concerning implementing labour rights, the role of trade unions is particularly important. In several ESA countries, it was reported that trade unions still face strong resistance and related rights are not fully implemented. Labour inspections are often, for example, in Zimbabwe, organized and carried out by trade unions themselves – which is why they need to be provided with the resources and the power to effectively implement those.

Exemptions from labour law in export zones

Exemptions from labour law in EPZs were reported in several ESA5 countries. Specific rules in these zones were created to promote investment in ‘export-oriented manufacturing industries, development or management of industrial free zones and provision of services to EPZ companies’. Companies in these zones benefit from tax advantages or exemptions for labour law, as reported above. In Madagascar, the law ruling EPZ companies includes provisions related to workers’ rights which include possibilities for deviation from the general labour code (lack of employment contracts, holiday entitlements, social protection or collective agreements; failure to pay minimum wage).⁶¹ In Mauritius, Zimbabwe and Madagascar, it has been reported that social dialogue mechanisms are not working properly in EPZs (limited right to or complete absence of collective bargaining, unions not allowed to enter EPZs in Zimbabwe).⁶²

It should be discussed whether such exemptions and lowering of labour standards are compliant with Point 6. of Art. X.3 according to which ‘the Parties note that the violation of fundamental principles and rights at work cannot be invoked or other used as a legitimate comparative advantage’. The risk of not complying with the ratified ILO Conventions and not ensuring the minimum labour standards in EPZ should be assessed and strategies should be found to ensure the same level of protection of workers as in the rest of the country.

Economic products from such EPZ are likely to be more relevant for EU trade in some countries than in others. For example, for Zimbabwe, it was reported that the presence of EU companies in EPZ is low and that it is mostly Chinese companies operating there).⁶³ However, even if EU companies may not directly operate in such EPZ, there is a risk that their suppliers operate in such zones.⁶⁴ This should be assessed through a sustainable supply chain management process (see section 3.5 below).

⁵⁹ Füller, V., 2018, *How to make TSD chapters more effective?*, Trans European Policy Studies Association, TEPSA Briefs – February 2018.

⁶⁰ In Comoros, for example, none of the CSO interviewed had heard of the EPAs and they had not been informed by the government.

⁶¹ U.S. Department of State, ‘2020 Investment Climate Statements: Madagascar’, available at: <https://www.state.gov/reports/2020-investment-climate-statements/madagascar/>

⁶² ILO (2018), *Ensuring decent working time for the future. Report III (Part B): Interview with NGO (SE).*

⁶³ Interview with NGO (SE).

⁶⁴ *Ibid.*

Address legislative gaps

The CEARC regularly assesses the implementation of the ILO Conventions – these assessments include the identification of gaps in legislation. Such legal gaps should be addressed through reforms or amendments.

EU development cooperation

Chapter X.3 provides the basis for the objectives to be achieved in terms of social development and can guide the scope and aim of development cooperation projects. For example, comparing the provisions in the ratified conventions with the status quo in each country would sketch out key issues that need to be addressed. EU development cooperation projects could then be set up in a way to address these issues. On the one hand, development cooperation could help to address structural problems that create barriers to proper labour standards. One example is poverty which is a key driver for child labour – development cooperation could seek to generate additional income, social protection or ensure food security for families to allow children to pursue education for longer. Another example may be to improve the education system directly, by providing infrastructure and training – this may create jobs (for teachers and school staff) and ensure children's access to education.

More directly, development cooperation projects could directly target certain issue, especially concerning health and safety measures. Classically, cooperation projects include technical assistance – in this case, some ESA5 countries may benefit from assistance in training labour inspectors, setting up OSH management systems and exchanging knowledge on risks and risk prevention. Some OSH risk factors may be specific to a regional context (e.g., specific products or work processes) while others may not. Furthermore, the EU has conducted vast research on the effects of certain risk factors that are likely to also pose a problem in other countries (e.g., carcinogens, chemicals). Therefore, development cooperation aimed at the transfer of knowledge between the ESA5 countries and between ESA5 and the EU would benefit all parties.

*3.3.4 Potential impacts**Social and human rights*

The provisions in the TSD chapter are likely to create a positive impact on social development in the ESA5 countries when seen together with the other provisions in the EPA, including those for development cooperation, monitoring, dispute settlement – as well as other provisions in the TSD chapter (such as on gender, environment and responsible supply chains). Each of these has a crucial role in supporting the implementation of the provisions in the TSD chapter. Addressing fundamental rights, for example, food security will help to avoid child labour.

Initial outcomes could include ratification of several ILO Conventions as well as the further development of national legal and policy frameworks to put in place ILO principles. As indicated by ILO (see section 3.3.1), an early step and resulting intermediate outcomes would be to increase institutional capacity – namely, that of public authorities, stakeholders (e.g., trade unions, business associations, employee associations) and companies. A key outcome would be capacity building for government labour inspectors, as this gap has been identified in several ESA countries. These steps are necessary to provide further changes and, in the long-term go one step further and change the situation on the ground which is to improve working conditions and implementation of labour rights.

The EPA's impact may be strongest in sectors that produce products that are exported to the EU, in particular when linked to responsible supply chains. The EC's efforts towards a proposal for a mandatory EU system of

due diligence for supply chains may support this further.⁶⁵ Key improvements may be made in terms of the following sector-related issues:

As mentioned in section 3.3.2, *child labour* is an issue, especially in low-income ESA countries. While child labour exists in several sectors relevant for exports to the EU, one of the most hazardous is probably mining, including diamonds, Zimbabwe's leading export to the EU. Strengthening inspections could lead to a reduction in employing children and in human trafficking in this sector.

Both in Mauritius and Madagascar, textiles were among the top two exported products to the EU in terms of trade value in 2019. Actions in this sector could improve working conditions in both agriculture and manufacturing. There are around 50,000 such workers in cotton fields in remote rural areas of Madagascar. This group could benefit especially from awareness-raising and capacity-building projects, such as those already carried out, for example, by the ILO⁶⁶ and the Better Cotton Initiative.⁶⁷ The monitoring mechanism under the EPA could help to check progress is made, while the CSR provisions might encourage more EU and ESA companies to engage in initiatives such as the Better Cotton Initiative.

In Mauritius, migrant workers in the textile industry are a vulnerable group (see section 3.3.2). The deregulated EPZ aggravate the issue. Mauritius has already made efforts by adopting legislation⁶⁸ and a Decent Work Country Programme, but further steps towards implementation may be necessary, including monitoring and controls based on existing legal and policy instruments in the country.⁶⁹ These efforts could lead to improvements in working conditions.

Economic

It is difficult to assess any economic impacts arising from further implementation of the ILO Conventions and especially tackling the issues described in section 3.3.2. It is possible that certain financial costs in the short term for companies and governments will occur. Companies may need to make investments to ensure better working conditions (e.g., via better equipment) and may need to pay higher wages, for example, to replace underpaid child labour. Governments would also need to make investments in more resources to enforce labour laws (training, equipment and protection for labour inspectors; controls; enforcing sanctions). Programmes for rural development and to support the poorest families can help to address child labour but would require budgetary resources. However, in the long-term, companies and society would benefit from improved working conditions and labour rights. For example, countries could achieve higher school completion rates and have a better educated population which, in return, would promote business creation and provide the countries with a labour force that can adapt to technological change. Work-related accidents and illnesses could be reduced which, in return, would maintain a healthier workforce and decrease health expenditures.

3.4 Promotion of gender equality

3.4.1 Overview of the potential provisions

The proposed *Article X.10new* addresses *Trade and Gender Equality*. According to this Article, the Parties recognise that 'inclusive trade policies can contribute to advancing women's economic empowerment and equality between men and women', in line with SDG5 of the UN 2030 Agenda on Sustainable Development.

⁶⁵ For further information, see: Smit L. et al, *Study on due diligence requirements through the supply chain* (BIICL, Civic Consulting and LSE for the EC), January 2020. Available at: <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>

⁶⁶ ILO Project, *Improving Safety and Health in Madagascar Textile Supply Chain*.

⁶⁷ Better Cotton Initiative, *'Capacity Building'*.

⁶⁸ For example, the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011.

⁶⁹ Chan Sun, C., Chitto, H., Sukon, L.S., 2016, *A proposed Framework for the recruitment of Temporary Foreign Labour (TFL) for the Clothing and Textile industry in Mauritius*, in: *International Journal of Management Sciences and Business research*, Vol.5 Issue 11.

The Parties also acknowledge ‘the important contribution by women to economic growth through their participation in economic activity, including international trade’, and intend to implement trade under the EPA ‘in a manner that promotes and enhances equality between men and women’. Moreover, the EU and the ESA5 aim to strengthen their trade relations and cooperation to effectively provide equal opportunities and treatment for women and men to benefit from trade under the EPA, including in matters of employment and occupation.

To achieve those objectives, Article X.10new states that the Parties ‘shall effectively implement’ their international obligations addressing gender equality or women’s rights, in particular the provisions of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) on discrimination against women in economic life and employment and relevant ILO Conventions on gender equality and the elimination of discrimination in employment and occupation. In addition, the Parties ‘shall strive to improve’ their domestic laws and policies to provide for, and encourage, equal rights, treatment and opportunities between men and women. Furthermore, the EU and the ESA5 will cooperate, bilaterally or in international fora, on trade-related aspects of gender equality policies and measures, such as activities designed to improve the capacity and conditions for women workers, businesswomen, and women entrepreneurs to access and benefit from trade under the EPA. Finally, the Parties ‘agree on the importance of monitoring and assessing’ the impact of trade under the EPA on gender equality and opportunities provided for women in trade.

3.4.2 Baseline

In recent years, the ESA5 have made significant efforts to achieve gender equality and women’s economic empowerment. They have adopted various legislation, policies and support mechanisms to reduce gender discrimination. The Global Gender Gap Index 2020⁷⁰ shows that Madagascar, Mauritius, and Zimbabwe have improved their overall score over the years.⁷¹ Despite the progress that has been made in reducing the gap between women and men, gender discrimination, especially in the workplace, remains a source of concern in the ESA5.

Legal and policy framework on gender in the ESA5

All the ESA States have a legislative and policy framework on gender. However, the content of these national frameworks varies amongst countries. **The ESA5 are signatories to a number of international and regional conventions on women rights and gender equality.** All ESA States have ratified the CEDAW and two of the ILO fundamental conventions that are relevant for gender equality (i.e., C100 and C111). However, only Mauritius is a State Party to the ILO Workers with Family Responsibility Convention (C156) and the ILO Maternity Protection Convention (C183). Except for Madagascar, all ESA States have ratified the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa. Only Seychelles and Zimbabwe have ratified the SADC Protocol on Gender and Development.

At a national level, only Mauritius has enacted legislation that prohibits discrimination based on gender in hiring and sexual harassment in employment and ensures equal pay for work of equal value. Other ESA States have gaps in their legislation on gender equality and violence in the workplace.⁷² Table 2 below provides an overview of the legal frameworks on gender in ESA countries (blank cells indicate that a relevant legal framework has not been identified).

⁷⁰ The Global Gender Gap Index measures the extent of gender-based gaps among four key dimensions (Economic Participation and Opportunity, Educational Attainment, Health and Survival, and Political Empowerment). See World Economic Forum, ‘Global Gender Gap Report 2020’ (2019).

⁷¹ Data was unavailable for Comoros and Seychelles.

⁷² UN Women, ‘Women’s Economic Empowerment in the Indian Ocean Rim. Progress and Challenges’ (2020); UN Committee on the Elimination of Discrimination Against Women, ‘Concluding observations on the sixth periodic report of Zimbabwe’ (10 March 2020) UN Doc CEDAW/C/ZWE/CO/6.

Table 2: Relevant legal framework on gender in ESA5

| Instruments | | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|--|---|---------|------------|-----------|------------|----------|
| International and regional instruments | UN CEDAW | Yes | Yes | Yes | Yes | Yes |
| | ILO Equal Remuneration Convention, 1951 (No. 100) | Yes | Yes | Yes | Yes | Yes |
| | ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) | Yes | Yes | Yes | Yes | Yes |
| | ILO Workers with Family Responsibilities Convention, 1981 (No. 156) ⁷³ | | | Yes | | |
| | ILO Maternity Protection Convention, 2000 (No. 183) ⁷⁴ | | | Yes | | |
| | Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa | Yes | | Yes | Yes | Yes |
| | SADC Protocol on Gender and Development | | | | Yes | Yes |
| National instruments | Law prohibiting discrimination based on gender in hiring | Yes | Yes | Yes | Yes | |
| | Law banning sexual harassment in employment | Yes | Yes | Yes | | |
| | Law ensuring equal pay for work of equal value | Yes | | Yes | | Yes |

Sources: African Union; ILO; SADC; UN Committee on the Elimination of Discrimination against Women; UN Women

All ESA States have adopted several policies, such as plans of action or programmes, to promote gender equality and to fight gender-based violence or that address issues particularly affecting women (e.g., domestic violence; human trafficking). Some of these policies have specific objectives regarding women's economic involvement (e.g., Comoros).⁷⁵ Table 3 provides an overview of gender-based policies in ESA5.

⁷³ At the same, a limited number of EU MS have ratified Convention No. 156.

⁷⁴ At the same, a limited number of EU MS have ratified Convention No. 183.

⁷⁵ OECD, 'SIGI: Comoros' (2019).

Table 3: National policies on gender in ESA5

| Country | Gender policy |
|------------|--|
| Comoros | <ul style="list-style-type: none"> Feuille de Route 2016-2018: Un Plan d'Action pour Lutter contre les Violences Faites aux Femmes Politique National d'Equité et d'Egalité de Genre (2007) |
| Madagascar | <ul style="list-style-type: none"> Plan National de Lutte contre la Traite des Personnes (2015) Stratégie Nationale de Lutte contre les Violences Basées sur le Genre (2017-2021) |
| Mauritius | <ul style="list-style-type: none"> National Gender Policy Framework (2008) National Strategy and Action Plan of the High-Level Committee on the Elimination of Gender-Based Violence in the Republic of Mauritius (2020-2024) |
| Seychelles | <ul style="list-style-type: none"> National Employment Policy (2014) National Action Plan and Strategic Framework on Trafficking in Persons (2014–2015) National Gender Policy (2016) National Gender Plan of Action (2019-2023) |
| Zimbabwe | <ul style="list-style-type: none"> Revised national gender policy (2013–2017) National Programme on Gender-Based Violence Prevention and Response (2016–2020) Trafficking in Persons National Plan of Action (2019–2021) |

Sources: Mauritius Ministry of Gender Equality and Family Welfare; OECD; UN Committee on the Elimination of Discrimination against Women; UNESCO; UN Women

Women in the economy

The women's labour force participation varies amongst the ESA5. While 84% of women participate in the labour force in Madagascar, only 66% of women do in Seychelles. This percentage is particularly low in Comoros (38%) and Mauritius (45%). In general, women are more susceptible to unemployment than men in the ESA5. Women's employment is significant in agriculture in Comoros, Madagascar, and Zimbabwe. In Mauritius, women tend to work in services and manufacturing.

A large number of women are engaged in vulnerable employment in most ESA5. The percentage of women engaged in vulnerable employment is particularly high in Comoros (77%) and Madagascar (89%). In addition, female informal employment is very high in most ESA5, except for Seychelles. It accounted for 49.1% in Mauritius (2018), 80.28% in Zimbabwe (2019), 88.62% in Madagascar (2015), and 93.43% in Comoros (2014).⁷⁶ Women in vulnerable employment are less likely to receive benefits, social security or have union representation and more likely to have low wages and difficult working conditions.⁷⁷ The gender pay gap is also significant in all ESA5. It accounted for 17.5% in Madagascar, 21.2% in Seychelles, and 29.7% in Mauritius.

All the ESA States provide mandatory maternity leave. Comoros, Madagascar, Mauritius provide the minimum 14 weeks recommended by the ILO, while Seychelles goes beyond (i.e., 16 weeks). The maternity leave is set at a minimum of 3 months in Zimbabwe. Only Mauritius and Seychelles allow paid paternity leave.

In the private sector, women are mainly employed in lower-ranking positions in most ESA5. The participation of women in senior management positions and on the boards of private companies is low. The female share of employment in managerial positions accounts for 25.6% in Comoros, 28.9% for Zimbabwe,

⁷⁶ World Bank, 'Informal employment, female (% of total non-agricultural employment) - Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe', available at <https://data.worldbank.org/indicator/SL.ISV.IFRM.FE.ZS?locations=KM-MG-MU-SC-ZW>

⁷⁷ UN Women, 'Women's Economic Empowerment in the Indian Ocean Rim. Progress and Challenges' (2020).

31.8% in Madagascar, and 32.1% in Mauritius. Only Seychelles achieves almost parity with women occupying 47.8% of managerial positions.⁷⁸

In most ESA countries, women tend to face discriminatory attitudes and practices. Sexual harassment in the workplace is widespread in Comoros, Madagascar, Mauritius, and Zimbabwe. Cases tend to be unreported and authorities often do not enforce the law.

Education

Education is a key pillar of women's economic empowerment. Primary and secondary school enrolment rates in the ESA5 are, on average, almost equal for girls and boys. However, absenteeism and/or school dropout amongst girls are high in Madagascar, Mauritius and Zimbabwe, owing to social taboos, child marriage, early pregnancy, poverty, or child labour. In all the ESA5, there is pronounced segregation of women and men into very different career tracks and specializations in secondary and tertiary education. This may underpin and exacerbate labour market segmentation by sex.⁷⁹

3.4.3 Key elements for implementation

The effective implementation of the Article on *Trade and Gender Equality* proposed for the deepening of the EPA would need to address the key gaps identified in the baseline. The steps needed would vary across the five ESA countries, as the summary of the baseline has shown the different current levels of gender equality. They should build on measures already identified in the ESA5 countries' national gender policy documents. Moreover, the COVID-19 pandemic has had implications for women and girls. It has deepened inequalities and increased women's income insecurity and unemployment and intensified women's unpaid care and domestic work burdens.⁸⁰ Therefore, measures to implement the *Article on Trade and Gender Equality* should take into account the impacts of the COVID-19 pandemic on women and gender equality in the ESA5. To varying degrees, steps for implementation are likely to be needed in the following areas:

1. Effective implementation of obligations under international and regional agreements on gender equality and women's rights.

As mentioned above, the ESA countries are State Parties to a number of international and regional agreements guaranteeing gender equality and/or protecting women's rights, especially in the labour sector. However, gender inequality, discrimination against women, and women's rights violations persist to varying extents, and thus the ESA States need to take further steps to effectively implement their international obligations.

The proposed Article calls for each Party to "...effectively implement its obligations under international agreements...". The review of the baseline indicates that key areas for attention include the implementation of the ILO Equal Remuneration Convention (No. 100) and Discrimination (Employment and Occupation) Convention (No. 111), as well as the UN CEDAW. The Beijing Declaration and Platform for Action and the SDG 5 on Gender Equality provide useful frames of reference for actions to support the implementation of those international instruments. The ESA countries could also implement the following ILO resolutions: Resolution concerning Gender Equality at the Heart of Decent Work (2009), and Resolution concerning the Promotion of Gender Equality, Pay Equity and Maternity Protection (2004).

⁷⁸ UN Women, 'Women's Economic Empowerment in the Indian Ocean Rim. Progress and Challenges' (2020); UN Women, 'Zimbabwe', available at <https://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/zimbabwe>

⁷⁹ UN Women, 'Women's Economic Empowerment in the Indian Ocean Rim. Progress and Challenges' (2020); CEDAW, 'Concluding observations on the sixth periodic report of Zimbabwe' (10 March 2020) UN Doc CEDAW/C/ZWE/CO/6; CEDAW, 'Concluding observations on the combined sixth and seventh periodic reports of Madagascar' (24 November 2015) UN Doc CEDAW/C/MDG/CO/6-7; CEDAW, 'Concluding observations on the eighth periodic report of Mauritius' (14 November 2018) UN Doc CEDAW/C/MUS/CO/8; CEDAW, 'Concluding observations on the sixth periodic report of Seychelles' (12 November 2019) CEDAW/C/SYC/CO/6.

⁸⁰ UN Women, 'Women's Economic Empowerment in the Indian Ocean Rim. Progress and Challenges' (2020).

All ESA countries have adopted plans and strategies to address gender-related issues, such as gender-based violence or trafficking. Consequently, a review of those plans can identify key areas for further action and new initiatives to address gaps. While actions will vary, key areas for attention may include the following:

- Allocate further financial, technical and human resources to achieve the objectives and activities foreseen in the conventions and domestic legal and policy frameworks;
- Improve the capacity of monitoring and enforcement bodies (e.g., increase the number of labour inspectors);
- Organise training for governmental bodies in charge of implementing these conventions and related national legislation (including labour inspectors) and promote training on these issues in the private sector.

To ensure effective enforcement and implementation of the legal framework, the ESA countries should have the required institutional and technical capacity. Capacity-building is therefore important to ensure the effectiveness of domestic legal frameworks. The EU could play a role in supporting capacity-building in the ESA countries, by providing financial support or technical expertise.

2. Undertake legal reforms to protect women in the workplace and ensure women's economic empowerment.

The proposed article calls for each Party to “strive to ensure that its relevant law and policies provide for, and encourage equal rights, treatment and opportunities”. While legal and policy frameworks on gender already exist in the five ESA countries, these frameworks contain gaps that limit the realisation of women's rights and the protection afforded to women in the workplace. The baseline has identified gaps in the ratification of international conventions. Comoros, Madagascar, Seychelles, and Zimbabwe could ratify two of the key ILO conventions on gender equality: Workers with Family Responsibilities Convention (No. 156) and Maternity Protection Convention (No. 183).

There are also key areas where gaps in national legislation can be addressed. For example, in ESA countries where female informal employment is high (Comoros, Madagascar, Mauritius, and Zimbabwe), social protection could be extended to women in informal employment. Madagascar and Seychelles could enact legislation guaranteeing the rights of women and men to equal pay for equal work or work of equal value. Zimbabwe could adopt legislation prohibiting discrimination based on sex or gender in the labour market. Seychelles and Zimbabwe could enact legislation prohibiting sexual and other forms of harassment in all workplaces. In addition, where relevant, the ESA5 could eliminate discriminatory laws that create barriers to women's economic empowerment (e.g., laws that restrict women's legal capacity to sign a contract, register a business, or open a bank account). They could undertake legislative and administrative reforms to give women equal rights with men to economic resources, including access to ownership and control over land and other forms of property, credit, and inheritance. For example, in Comoros, women lack inheritance rights and cannot get a job in the same way as a man.⁸¹ Discriminatory laws may inhibit women's entrepreneurship.

3. Promote women's economic empowerment and women's participation in economic decision making.

One important way to promote women's economic empowerment and women's participation in economic decision making is to improve girls and women's education. The ESA5 could address the

⁸¹ UN Women, 'Women's Economic Empowerment in the Indian Ocean Rim. Progress and Challenges' (2020); Union des Comores, 'Politique Nationale d'Équité et d'Égalité de Genre' (September 2007).

gender stereotypes and structural barriers that may deter girls from enrolling in traditionally male-dominated fields of study and take the necessary measures, including scholarships and other incentives, to encourage them to choose fields, such as science, technology, engineering, and mathematics. The ESA5 should also take measures to ensure the effective retention of girls in the school system and to eliminate absenteeism and school drop-out. Such measures should build on actions to improve girls and women education outlined in ESA5's national gender policy documents (e.g., adoption of a National Plan for Girls Education in Comoros).

To support women's economic empowerment, the ESA countries could organise capacity-building activities targeting women entrepreneurs and establish programmes to improve women's access to credit and capital. The EU could play an important role in supporting these capacity-building activities. Moreover, the ESA5 could adopt gender-sensitive public and private sector procurement policies and practices, as those can expand resources and markets available to women as workers and entrepreneurs while advancing gender equality and help ensure compliance with labour laws and standards in the workplace. Gender imbalance in economic decision making remains an important challenge for all ESA countries. This is demonstrated by women's underrepresentation in senior-level positions and corporate boards. The ESA countries could address the structural barriers that prevent women from participating in economic decision making. They could lead by example by appointing women to positions in relevant governmental bodies (e.g., ministries of finance and trade, national economic commissions).

4. Strengthen gender mainstreaming in economic and development cooperation activities.

The proposed article calls on the Parties to work bilaterally and to "strengthen cooperation on trade-related aspects of gender equality policies and measures..." **The EU could strengthen support for gender equality in its economic and development cooperation activities with the ESA countries.** It could do so both by providing support to projects that aim to improve gender equality (e.g., capacity-building) and by ensuring gender mainstreaming in development cooperation activities.

Cooperation activities could provide support so that women can benefit from the trade and other areas of the EPA. Cooperation activities could support governments in implementing gender policies. One area would be to support the collection and use of sex-disaggregated data and gender statistics on gender in trade policies and all aspects of women's economic empowerment.

One avenue for strengthening gender mainstreaming is to ensure that CSR initiatives in ESA countries address gender. For example, CSR policies could encourage companies to sign, support, and implement the Women's Empowerment Principles established by UN Global Compact and UN Women.⁸²

5. Ensure that monitoring of EPA implementation tracks progress on gender equality.

The proposed Article highlights the importance of monitoring and assessing trade impacts on gender equality. This implies that implementation of the Article would involve a monitoring mechanism – perhaps a committee or forum – to gather information on and review the implementation of the EPA's commitments related to gender and, more generally, progress towards gender equality.

3.4.4 Potential impacts

The initial impacts of the proposed article are likely to be seen in the development of the legal and policy frameworks in ESA countries, including the ratification of international conventions. If domestic resources and EU cooperation are provided for the implementation of these conventions, further steps will include institutional strengthening and improved programmes to support women's economic opportunities.

⁸² See <https://www.weps.org/>

The actions for the implementation of the article, for example via the types of measures referred to above, are likely to have significant impacts on gender equality and also on economic and human development.⁸³ Overall, they could improve wage equality, women's participation in the workforce, and women's conditions of work. They could also help reduce poverty, guarantee the realisation of economic and social rights (e.g., the right to food or health), and decrease gender-based violence.

These results may take some time. For example, rules for wage equality and better conditions for women's work may need awareness raising and enforcement actions to be fully implemented in formal employment. Ensuring gender equality in informal employment may be more difficult. Private sector actions, for example via CSR initiatives, will affect only part of the workforce. Improvement in girls' education and women's participation in the workforce may take longer to be visible.

Results are thus likely to be seen over a longer time scale, such as 10 years. Moreover, the extent of change is likely to vary across countries: the baseline shows that conditions vary significantly across the ESA countries.

The economic costs of implementing the proposed measures should be limited. While the enforcement of existing and new legislation and the implementation of programmes to promote gender equality and women's economic empowerment require resources, such can be partly mitigated by potential financial support from the EU through economic development cooperation activities. Furthermore, in the long-term, women's economic empowerment, through better education and economic opportunities, is likely to increase economic development and national GDPs.

3.5 Promotion of responsible supply chain management

3.5.1 Overview of the measure

Under draft *Article X.9 on Trade and Responsible Supply Chain Management*, the Parties 'recognise the importance of' responsible management of supply chains through RBC and CSR practices and the role of trade in pursuing this objective. In light of this objective, the EU and the ESA countries shall promote CSR and RBC and support the 'adherence, implementation, follow-up and dissemination of relevant CSR/RBC instruments'. Article X.9 highlights international sector-specific guidelines in the area of CSR/RBC and calls for the Parties to undertake joint work in this regard. In particular, the draft text calls for the Parties to 'implement measures to promote the uptake' of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements. In addition, the Parties shall promote trade and investment in goods and services beneficial to the environment or that contribute to better social conditions (fair and ethical trade schemes and eco-labels are cited as examples). Finally, the EU and the ESA countries shall work together to strengthen cooperation at bilateral, regional, and international levels, including through exchange of information, best practices and outreach initiatives.

3.5.2 Baseline

Measures taken by the Parties.

To improve the impact of business activities on people, environment and natural resources including fisheries, some ESA countries have taken legislative measures and voluntary initiatives and tools on CSR/RBC. However, to date, those initiatives have been limited, demonstrating that CSR/RBC remain far from being a priority for most ESA governments.

While ESA countries have legal and policy frameworks for working conditions, labour rights, gender equality, human rights and environmental protection, the extent and implementation of these frameworks vary

⁸³ UN Women, 'Women's Economic Empowerment in the Indian Ocean Rim. Progress and Challenges' (2020).

significantly (see the separate Annex to this report for further details on national legal and policy developments). Two ESA countries, Mauritius and Seychelles, have also enacted laws that require businesses to make a financial contribution to CSR projects. Every company registered in Mauritius must set up a CSR fund to which it contributes the equivalent of 2% of its taxable income each year. Money from this fund is then distributed to charitable projects. Similarly, businesses with an annual turnover of more than SCR 1 million must pay a CSR tax, which is distributed by the Ministry of Finances to NGOs. Mauritius also has urban development schemes in place (Property Development Scheme and Smart City Scheme) that require foreign and domestic investors acquiring or developing real estate to contribute to funds to support local social projects.⁸⁴ In addition, the National Code of Corporate Governance for Mauritius (2016) requires certain companies to apply and explain how they apply the Corporate Governance Principles.⁸⁵

ESA countries have taken some further measures. In the fisheries sector, for example, Madagascar and Seychelles have aligned their fishing code or strategic plan on fishing with the FAO Code of Conduct for Responsible Fisheries; Madagascar and Mauritius have adopted the Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries. Similarly, Madagascar and Seychelles⁸⁶ are members of the Extractive Industry Transparency Initiatives (EITI). Based on the information available, however, none of the ESA States has engaged with the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (ILO Tripartite Declaration) and the UN Guiding Principles on Business and Human Rights (UNGPs), even though such instruments recommend specific actions that governments could take. Consequently, none of the ESA States has developed a National Action Plan (NAP) under the UNGPs or has received visits from the UN Working Group on Business and Human Rights, though Mauritius has committed to prepare a NAP.⁸⁷

The EU has endorsed or is engaged in a number of voluntary initiatives on CSR/RBC. For example, it has been a supporter of the EITI since 2016. It also endorsed the UNGPs and asked the Member States to develop national action plans. The EU has also adopted a number of legislative instruments to support CSR/RBC. For example, the Accounting Directive⁸⁸ provides that large companies involved in mining or logging must publish details of payments they make to governments. This obligation is closely linked to the principle of transparency at the heart of the EITI. Adopted in 2017, the EU Conflict Mineral Regulation⁸⁹ requires EU importers of certain minerals to comply with due diligence obligations, in accordance with the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals. The EC has recently announced that it will introduce legislation imposing mandatory due diligence on companies in environmental, social, and human rights matters in 2021.⁹⁰ This obligation could potentially apply to the supply chain of companies, whether in the EU or abroad.

Appendix IV provides an overview of current CSR/RBC initiatives identified for the five ESA countries and the EU.

⁸⁴ See Economic Development Board Mauritius, available at <https://www.edbmauritius.org/info-centre/live-mauritius>

⁸⁵ The National Code of Corporate Governance for Mauritius (2016), available at https://nccg.mu/sites/default/files/2021-01/the-national-code-of-corporate-governance-for-mauritius_2016.pdf

⁸⁶ Seychelles does not currently commercially produce oil, gas or minerals, although international companies are exploring for petroleum offshore. A commercially viable discovery could have a significant impact on a country with a population of around 90,000 and an economy dominated by tourism and fisheries. See EITI, 'Seychelles', available at <https://eiti.org/seychelles>

⁸⁷ Government initiatives were not identified for Comoros, though business CSR initiatives have been taken: see Appendix IV for details.

⁸⁸ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

⁸⁹ Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas.

⁹⁰ For further information on this topic, see: Smit L. et al, Study on due diligence requirements through the supply chain (BIICL, Civic Consulting and LSE for the EC), January 2020. Available at: <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>

Business initiatives in the ESA5

Based on a review of UN and other sources, a number of businesses in the ESA5 have adopted voluntary initiatives to improve their impact on workers, local communities, and the environment. However, the number of CSR-RBC initiatives appear to be limited.⁹¹ Furthermore, they do not necessarily fall within the framework of recognised international or regional instruments. In addition, it is unclear whether such initiatives are effective and have a real positive impact, or can even prevent negative impacts, on people and the environment.

Several CSR/RBC initiatives have been identified in the agricultural sector in Madagascar (e.g., vanilla),⁹² Mauritius (e.g., sugar),⁹³ and Zimbabwe (e.g., tobacco).⁹⁴ There have also been several CSR/RBC initiatives in the fisheries sector in Madagascar, Mauritius, and Seychelles,⁹⁵ in the textile sector in Madagascar and Mauritius,⁹⁶ and in the mining sector in Madagascar and Zimbabwe.⁹⁷ Many business actors participate in the UN Global Compact, ranging from none for Comoros, 3 for Seychelles, 4 for Madagascar, 12 for Zimbabwe, and 25 for Mauritius.⁹⁸

The overview of voluntary business initiatives indicates that the uptake of CSR/RBC varies across the ESA countries. A US government report illustrates some of these differences.⁹⁹ In Madagascar, CSR/RBC has not been a priority for the business community. However, large companies in various sectors have proactively engaged in sustainability reporting and support to local communities. Companies with foreign investors, particularly from western countries, seem to be moving gradually to international standards through their participation in voluntary certification schemes. However, in one case, a mining company with a CSR/RBC policy hid pollution resulting from its activities, in violation of Malagasy law. In Seychelles, society has a high level of CSR, but this is generally regarded as a function of government. In Zimbabwe, the private sector developed the National Corporate Governance Code of Zimbabwe (ZimCode), which is a framework designed to guide Zimbabwean companies on RBC. However, there is no information on how many businesses are implementing the ZimCode.

3.5.3 Key elements for implementation

The effective implementation of the Article on *Trade and Responsible Supply Chain Management* proposed for the deepening of the EPA would need to address the key gaps identified in the baseline. The steps needed would vary across the five ESA countries (and the EU), as shown in the summary of the baseline. Moreover, measures should consider the role of CSR/RBC in addressing the impacts of the COVID-19 pandemic on labour markets in the ESA5, such as significant disruptions in supply chains, job losses, and increased worker

⁹¹ There is a lack of data on the number of businesses that are implementing CSR/RBC initiatives.

⁹² See the implementation of 10-year CSR project by Livelihoods Fund for Family Farming, available at <https://livelihoods.eu/making-madagascars-green-gold-tasty-again/>

⁹³ See CSR statement of Mauritius Sugar Industry, available at <http://www.mauritiussugar.mu/index.php/en/CSR/csr.html>; sustainability reporting by Terra, available at <https://www.terra.co.mu/investors/#sustainability-reports>

⁹⁴ See CSR programmes by Aqua Tobacco Zimbabwe, available at <http://atz.co.zw/corporate-social-responsibility/>

⁹⁵ See environmental and social programmes implemented by Unima in Madagascar, available at http://www.unima.com/page_dev.php; Control Union UK (2020), 'Marine Stewardship Council Public Comment Draft Report: CFTO Indian Ocean Purse Seine Skipjack fishery on behalf of Compagnie Française du Thon Océanique S.A.S. (CFTO), November 2020, https://fisheries.msc.org/en/fisheries/cfto-indian-ocean-purse-seine-skipjack-fishery/@assessment-documentsets?documentset_name=Public+comment+draft+report&assessment_id=FA-02323&phase_name=Public+Comment+Draft+Report&start_date=2019-12-10&title=Initial+assessment+v2.1

⁹⁶ Epsilon, 'CSR', available at <https://www.epsilon-mada.com/>; Compagnie Mauricienne de de Textile Ltée, 'Corporate Social Responsibility', available at <http://www.cmt.mu/>

⁹⁷ Zimplats, 'Sustainability', available at <https://www.zimplats.com/sustainability/>; sustainability reports by Ambatovy in Madagascar, available at <http://www.ambatovy.com/ambatovy.html/docs/index.php.html>

⁹⁸ UN Global Compact, 'Participation', available at <https://www.unglobalcompact.org/interactive>

⁹⁹ US Government, 'Investment Climate Report' (2019).

vulnerability in sectors most affected by COVID-19-related restrictions.¹⁰⁰ To varying degrees, steps for implementation are likely to be needed in the following areas:

1. Establish and strengthen legal and policy frameworks.

To promote CSR/RBC, the proposed Article calls on the Parties to provide 'supportive policy frameworks that encourage the uptake of relevant practices by businesses'. As mentioned above, Mauritius and Seychelles have adopted legal instruments that promote CSR. Nonetheless, all ESA countries, including these two, can strengthen their legal and policy frameworks for CSR and RBC.

To provide supportive policy frameworks that encourage the uptake of relevant practices by businesses, the ESA countries could start by mapping their existing policies and regulations in order to identify gaps in their frameworks for CSR/RBC. This mapping could identify options to enact laws and policies that promote business actions to improve respect for human and labour rights and the environment. The ESA countries could, for example, require companies, and in particular large enterprises, to publicly report on their social and environmental performances and on their actions to ensure and go beyond compliance with labour standards in their operations and through their supply chains. The ESA countries could also oblige businesses to conduct due diligence. Furthermore, legislation could impose respect for sustainability criteria as a condition for receiving state aid. Moreover, the ESA5 could ensure that new laws do not constrain business respect for human rights and social and environmental matters.

In parallel, countries could improve enforcement of existing and future laws in relevant areas, such as environmental protection, labour, human rights and gender equality (please see the previous sections on related provisions of the draft TSD Chapter). It will be valuable that environmental, labour, gender and human rights legislation supports CSR/RBC; and that the promotion of CSR/RBC is not seen as a substitute for legal action in these spheres. Moreover, ESA countries could lead by example when acting as an economic actor (e.g., through public procurement requirements and also by calling on state-owned enterprises to lead on CSR/RBC).

This section focuses on ESA countries. The EU has established a legal and policy framework that encourages, and to some extent requires, businesses to engage in CSR/RBC. Nonetheless, the EU's approach to CSR/RBC remains incomplete, and further action to address gaps could strengthen CSR/RBC both domestically and globally. The EU is currently in the process of adopting a legal instrument imposing a due diligence obligation on its businesses in environmental, labour, and human rights matters. It could ensure that this due diligence obligation applies throughout value chains, including to business operations in third countries.

2. Support the uptake of general and sector-specific instruments on CSR/RBC by businesses.

The draft Article X.9 provides that Parties 'support the adherence, implementation, follow-up and dissemination' of relevant CSR/RBC instruments. In particular, it cites the following instruments: the OECD Guidelines for Multinational Enterprises (MNEs), the ILO Tripartite Declaration, the UN Global Compact and the UNGPs.

The ESA5 could officially endorse relevant international instruments on CSR/RBC, in particular those set out in the draft text. These instruments include actions and principles addressed to governments. For example,

¹⁰⁰ See ILO, 'ILO Monitor : COVID-19 and the world of work. Seventh edition' (2021), available at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_767028.pdf

the ESA countries should develop and adopt national action plans on business and human rights founded on the UNGPs, including through due diligence processes.¹⁰¹

The proposed Article also calls on Parties to ‘promote joint work’ regarding international sector-specific guidelines in the area of CSR/RBC, such as measures to promote the uptake of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements. Actions to promote the uptake of sector-specific CSR/RBC instruments could focus on the most important sectors for EU/ESA trade and investment, including agriculture, fisheries and textiles alongside mining. The ESA5, with the support of the EU, could develop sectoral baseline studies for each of the priority sectors to identify challenges and opportunities. The OECD has developed other sectorial instruments, such as the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector and the OECD-FAO Guidance for Responsible Agricultural Supply Chains. The ESA5 and the EU could support CSR/RBC initiatives in the ESA5 with the recommendations of the various OECD guidelines.

3. Promote trade and investment in sustainable goods and services.

Article X.9 provides that the Parties should ‘promote trade and investment in goods and services beneficial to the environment or contributing to enhanced social conditions’ (e.g., fair and ethical trade schemes; eco-labels). To implement this provision, the ESA5 and the EU could provide financial incentives for companies to sign up to existing certification or labelling schemes that are in active use in the EU, particularly in sectors that are important for trade between the EU and the ESA5 (e.g., Marine Stewardship Council and Aquaculture Stewardship Council certifications in the fisheries sector). In particular, support could target small and medium-sized enterprises.

4. Strengthen cooperation on CSR/RBC.

The proposed Article calls on the EU and the ESA countries to ‘work together to strengthen their cooperation on trade-related aspects of CSR/RBC bilaterally, regionally and in international fora’ through information exchange, best practices, and outreach initiatives. Cooperation activities could include capacity-building of public institutions, potentially in areas such as policy reform and legislation, enforcement, or cooperation with the private sector.

ESA governments and the EU could also develop awareness-raising and capacity-building campaigns for business. Such campaigns could be organised in partnership with domestic employers’ associations, sector-specific business associations, with major EU investors and trading companies, and with the CSR/RBC networks, such as those for the UN Global Compact. The work could include support services to companies preparing or implementing CSR/RBC instruments, such as training sessions and regional workshops for information exchange, along with materials and tools adapted to the ESA5 context. EU development cooperation could be a key driver for this work.

3.5.4 Potential impacts

The proposed measures to implement draft Article X.9 would have short-term and long-term impacts. In the short-term, better enforcement of existing laws on environmental protection and employment, and the adoption of new legislation and regulation promoting CSR/RBC, would lead to a comprehensive, consistent, and effective regulatory framework on responsible business; and better monitoring of businesses’ compliance with existing obligations.

In the long-term, they would lead to an improvement in business respect for environmental and labour obligations and a reduction in the number of cases of pollution and violations of labour rights. Measures to

¹⁰¹ UN Working Group on Business and Human Rights, ‘Guidance on National Action Plans on Business and Human Rights’ (2016).

support the adherence, implementation, follow-up and dissemination of relevant CSR/RBC instruments, including sectoral ones, would lead, in the short-term, to an increase in the number of individual business initiatives and to a better alignment and coherence between these initiatives, particularly from a sectoral perspective. Similarly, the development of awareness-raising and capacity-building campaigns for businesses could increase the number of businesses that are aware and implement CSR/RBC initiatives in their operations. In the long-term, these measures would lead to improved environmental, social, and human rights performance of businesses. Promoting trade and investment in goods and services environmentally friendly or contributing to enhanced social conditions would increase the number of goods and services produced sustainably. **Overall, improving CSR/RBC practices could lead to better working conditions for employees and better living conditions for communities surrounding business operations.**

The implementation of CSR/RBC obligations and/or voluntary initiatives would have economic costs for the ESA States (e.g., monitoring and enforcement of new legislation) and businesses (e.g., increased resources invested to meet obligations and/or align with international multi-stakeholders initiatives). However, such costs should be balanced by the economic benefits derived from the implementation of CSR/RBC practices by States (e.g., the sustainability-oriented investment environment attracts companies with better environmental and social track-records) and businesses (e.g., better access to certification; improved access to markets of higher-value goods such as fair trade). Furthermore, development cooperation activities involving the EU can help support the economic costs of CSR/RBC policies. Nonetheless, it will be important to monitor the results, also at the company level, to ensure that CSR/RBC policies indeed bring improvements in environmental, social and gender conditions.

3.6 Greater transparency and greater civil society participation

This section focuses on the draft provisions promoting greater transparency and greater civil society participation. The two topics are strongly interlinked in the TSD Chapter, so they are analysed together; moreover, actions for greater transparency and participation can play a key role in supporting the other provisions of the TSD Chapter.

3.6.1 Overview of the potential provisions

The EU's draft for the TSD Chapter calls on each Party (draft *Article X.11*), to 'ensure that it develops, enacts and implements transparently' both environment and labour measures that could affect trade and investment as well as trade and investment measures that could affect the environment or labour conditions. Parties should do so 'ensuring awareness and providing reasonable opportunities for interested persons and stakeholders to submit views'.¹⁰² This Article is linked to the (draft) Transparency Chapter of the EPA, which includes provisions about the publication of general measures and access to judicial and administrative procedures. Moreover, draft *Article X.11bis* highlights the importance of 'reviewing, monitoring and assessing the impact of the implementation of this Agreement on sustainable development'.

Provisions on **civil society participation** are included under *Article X.12* of the current draft of the EPA TSD Chapter, which refers to the governance structure for the agreements, and in particular to the establishment of a body on Trade and Sustainable Development, to facilitate, *monitor and review the implementation* of the Chapter, implement the Dispute Settlement Mechanism designed (in draft *Article X.13*), and contribute to the work of the Trade Committee on issues covered by the Chapter, amongst which is included the discussion of relevant topics with the domestic civil society mechanisms to be put in place. In addition, the draft for the TSD Chapter refers to domestic civil society mechanisms (*Article X.15(8)*).

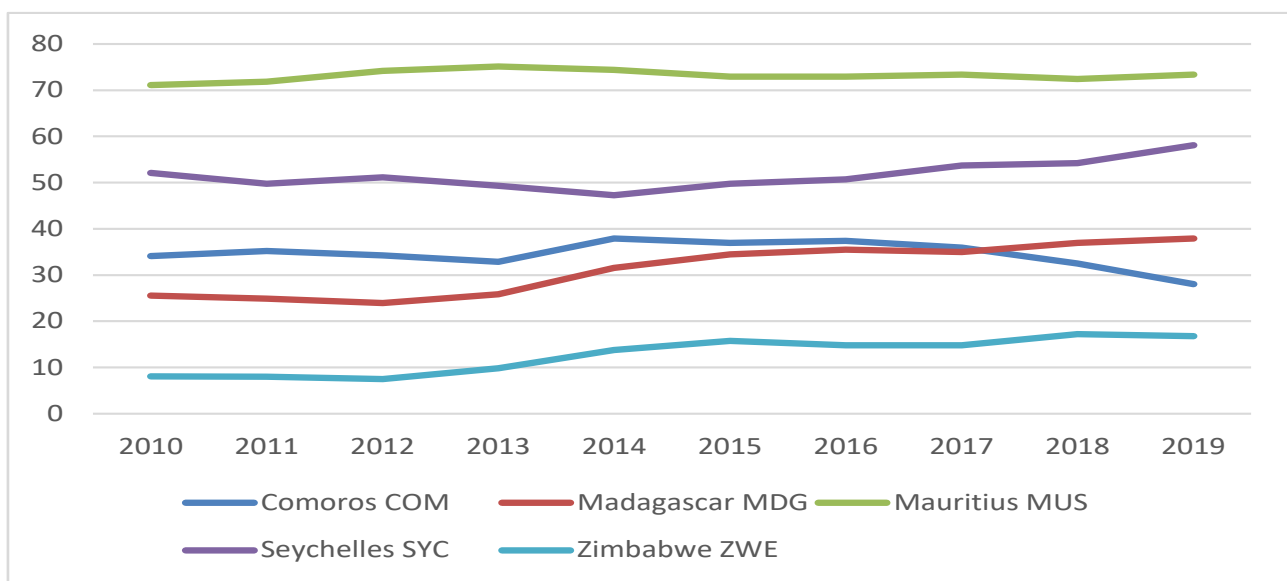
¹⁰² Art. X.11 of the current draft for the TSD Chapter

Such provisions are similar to those included in recent EU EPAs and FTAs (e.g., Cariforum,¹⁰³ Vietnam,¹⁰⁴ Australia and New Zealand,¹⁰⁵ Mercosur);¹⁰⁶ those agreements, however, refer to civil society participation in Domestic Advisory Group (DAGs), which should have a balanced representation of business organisations, trade unions and environmental and other civil society organisations. The reference to domestic mechanisms in Article X.12 could include such Groups, but this detail is not provided in the TSD Chapter.

3.6.2 Baseline

The effectiveness of transparency and civil society participation rests on the presence of a well-developed civil society, where organisations representing different interests and instances of citizens and businesses are rooted in the economic and social tissue of the countries involved and participate in the policy process.

Figure 3: Evolution of Voice and Accountability indicator for ESA5 countries, 2010-2019



Source: elaboration from World Bank data

According to the *Voice and Accountability* component of the Worldwide Governance Index elaborated by the World Bank,¹⁰⁷ the extent to which the citizens of the five ESA countries can participate in selecting their government, the freedom of expression, the freedom of association, and the freedom of the media have improved since 2010, albeit with large variations across countries. Indeed, the rankings of four out of the five ESA countries (Madagascar, Mauritius, Seychelles, and Zimbabwe) have progressed, which demonstrates that efforts have been made to increase transparency and foster civil society participation. Only Comoros, have seen their ranking slightly dropping between 2010 and 2019.

Mauritius counts many civil society organisations. The Mauritius Council of Social Service is the national umbrella organisation for all civil society organisations in the country. NGOs on the Council are mainly those dealing with human rights, HIV/AIDS, the promotion of women's rights, and the rights of the LGBT community, but there are also many NGOs dealing with environmental questions. However, most of the organisations active in the country are formed based on the demands and needs of the time, which can lead to a lack of

¹⁰³ See: <https://ec.europa.eu/trade/policy/countries-and-regions/regions/caribbean>

¹⁰⁴ See: <https://ec.europa.eu/trade/policy/countries-and-regions/countries/vietnam/>

¹⁰⁵ See: <https://ec.europa.eu/trade/policy/countries-and-regions/countries/australia/>

¹⁰⁶ See: <https://ec.europa.eu/trade/policy/in-focus/eu-mercosur-association-agreement/>

¹⁰⁷ The Voice and Accountability component of the WBI captures perceptions of the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media. The Worldwide Governance Indicators, 2020 Update, <http://info.worldbank.org/governance/wgi/>

consistency over time in the interests they represent and defend.¹⁰⁸ Also, the Afrobarometer reveals that most Mauritians are not strongly interested in actively participating in civil society organisations, so that large adherence to organisations is very rare, even when the cause they champion is widely supported by society.¹⁰⁹ In some areas, civil society organisations are often consulted by the government, but their impact is limited in other policy areas. For instance, they are usually consulted for the budget and they are recognised to play a key role in the improvement of social conditions in Mauritius (e.g., fighting against social inequality and poverty), and trade unions have been recently also been regaining some strength, having been fragmented and marginalised in the past.¹¹⁰

In Madagascar, Zimbabwe, Seychelles and Comoros various civil society organisations and social movements have emerged over the last years, even if their actions are limited in terms of impact. In **Madagascar**, many associations and NGOs exist on paper and new organisations continue to be created since several initiatives have contributed to a more present civil society, but they suffer from a lack of coordination and collaboration between the different groups in competition for limited resources.¹¹¹ In **Zimbabwe**, various civil society organisations and social movements have emerged over the last years. Initially, the civil society organisations sector was small, but it has developed since independence in 1980 when deteriorating economic conditions opened a space in the public arena for civil society organisations promoting democracy, human rights and fighting for political change. Overall, the attitude of the government toward these organisations and movements has been hostile, especially towards civil society organisations demanding accountability or transparency and those active in the fight for rights. On the contrary, organisations, which work on issues less “political” (e.g., gender equality or trade justice), have found that their inputs to policy issues are often welcome.¹¹² In **Seychelles**, the Citizens Engagement Platform Seychelles, which is the national umbrella organisation for civil society, counts many organisations and focuses on the violation of human rights. On the other hand, civil society engagement concerning the policymaking and legislative processes remains limited.¹¹³ In **Comoros**, civil society organizations have emerged in different sectors, such as education, health, the environment, water, and gender and human rights. Nevertheless, even if civil society organisations are often involved in designing legislative processes, there is no institutionalized dialogue with the State.¹¹⁴

The difficulties of civil society organisations and transparent implementation of measures in ESA5 countries are also indirectly reported by the Corruption Perceptions Index, which, among others, captures elements such as the existence of adequate laws on financial disclosure, conflict of interest prevention and access to information and the legal protection for whistleblowers, journalists and investigators. The recent report shows that Sub-Saharan Africa (among which the ESA5 countries) is the lowest performing region on the CPI, albeit with large differences among the countries.¹¹⁵ Seychelles consistently earns top marks in the region, with a notable improvement (+12 positions) since 2012, Mauritius also ranks pretty high (52 over 180 countries), despite a worsening of the situation since 2012, while Madagascar and Zimbabwe rank among the worst performing countries (149/180 and 157/180), with very limited improvements over time (Madagascar lost 7 positions in the rank since 2012). **The existing civil society organisations of the ESA countries do not**

¹⁰⁸ Bertelsmann Stiftung, ‘BTI 2020 Country Report — Mauritius. Gütersloh: Bertelsmann Stiftung’, 2020, https://www.bti-project.org/content/en/downloads/reports/country_report_2020_MUS.pdf

¹⁰⁹ Afrobarometer, 2018, ‘Role of citizen: Mauritians value national identity but limit civic engagement’, afrobarometer.org/sites/default/files/publications/Dispatches/ab_r7_dispatchno197_identity_and_freedom_in_mauritius.pdf

¹¹⁰ Bertelsmann Stiftung, ‘BTI 2020 Country Report — Mauritius. Gütersloh: Bertelsmann Stiftung’, 2020, https://www.bti-project.org/content/en/downloads/reports/country_report_2020_MUS.pdf

¹¹¹ Bertelsmann Stiftung, ‘BTI 2020 Country Report — Madagascar. Gütersloh: Bertelsmann Stiftung’, 2020, https://www.bti-project.org/content/en/downloads/reports/country_report_2020_MDG.pdf

¹¹² Bertelsmann Stiftung, ‘BTI 2020 Country Report — Zimbabwe. Gütersloh: Bertelsmann Stiftung’, 2020, https://www.bti-project.org/content/en/downloads/reports/country_report_2020_ZWE.pdf

¹¹³ <https://www.opengovpartnership.org/members/seychelles/commitments/SYC0001/>

¹¹⁴ World Bank, 2019, ‘Towards a More United and Prosperous Union of Comoros: Systematic Country Diagnostic. World Bank’, Washington, DC.

¹¹⁵ Transparency International, 2020, Corruption Perception Index 2020, available at: <https://www.transparency.org/en/publications/corruption-perceptions-index-2020>

seem to be deeply involved in the negotiation process of the EPA. Indeed, the stakeholder interviews conducted thus far for this project have shown that, in general, the civil society respondents from ESA countries did not know about the EPA. For instance, in Comoros, among those interviewed only civil servants directly involved in negotiations had a high understanding of the EPA.¹¹⁶ Indeed, most of the civil society organisations interviewed reported a low level of awareness of the interim EPA. Low levels of awareness were also recorded from respondents from Madagascar, Seychelles, and Comoros; higher levels of awareness were recorded, however, from civil society organisations in Mauritius and Zimbabwe.

Nonetheless, there have been calls for stronger better participation of civil society. At the 16th Regional Seminar of the African-Caribbean-Pacific (ACP)-EU economic and social interest groups (organised by the European Economic and Social Council), held in Namibia in 2018, one of the points discussed concerned how should civil society organisations could be better involved in the implementation, monitoring and evaluation of the interim EPA.¹¹⁷ The 17th Regional Seminar also discussed ‘a greater role for civil society in trade relations and regional integration’.

3.6.3 Key elements for implementation

Most of the issues about transparency and civil society participation relate to the uneven and fragmented presence of civil society organisations and their participation in the policy process in the ESA5 countries, which are then likely to transfer to the EPA. In addition, as the provisions on transparency and civil society participation in the draft TSD Chapter with the ESA5 countries are similar to those in many recent EPAs and FTAs, it is possible to draw lessons from the initial implementation of such agreements and the issues encountered so far.

Based on the analysis of the baseline, the draft TSD Chapter and available literature on recent EU FTAs and EPAs, the following elements for the implementation of the transparency and civil society participation would appear important to ensure the effectiveness of measures included in the draft TSD Chapter.

As noted above, the draft Article calls for the creation of a body on Trade and Sustainable Development. This will require a clear description of the role and functions of the civil society mechanism within the EPA, including minimum requirements for the implementation of the overall EPA civil society mechanism (e.g., participation and number of meetings per year) as well as the corresponding domestic mechanisms. Effective implementation should involve:

- Clear guidelines on how to ensure a transparent selection of the participating organisations.
- Selection mechanism to ensure a balanced representation of the different social groups (trade unions, business representative organisations, NGOs) that cover key sectors relevant for the Agreement (potentially varying across countries but including, e.g., agriculture, textiles, mining, fisheries, tourism).
- Representation of vulnerable and disadvantaged groups, and non-organised sections of society (such as informal workers, migrant workers and minorities), which could be otherwise neglected.
- Mechanisms to monitor the selection process as well as verify the representativeness of the organisations selected, which could change over time as the structure of the countries’ society changes.

With regard to transparency, here too, clear guidelines can support the implementation of the Agreement, including on:

¹¹⁶ LSE, ‘Economic Partnership Agreement EU-Comoros evaluation: report of interviews with key stakeholders in the Comoros’.

- Ensuring a transparent communication of provisions related to the trade agreement (e.g., publication requirements concerning time and media to be used).
- Publishing relevant documents (e.g., on human rights, health, the environment, sustainable development and procurement).

3.6.4 Potential impacts

The (effective) implementation of transparency measures in the context of EPAs and FTAs is expected to impact positively the overall awareness about the agreement, and negotiation process, and thus the legitimacy of the provisions. In turn, this is expected to facilitate its implementation and monitoring

¹¹⁸ With regard to civil society debates, the requests for transparency include not only the right to be informed about the process of negotiation and the final text of the treaty but also the right to be consulted on the issues being negotiated, especially when they relate to human rights, health, the environment, sustainable development and procurement.

In this sense, the 'new generation' of FTAs signed by the EU in recent years has tried to include mechanisms to ensure greater transparency and civil society participation, to increase their legitimacy and acceptance, and facilitate their implementation and monitoring, in the short to medium-term.

In turn, more effective implementation and monitoring are expected to support the achievement of the objectives of the trade agreements, and thus support (in the long-term) greater economic growth, structural economic change and economic renewal, poverty reduction and social development, enhanced Human Rights and environmental protection.

4. Recommendations to consider for the TSD Chapter and possible accompanying measures.

4.1 Objectives and approach

This section draws on the results of the detailed assessment to identify recommendations for the negotiating Parties to consider. These recommendations cover two main areas. First, section 4.2 provides suggestions for additional elements to be considered in the negotiating text. Second, the draft negotiating text calls for EU cooperation and the analysis of key steps for implementation that identified specific cooperation actions that could be carried out: these actions are summarised in section 4.3.

4.2 Additional elements for consideration in the negotiating text

The draft text for the TSD Chapter addresses a range of sustainability issues, addressing specific details in its articles. The assessment of key provisions for the TSD Chapter has identified several areas where further elements could strengthen the negotiation text.

4.2.1 Reinforcing environmental provisions

In terms of coverage of the SDGs, it could be useful to include marine pollution (SDG 14.1) in the text of Article X.8 on marine biological resources. Additionally, the wording in Article X.5 concerning cooperation on promotion of low-carbon technologies in the context of fighting climate change could be strengthened to

¹¹⁸ Ljiljana Biukovic, 'Transparency Norms, the World Trade System and Free Trade Agreements: The Case of CETA', (2012), 39, *Legal Issues of Economic Integration*, Issue 1, pp. 93-107, <https://kluwerlawonline.com/journalarticle/Legal+Issues+of+Economic+Integration/39.1/LEIE2012006>

highlight the transfer of technology from EU to ESA5 countries on favourable terms, bringing it more in line with SDG 17.7: ‘Promote the development, transfer, dissemination and diffusion of environmentally sound technologies to developing countries on favourable terms, including on concessional and preferential terms, as mutually agreed’.¹¹⁹

Reinforced provisions for monitoring the application of the TSD chapter could have a genuine impact on the ability of the EPA to act as a positive force for the protection of the environment and natural resources in the countries concerned. This could be done by making provision for the scheduling of regular round-table discussions dedicated to specific topics, such as climate, biodiversity, etc., as suggested in Section 4.2.4 below. For this to function, it would be valuable to define key indicators, to be regularly reviewed by the monitoring committees in order to assess the implementation of MEAs. Current wording on better implementation of MEAs is vague and difficult to assess and cannot therefore seriously safeguard environmental concerns.

Another means of encouraging the implementation of the environmental provisions in the TSD Chapter could be to include a provision for the development of country action plans with specific steps and potentially with environmental targets (this could also be valuable for other articles in the TSD Chapter). Progress in the implementation of the action plan could then be followed by the TSD Monitoring Committee. Commitment in the TSD Chapter to a regular, independent ex-post sustainability assessment could further strengthen monitoring.

In order to compensate for relative weaknesses in civil society in some ESA5 countries, the inclusion of the phrasing regarding access to ‘environmental justice’ could strengthen the ability of civil society to effectively advocate for the environment when necessary in potential disputes regarding trade and the environment.

4.2.2 Reinforcing social, gender and human rights provisions

Regarding **labour issues**, the EPA could specifically mention certain topics that are of key concern. In this sense, Article X.3 could explicitly refer to the ratification of the ILO governance conventions, as some have not yet been ratified (see section 3.3.3). In addition, Article X.3 could specifically mention the goal of eliminating the worst forms of child labour as a priority, including hazardous work in the context of child labour. Furthermore, Article X.3 could specifically mention the attention to vulnerable groups such as migrants and temporary workers. Article X. 3. could also specify that multilateral labour standards and agreements apply equally in export processing zones, including monitoring of their application by independent observers.

For **gender equality**, the EPA could strengthen the provision on women’s economic empowerment (ArticleX.10(5)) by referring to actions to ensure participation of women in political and economic decision making, in line with the UN CEDAW. The text could also call for Parties to take measures to address the specific situation of women working in vulnerable conditions or women workers in a vulnerable position (such as women migrant workers, women in the informal economy, trafficked women and rural women). It could refer, for example, to ratification and implementation of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. One gap can be mentioned concerning the terms used in the draft text. Many articles of the proposed TSD Chapter refer to both trade and investment; however, the proposed article on gender equality refers only to trade. It would be valuable to clarify that the Chapter covers all areas of the economic partnership.

Concerning **human rights**, while the TSD Chapter refers to a range of international agreements, it may be useful to also cite those that explicitly address this sphere: for example, the Cotonou Agreement, which

¹¹⁹ UN Sustainable Development Goals, <https://sdgs.un.org/goals/goal17>

however at the time of this writing is under renegotiation. In this context, given the ongoing Covid-19 pandemic, it may be useful to explicitly refer to the right to health as well as the SDG on health in the text of the Chapter.

4.2.3 *Strengthening links to CSR/RBC*

The provisions to promote CSR and RBC could play an important role in achieving sustainability objectives in ESA countries. This text could be strengthened by calling for both progress on national CSR/RBC frameworks and also on related legal and policy frameworks for environmental protection, labour rights and working conditions, gender equality and human rights: it should be clear that corporate actions can build on rather than substitute for legal and policy development.

The implementation and results of CSR and RBC actions could moreover be considered in monitoring work and civil society mechanisms.

4.2.4 *Strengthening transparency, participation and monitoring*

For **transparency, participation and monitoring**, the draft text refers to domestic civil society mechanisms; further detail could be provided on these mechanisms, similar to or even going beyond the text of other recent EU Agreements. For example, mechanisms for participation, both at national and regional levels, could include issue-specific round tables (e.g., on climate, gender and CSR/RBC, among others) that bring together key stakeholders to discuss results and issues on specific topics, referring also to the need for regular meetings. Furthermore, the text could refer to transparent and clear selection procedures for the selection of civil society (and other) organisations participating in civil society mechanisms and a balanced representation of interests and regional representativeness. Mechanisms such as joint governance guidelines for all domestic advisory groups could be considered, such as those proposed for the EU - Central America Association Agreement.¹²⁰ The text could be and include an explicit request to consult the private sector and civil society before negotiation and inform them of progress post negotiation. Furthermore, transparency and participation could be reinforced by including local communities in the consultation process, and eliciting inputs from the private sector (see also section 4.2.3).

As many of the provisions of the EPA would require implementation efforts in the countries, which often prove problematic. During the validation process, it could be considered to test the acceptance of the reforms mentioned with the ESA5 delegations, also in view to better define the key priorities in the short and medium-term.

The detailed assessments in section 3 highlight the importance of monitoring to support implementation and to follow the achievement of sustainability objectives. The text of the TSD Chapter could provide further details on monitoring mechanisms, for example by potentially calling for regular monitoring reviews at both the national level and across ESA countries to increase the public accountability of the Parties. Monitoring could draw on reports and analyses by international organisations, such as the ILO on labour issues and UN Women on gender equality.

To enhance the role of civil society, a pathway could be identified for civil society to bring major issues to the attention of the dispute resolution mechanisms. This would support a multi-faced approach to the oversight of the TSD provisions, linking participation and monitoring to dispute settlement.

4.3 **Avenues for EU development cooperation**

The draft text for the TSD Chapter calls on the Parties to strengthen their cooperation across environmental, natural resources protection, sustainable fisheries and agriculture, labour, gender and human rights issues. EU development cooperation provides an important avenue; moreover, development cooperation can play a

¹²⁰ See: [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621852/EPRS_STU\(2018\)621852_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/621852/EPRS_STU(2018)621852_EN.pdf)

key role in strengthening government, business and civil society capacities in ESA countries, which in turn will provide a necessary basis for achieving sustainability objectives.

The table below provides an overview of key areas where EU development cooperation can support the future Agreement. This table identifies key areas for action, and it is not intended to be exhaustive. Moreover, the ESA countries vary greatly in terms of national conditions and economic and human development, and cooperation actions will have to be tailored to national contexts.

Table 4: Key areas for EU development cooperation¹²¹

| Issue | Possible cooperation actions |
|---|--|
| Trade and environment | <ul style="list-style-type: none"> ▪ Capacity building to strengthen: <ul style="list-style-type: none"> ○ awareness and enforcement of CITES rules, reducing illegal wildlife trade ○ domestic environmental legislation ○ government structures for environmental protection ○ approaches to support the needs of rural communities and promote more sustainable natural resource use ▪ Support for investments, including for renewable energy and energy efficiency |
| Multilateral labour standards | <ul style="list-style-type: none"> ▪ Capacity building to strengthen: <ul style="list-style-type: none"> ○ labour inspectorates ○ trade unions and other workers' representatives ○ occupational safety and health in enterprises |
| Promotion of gender equality | <ul style="list-style-type: none"> ▪ Support for women's groups in ESA countries ▪ Support for women in leadership positions, including entrepreneurs |
| Responsible supply chain management | <ul style="list-style-type: none"> ▪ Strengthening government capacity to develop CSR/RBC legislation and policies; ▪ Strengthening business capacity to put in place CSR/RBC policies through their supply chains ▪ Promotion of sustainability labelling for export products |
| Transparency, participation and monitoring | <ul style="list-style-type: none"> ▪ Strengthening civil society capacity in ESA countries for participation and monitoring of trade impacts ▪ Supporting regular, structured monitoring exercises of actions related to the TSD Chapter and of trade and investment impacts on sustainability |

Source: Own compilation

In addition to these links to EU development cooperation, it will be valuable to ensure synergies with Member State development cooperation programmes and with the activities of other donors and of international organisations, including ILO and UN agencies.

5. Conclusions

The provisions of the TSD Chapter can, if the EU and ESA countries undertake a range of actions for their implementation, lead to a broad range of results in terms of environmental, social, gender and human rights conditions. These results can be summarised in terms of the UN sustainable development goals.¹²² Appendix

¹²¹ Please note that this list of key areas does not include sustainable fisheries and aquaculture. These are detailed in the case study on marine fisheries,

¹²² See <https://sdgs.un.org/goals>

VI provides an overview of the provisions in the proposed TSD Chapter and their potential effects on the SDGs. Based on that analysis, the TSD Chapter is likely to have stronger results in terms of the following SDGs (presented using their commonly used short titles):

- SDG5 on gender equality
- SDG7 on affordable and clean energy
- SDG8 on decent work and economic growth
- SDG10 on reduced inequalities
- SDG12 on responsible consumption and production
- SDG13 on climate action
- SDG14 on life below water
- SDG15 on life on land
- SDG17 on partnerships for the goals

Appendix I. Overview of the five ESA countries

The five ESA countries vary greatly in terms of their economic and human development and their environmental context. The table below provides an overview of key indicators across these dimensions.

Table 5: Key economic, environmental, social, gender and human rights indicators (2019 or latest year available)

| | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|--|---------|------------|-----------|------------|------------|
| GDP/Capita in US\$ (2019) ¹²³ | 1,370 | 523 | 11,099 | 17,448 | 1,464 |
| Surface area (km ²) ¹²⁴ | 1,861 | 587,295 | 2,040 | 460 | 390,760 |
| Total Population (2019) ¹²⁵ | 850,886 | 26,969,307 | 1,265,711 | 97,625 | 14,645,468 |
| Human Development Index (2018) ¹²⁶ | 0.538 | 0.521 | 0.796 | 0.801 | 0.563 |
| Poverty rate (dates vary) ¹²⁷ | 18.1% | 77.6% | 0.1% | .. | 34% |
| Female employment (2019) ¹²⁸ | 34.9% | 81.8% | 40.6% | 61.6% | 73.8% |
| Yale EPI (Env. Perf. Index, 2020) ¹²⁹ | 32.1 | 26.5 | 45.1 | 58.2 | 37 |
| ND-GAIN score (2017) ¹³⁰ | 39.2 | 32.9 | 55.6 | 48.4 | 33.1 |

Sources: ILO, Notre Dame University, UNDP, World Bank, Yale (see footnotes)

The data for these indicators predate the Covid-19 pandemic, whose impact on the region and individual countries is not yet clear, but it is expected to have far-reaching health and economic consequences. Nonetheless, these indicators show that the five ESA countries vary greatly in terms of economic, environmental, social and human rights conditions.

Comoros is a small lower-middle income island economy, with a comparatively low level of human development. Poverty affects nearly one-fifth of the population. It faces multiple challenges in terms of adequate health, housing and food. Biodiversity is severely degraded and its islands are prone to natural disasters and vulnerable to climate change impacts. Comoros faces challenges providing adequate drinking water and sanitation.

¹²³ GDP per capita (current US\$) – 2019 data for Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe. World Bank Data: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=KM-MG-MU-SC-ZW>

¹²⁴ Surface area in square kilometres – 2018 data for Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe. World Bank Data: <https://data.worldbank.org/indicator/AG.SRF.TOTL.K2?locations=KM-MG-MU-SC-ZW>

¹²⁵ Population, total – 2019 data for Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe. World Bank Data: <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=KM-MG-MU-SC-ZW>

¹²⁶ A summary measure of average achievement in key dimensions of human development on a scale of 0 (low) to 1 (high). UNDP data: <http://hdr.undp.org/en/data>

¹²⁷ Share of population below international poverty line. 2019 data for Mauritius and Zimbabwe, 2012 for Comoros, 2013 for Madagascar. World Bank data from <https://sdg-tracker.org/no-poverty#targets>

¹²⁸ Employment of female population, 15+. ILO Data: https://www.ilo.org/shinyapps/bulkexplorer54/?lang=en&segment=indicator&id=EMP_2WAP_SEX_AGE_RT_A

¹²⁹ The Environmental Performance Index (EPI) provides a quantified summary of the environmental performance of countries around the world. It uses 32 performance indicators across 11 issue categories. The EPI uses a score of 0 to 100 (the maximum value). 2020 EPI Results: <https://epi.envirocenter.yale.edu/epi-topline>

¹³⁰ The Notre Dame Global Adaptation Initiative (ND-GAIN) score is an index assessing a country's vulnerability to climate change and its resilience and readiness vis-à-vis climate impacts. Overall, 45 indicators contribute to developing the country index, with 36 indicators assessing vulnerability and 9 assessing readiness. Scores range from 0 to 100. Notre Dame Global Adaptation Initiative: <https://gain.nd.edu/our-work/country-index/rankings/>

Madagascar is a low-income economy. It is a large island and has the highest population of the five ESA countries. Poverty levels are extremely high despite an abundance of natural resources. Poverty negatively affects its social conditions, with rights to health, food, education and housing is limited. Biodiversity is severely degraded and deforestation is a major challenge. Moreover, Madagascar is highly vulnerable to climate change impacts.

Mauritius is a small upper-middle-income country whose service industry has grown considerably in the past ten years. Rights to food, housing and health care are at comparatively high levels, as is human development. The country's biodiversity is highly threatened, and despite high readiness, Mauritius remains vulnerable to climate impacts.

Seychelles is a small high-income country island with a comparatively high level human development,¹³¹ including a high literacy level,¹³² and a well-developed housing market. The right to health and food has improved in recent years. Though it has a relatively high readiness level, Seychelles is highly vulnerable to climate change impacts.

Zimbabwe is a lower-middle income, landlocked country whose economy, social conditions and environment have suffered from political crisis. Rights to food, housing and health are extremely poor. Although about one-quarter of the country has been protected, biodiversity is threatened and deforestation continues. The country is highly vulnerable to climate change and has a low readiness score.

¹³¹ Central Bank of Seychelles, *Annual Report 2018*, available at: <https://www.cbs.sc/Downloads/publications/Annual%20Report%202018.pdf>.

¹³² World Bank, 'Literacy rate, youth total (% of people ages 15-24) - Comoros, Madagascar, Mauritius, Seychelles, Zimbabwe, World', available at <https://data.worldbank.org/indicator/SE.ADT.1524.LT.ZS?end=2019&locations=KM-MG-MU-SC-ZW-1W&start=2013&view=chart>

Appendix II. Screening of provisions for the TSD Chapter

Table 6: Screening of potential provisions for the deepening of the EPA and their impacts

| Provision | Main economic sectors that could be affected | Possible environmental impacts | Possible social, gender and human rights impacts | Possible economic impacts | Potential importance |
|--|---|---|---|--|----------------------|
| Environmental provisions | | | | | |
| Multilateral environmental governance and agreements (including ratification and effective implementation of MEAs) | All economic sectors | Improved environmental governance, including in areas of MEAs such as waste trade and chemicals management as well as fisheries (see also below for biodiversity and climate). | Implementation of MEAs can have a positive impact on society and health, and thus on the right to an adequate standard of living. | Implementation of MEAs could lead to more sustainable economic practices and possible diversification of production. Potentially, this could lead to better working conditions and wages, and positively affect standards of living. Adjustment may entail costs | Major |
| Trade and climate change (including a shared commitment to implement MEAs on climate, including the Paris Agreement) | All economic sectors, and in particular the energy sector | Reduction in ESA GHG emissions compared to the baseline via cooperation, including EU development cooperation and private sector partnerships: better deployment of energy efficiency and low-emission technology; stronger national implementation of MEAs. Improved climate change adaptation (leading to lower economic, social and environmental risks) in ESA | Employment opportunities potentially created through the development of renewable energy. Necessary adoption of new agricultural techniques that integrate climate resilience Increased adoption of climate adaptation measures and policies may prevent negative social and human rights | Transition to use and production of renewable energy would require adaptation (and costs), and the development of adequate infrastructures and knowledge transfer. In turn, this could trigger economic growth and better employment conditions (and request for more skilled workers). Sustainable practices in agriculture, industry (especially | Major |

| Provision | Main economic sectors that could be affected | Possible environmental impacts | Possible social, gender and human rights impacts | Possible economic impacts | Potential importance |
|--|--|---|---|--|----------------------|
| | | countries, including via development cooperation. | impacts linked to climate change. Such measures are highly relevant to prevent the exacerbation of poverty in ESA countries particularly affected by climate change (e.g., Madagascar, Comoros). | energy) and service sectors could support more stable economic growth and help reducing poverty. | |
| Trade and biological diversity (including ratification and implementation of MEAs on biodiversity) | All economic sectors. Potentially stronger impacts for primary activities (agriculture, fisheries, forestry, mining) | Improved biodiversity, including via strengthened national legal frameworks and institutions, supporting the reinforced implementation of MEAs, and aided by EU development cooperation. Full compliance with targets for coverage of areas with protected status could lead to slowing or reversing deforestation and improved capacity for CO ₂ sequestration. | Implementation of MEAs on biodiversity may decrease poverty by improving the supply of, and access to, natural resources needed for the livelihood of local communities. In turn, this may have a positive impact on the right to an adequate standard of living. | Implementation of MEAs on biodiversity could lead to more sustainable agricultural practices and possible diversification of production. In turn, this can reduce the dependency on a few agricultural products, and support economic diversification. Potentially, this could lead to better working conditions and wages, and positively affect standards of living. Adjustment may entail costs) | Major |
| Trade and forests (including promotion of sustainable forest management and combatting illegal trade in forest products) | Forestry, agriculture, and energy | Improved biodiversity and forest health, including via strengthened national legal frameworks and institutions and EU-ESA FLEGT agreements, | This provision may have social and human rights effects, for example supporting communities in forest areas. Greater enforcement of forest management could also force | Initial adverse impact on local subsistence farmers practicing slash and burn agriculture, who would require accompanying measures to support the transition. | Minor |

| Provision | Main economic sectors that could be affected | Possible environmental impacts | Possible social, gender and human rights impacts | Possible economic impacts | Potential importance |
|---|--|--|--|--|----------------------|
| | | <p>supported by EU development cooperation.</p> <p>Slowing and potentially reversing deforestation and forest degradation.</p> | <p>change in agricultural techniques, particularly for subsistence farmers practicing slash and burn agriculture, and therefore influence their food supply.</p> <p>Greater coverage of protected areas could reduce the ability of rural households to use wood for household energy</p> <p>Sustainably managed forests and reduced illegal trade in forest products are likely to support the realisation of the right to food and decrease poverty.</p> | <p>In the longer term, better forest management could reinforce the development of sustainable agricultural practices.</p> <p>An indirect impact could be a greater demand for forms of energy other than wood in those countries where wood is used by rural citizens as the principal energy source.</p> | |
| The right of each Party to set its levels of domestic environmental protection, though these should be consistent with international treaties; weakening is discouraged | All economic sectors | This provision would allow Parties to set their levels of environmental protection, including increasing these levels without harm. The provision discourages but does not prevent Parties from reducing levels of environmental protection. The impact is not considered to be major, as MEAs will set minimum standards. | No potential social or human rights impacts identified. | Major impacts not expected | Minor |

| Provision | Main economic sectors that could be affected | Possible environmental impacts | Possible social, gender and human rights impacts | Possible economic impacts | Potential importance |
|--|--|---|---|--|----------------------|
| Use of the precautionary principle in addressing environmental risks | All economic sectors | Lower environmental risks due to ESA and EU policies based on the precautionary principle. This provision, like the one above, would allow Parties to set their levels of environmental protection. The impact is not expected to be major, as work to implement MEAs will be the main challenge. | The application of the precautionary principle may avoid potential negative impacts on the right to health and the right to a clean environment, though impacts are likely to be minor. | Impacts are expected to be minor. | Minor |
| Social, labour, gender and human rights provisions | | | | | |
| Multilateral Labour Standards and Agreements | All economic sectors | Improved monitoring of the sustainability of enterprises could contribute to identifying practices that have a negative environmental impact. | <p>All five ESA countries already ratified all fundamental ILO Conventions, though concluding ratification of other ILO Conventions – e.g., governance conventions and Labour Inspections (Agriculture) Convention (No.129, 1969) and Employment Policy (No.122, 1964¹³³) – will strengthen labour rights.</p> <p>The effective implementation of ILO standards and agreements could lead to major improvements across</p> | Changes in the production process and labour costs (likely to increase to absorb the new and enhanced requirements), possible change in the composition of the workforce (lower incidence of child and youth labour), possible changes in the weight of sectors in the economy | Major |

¹³³ This Convention obliges Member States to adopt an active policy to promote full, productive and freely chosen employment. Implementing this Convention may range from promoting job creation and improving job quality to more neoliberal approaches of improving workability of the population (e.g., skills acquisition, literacy education, vocational training) (MacNaughton, G., Frey, D., 2018, *Economic and Social Rights in a Neoliberal World*, Cambridge University Press).

| Provision | Main economic sectors that could be affected | Possible environmental impacts | Possible social, gender and human rights impacts | Possible economic impacts | Potential importance |
|---|--|--|--|---|----------------------|
| | | | economic sectors, especially regarding child labour, discrimination, violence and sexual harassment at the workplace, in-work poverty, OSH management, labour inspections and informal employment. | | |
| Reduction of the level of standards, waivers or sustained or recurring actions or inactions (derogating from labour law or its enforcement) to encourage trade or investment are not allowed. | All economic sectors | | This provision reinforces the previous one, and the impacts are identified there. | Same as above | Minor |
| Gender equality: affirming and promoting women's rights and gender equality | All economic sectors, in particular, agriculture and textile | <p>Women play a significant role in nature conservation in some countries.</p> <p>Improved environmental outcomes in sectors where women are strongly represented.</p> | Gender inequality and discrimination are significant issues in most ESA countries. Women are more likely to be affected by poverty. This provision is likely to have a significant positive impact on women's rights, gender equality, and poverty reduction in all ESA countries. | <p>Likely increase of women's share in paid employment, likely increases in job creation (and employment) for women, likely reduction of gender pay-gap.</p> <p>However, such possible effects can be sector-specific and can result in shifts in the workforce composition within industries, with men moving towards export-oriented (better paid jobs), and women remaining in subsistence jobs.</p> | Major |

| Provision | Main economic sectors that could be affected | Possible environmental impacts | Possible social, gender and human rights impacts | Possible economic impacts | Potential importance |
|---|--|--|---|--|----------------------|
| Cross-cutting measures | | | | | |
| Trade and Responsible Supply Chain Management | All economic sectors, and in particular agriculture, textile, mining, and fisheries. | <p>Implementation of CSR and RBC by enterprises (e.g., of the Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises, etc) – and where relevant, supported by new legislation and policies – can lead to more environmentally-conscious actions, including ESA enterprises EU investors in ESA countries.</p> <p>These actions could improve the environmental footprints of companies and reduce negative environmental impacts as well as improve natural resources management in fisheries, forestry and other sectorsf.</p> <p>Promotion of ecolabels and fair-trade labels (potentially supported by EU development cooperation and private sector partnerships) such as MSC could lead to more sustainable use of natural resources.</p> | <p>CSR/RBC and BHR initiatives by ESA and EU enterprises can prevent negative social and human rights impacts and may contribute to the realisation of human rights, in particular labour rights and the right to an adequate standard of living.</p> <p>It could prevent negative social and human rights impacts of companies operating and investing in ESA countries, or trading with ESA countries.</p> <p>Fair-trade labelled products could help to provide better working conditions for producers and offer an additional level of monitoring that human rights are respected.</p> | <p>While the design and implementation of CSR, RBC and BHR initiatives may lead to extra costs for companies and lower short-term profits, such initiatives have the potential for higher returns in the future and lower reputational risks.</p> <p>CSR, RBC and BHR laws and policies adopted by ESA countries may improve legal certainty and attract high quality investors.</p> <p>CSR, RBC and BHR initiatives could lead to more sustainable paths of economic growth, less dependent on only a few industries.</p> <p>Promotion of trade in sustainable products could support economic growth in ESA countries, as the market for fair trade products is expanding in the EU, and potentially support SMEs.</p> | Major |
| Civil society participation | All economic sectors | Improved capacity of civil society to monitor general and trade-related environmental impacts in ESA5 would lead to | Improved capacity of civil society to monitor general and trade-related social and human rights impacts in ESA5 | As an indirect impact, in combination with other provisions, this could lead to a better implementation of | Major |

| Provision | Main economic sectors that could be affected | Possible environmental impacts | Possible social, gender and human rights impacts | Possible economic impacts | Potential importance |
|------------------------------------|--|---|---|---|----------------------|
| | | better implementation and monitoring of laws on protected areas and species and sustainable practices in economic activity, with the result of better outcomes for biodiversity and reducing environmental degradation | could lead to improvements in these spheres. | sustainable practices, supporting sustainable patterns for economic growth. | |
| Transparency | All economic sectors | Transparency together with participation provisions could support better monitoring of implementation of environmental standards, including protection of terrestrial and marine habitats, with positive effects on the protection of biodiversity and prevention of environmental degradation. Improved governance and better implementation of environmental standards may also result. | Improved transparency together with participation could support better governance and better implementation of social and human rights. | Indirectly, transparency can lead to better knowledge, implementation and monitoring of environmental, social, gender and human rights provisions, and thus to a better implementation of sustainable practices, supporting sustainable patterns for economic growth. | Major |
| Dispute settlement mechanism (DSM) | All economic sectors Limited use so far The TSD chapter emphasises the setting-up of institutional structures and monitoring practices rather than the enforcement mechanisms. | The DSM could support the sustainable management of natural resources in areas of low carbon development, forestry, fisheries, biodiversity, including fighting illegal harvesting practices – when transparency and participation are problematic. | The DSM would support the promotion of ILO and other international standards and agreements, and thus potentially strengthening social, gender and human rights conditions. | Indirect impact ² : the setting-up of institutional structures and monitoring practices could lead to a more favourable business environment, more sustainable economic growth and increased regional integration | Minor |

Source: own compilation

Appendix III. Ratification of international conventions

The following tables provide an overview of the ESA countries' ratification of key international conventions. (Please note that these tables have also been provided an annex to the evaluation report.)

Table 7: Main multilateral agreements and international conventions on social, gender and human rights policy in ESA5 countries

| | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|--|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Labour Rights Conventions | ILO member since 23/10/1978 | ILO member since 01/11/1960 | ILO member since 05/05/1969 | ILO member since 25/04/1977 | ILO member since 06/06/1980 |
| Fundamental Conventions | | | | | |
| Convention concerning Freedom of Association and Protection of the Right to Organise, No 87 (1948) | 23/10/1978 | 01/11/1960 | 01/04/2005 | 06/02/1978 | 09/04/2003 |
| Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No 98 (1949) | 23/10/1978 | 03/06/1998 | 02/12/1969 | 04/10/1999 | 27/08/1998 |
| Convention concerning Forced or Compulsory Labour, No 29 (1930) | 23/10/1978 | 01/11/1960 | 02/12/1969 | 06/02/1978 | 27/08/1998 |
| Protocol to the Forced Labour Convention, No 29 (2014) | / | 11/06/2019 | / | / | 22/05/2019 |
| Convention concerning the Abolition of Forced Labour, No 105 (1957) | 23/10/1978 | 06/06/2007 | 02/12/1969 | 06/02/1978 | 27/08/1998 |
| Convention concerning Minimum Age for Admission to Employment, No 138 (1973) | 14/03/2004 | 31/05/2000 | 30/07/1990 | 07/03/2000 | 06/06/2000 |
| Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No 182 (1999) | 14/03/2004 | 04/10/2001 | 08/06/2000 | 28/09/1999 | 11/12/2000 |
| Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No 100 (1951) | 23/10/1978 | 10/08/1962 | 18/12/2002 | 23/11/1999 | 14/12/1989 |
| Convention concerning Discrimination in Respect of Employment and Occupation, No 111 (1958) | 14/03/2004 | 11/08/1961 | 18/12/2002 | 23/11/1999 | 23/06/1999 |

| | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|--|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| Governance Conventions | | | | | |
| Convention concerning Labour Inspection Convention, No 81 (1947) | 23/10/1978 | 21/12/1971 | 02/12/1969 | 28/10/2005 | 16/09/1993 |
| Protocol of 1995 to Convention No 81 | / | / | / | / | / |
| Convention concerning Employment Policy Convention, No 122 (1964) | 23/10/1978 | 21/11/1966 | / | / | / |
| Convention concerning Labour Inspection (Agriculture), No 129 (1969) | / | 21/12/1971 | / | / | 16/09/1993 |
| Convention concerning Tripartite Consultation (International Labour Standards), No 144 (1976) | 06/06/2014 | 22/04/1997 | 14/06/1994 | 28/10/2005 | 14/12/1989 |
| UN Human Rights Conventions | UN Member since 12/11/1975 | UN Member since 20/09/1960 | UN Member since 24/04/1968 | UN Member since 21/09/1976 | UN Member since 25/08/1980 |
| Convention on the Prevention and Punishment of the Crime of Genocide (1948) | 27/09/2004 | / | 08/07/2019 | 05/05/1992 | 13/05/1991 |
| International Convention on the Elimination of All Forms of Racial Discrimination (1965) | 27/09/2004 | 07/02/1969 | 30/05/1972 | 07/03/1978 | 13/05/1991 |
| International Covenant on Civil and Political Rights (1966) | Signed only (25/09/2008) | 21/06/1971 | 12/12/1973 | 05/05/1992 | 13/05/1991 |
| International Covenant on Economic Social and Cultural Rights (1966) | Signed only (25/09/2008) | 22/09/1971 | 12/12/1973 | 05/05/1992 | 13/05/1991 |
| Convention on the Elimination of All Forms of Discrimination Against Women (1979) | 31/10/1994 | 17/03/1989 | 9/07/1984 | 05/05/1992 | 13/05/1991 |
| Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984) | 25/05/2017 | 13/12/2005 | 09/12/1992 | 05/05/1992 | / |
| Convention on the Rights of the Child (1989) | 22/06/1993 | 19/03/1991 | 26/07/1990 | 07/09/1990 | 08/03/1990 |
| ICRMW International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) | Signed only (22/09/2000) | 13/05/2015 | / | 15/12/1994 | / |

| | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|--|-----------------------------|-----------------------------|------------|------------|------------|
| Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2002) | / | 21/09/2017 | 21/06/2005 | / | / |
| Convention on the Rights of Persons with Disabilities (2006) | 16/06/2016 | 12/06/2015 | 08/01/2010 | 02/10/2009 | 23/09/2013 |
| International Convention for the Protection of All Persons from Enforced Disappearance (2006) | Signed only (06/02/2007) | Signed only (06/02/2007) | / | 18/01/2017 | / |

Source: United Nations, ratification database: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en>; International Labour Organisation, 2020, Normlex database: <https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO>

Note: / neither ratified nor signed

Table 8: Ratification (or accession) of key international conventions on environment, including oceans and climate change

| | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|---|------------|------------|------------|------------|------------|
| Biodiversity | | | | | |
| Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973) | 21/02/1995 | 18/11/1975 | 27/07/1975 | 09/05/1977 | 17/08/1981 |
| Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora (1994) | / | / | / | / | / |
| Convention on Biological Diversity (1992) | 29/09/1994 | 04/03/1996 | 04/09/1992 | 22/09/1992 | 11/11/1994 |
| Cartagena Protocol on Biosafety (2000) | 25/03/2009 | 24/11/2003 | 11/04/2002 | 13/05/2004 | 25/02/2005 |
| Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) to the Convention on Biological Diversity (2010) | 28/05/2013 | 03/07/2014 | 17/12/2012 | 20/04/2012 | 01/09/2017 |
| Desertification | | | | | |
| UN Convention on Desertification (1994) | 03/03/1998 | 25/06/1997 | 23/01/1996 | 26/06/1997 | 23/09/1997 |
| Oceans and Fisheries | | | | | |
| International Convention for the Prevention of Pollution from Ships (MARPOL) (1973) | 22/02/2001 | 30/11/2005 | 06/07/1995 | 28/02/1991 | / |

| | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|---|--------------------------|----------------------------|----------------------------|----------------------------|------------|
| Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972) | / | / | / | 28/11/1984 | / |
| International Convention on Oil Pollution Preparedness, Response and Co-operation (1990) | 05/04/2000 | 20/08/2002 | 02/03/1999 | 13/05/1995 | / |
| United Nations Convention on the Law of the Sea (1982) | 21/06/1994 | 22/08/2001 | 04/11/1994 | 16/09/1991 | 24/02/1993 |
| Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995) | / | / | 25/03/1997 | 20/03/1998 | / |
| FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993) | / | 26/10/1994 (acceptance) | 27/03/2003 (acceptance) | 07/04/2000 (acceptance) | / |
| Agreement for the Establishment of the Indian Ocean Tuna Commission (1993) | 14/08/2001 | 10/01/1996 | 27/12/1994 | 26/07/1995 | / |
| Southern Indian Ocean Fisheries Agreement (2006) | Sign. only 07/07/2006 | Sign. only 04/10/2006 | 10/12/2010 | 05/11/2007 | / |
| FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) fishing (2009) | / | 27/03/2017 (accession) | 31/08/2015 (accession) | 19/06/2013 (accession) | / |
| The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (2009) | / | / | / | / | / |
| Waste and chemicals | | | | | |
| Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989) | 31/10/1994 | 02/06/1999 | 24/11/1992 | 11/05/1993 | 01/03/2012 |
| Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal [Ban amendments] (1995) | / | / | 09/11/2004 | 15/07/2015 | / |
| Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal (1999) | / | / | / | / | / |

| | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|--|------------|----------------------------|------------|----------------------------|------------|
| Amendments to Annexes II, VIII and IX to the Basel Convention [Plastic waste amendments] (2019) | 24/03/2020 | 24/03/2020 | 24/03/2020 | 24/03/2020 | 24/03/2020 |
| Bamako Convention on the Ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (1991) | 18/03/2004 | Sign. only (17/03/2004) | 29/10/1992 | / | 10/07/1992 |
| Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998) | / | 22/09/2004 | 05/08/2005 | Sign. only (11/09/1998) | 01/03/2012 |
| Stockholm Convention on Persistent Organic Pollutants (2001) | 23/02/2007 | 18/11/2005 | 13/07/2004 | 03/06/2008 | 01/03/2012 |
| Minamata Convention on Mercury (2013) | 23/07/2019 | 13/05/2015 | 21/09/2017 | 13/01/2015 | 29/12/2020 |
| Water | | | | | |
| Convention on the Law of the Non-navigational Uses of International Watercourses (1997) | n.a. | n.a. | n.a. | n.a. | / |
| Climate change and ozone layer | | | | | |
| Vienna Convention for the Protection of the Ozone Layer (1985) | 31/10/1994 | 07/11/1996 | 18/08/1992 | 06/01/1993 | 03/11/1992 |
| Montreal Protocol on Substances that Deplete the Ozone Layer (1987) | 31/10/1994 | 07/09/1996 | 18/08/1992 | 06/01/1993 | 03/11/1992 |
| Kigali Amendment to the Montreal Protocol (2016) | 16/11/2017 | / | 1/10/2019 | 20/08/2019 | / |
| The United Nations Framework Convention on Climate Change (1992) | 31/10/1994 | 02/06/1999 | 04/09/1992 | 22/09/1992 | 03/11/1992 |
| Kyoto Protocol to the United Nations (1997) | 10/04/2008 | 24/09/2003 | 09/05/2001 | 22/07/2002 | 30/06/2009 |
| Paris Agreement on Climate Change (2015) | 23/11/2016 | 21/09/2016 | 22/04/2016 | 29/04/2016 | 07/08/2017 |

Source: United Nations, ratification database: <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en>

Notes: / neither ratified nor signed

n.a. not applicable

Sign. only signature only (not ratified)

Comoros, Madagascar, Mauritius and Seychelles are also members of the Southwest Indian Ocean Fisheries Commission (SWIOFC), which “promotes the application of the provisions of the FAO Code of Conduct on Responsible Fisheries, including the precautionary approach and the ecosystem approach to fisheries management”¹³⁴. This Commission was established by Resolution 1/127 of the FAO Council, following a request in June 1999 by the former members of the Committee for the Development and Management of Fisheries Resources in the South-West Indian Ocean. Comoros, Madagascar, Mauritius and Seychelles were all part of that Committee.

FAO’s initiative on the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels is a tool to address illegal, unreported and unregulated fishing (IUU) initiative¹³⁵. The first Record was released in April 2017 following a pilot project involving 11 countries including Comoros, Mauritius and Seychelles (launched in December 2016). Seychelles is the only ESA country to have provided data regarding vessel details and ports¹³⁶

¹³⁴ FAO (2019) ‘Regional Fishery Bodies Summary Descriptions: Southwest Indian Ocean Fisheries Commission (SWIOFC)’, available at: <http://www.fao.org/fishery/rfb/swiofc/en>

¹³⁵ Committee on Fisheries (2018) ‘Combating illegal, unreported and unregulated (IUU) fishing’, available at: <http://www.fao.org/3/MX190EN/mx190en.pdf>

¹³⁶ FAO, ‘Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels’: <http://www.fao.org/global-record/tool/extended-search/en/>

Appendix IV. ESA and EU initiatives for CSR and RBC

Table 9: ESA and EU government initiatives on CSR and RBC

| Initiatives | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe | EU |
|--|--------------------------|---|--|--|--------------------------|---|
| FAO Code of Conduct for Responsible Fisheries | No initiative identified | <ul style="list-style-type: none"> - Adopted Rome Declaration¹³⁷ - Alignment of the objectives of Madagascar's Fishing and Aquaculture Code with FAO Code of Conduct for Responsible Fisheries (Act n° 2015-053) | <ul style="list-style-type: none"> - Adopted Rome Declaration | <ul style="list-style-type: none"> - Alignment of Seychelles Fishing Authority Strategic Plan 2018 – 2020 with FAO Code of Conduct for Responsible Fisheries | No initiative identified | Reference to FAO Code of Conduct for Responsible Fisheries in bilateral fisheries agreements |
| EITI | No membership | <ul style="list-style-type: none"> - Member since 2008 - In 2018, Madagascar had achieved “meaningful progress” in implementing the EITI standard. | No membership | <ul style="list-style-type: none"> - Member since 2014¹³⁸ - In 2018, Seychelles had achieved “meaningful progress” in implementing the EITI standard. | No membership | <ul style="list-style-type: none"> - Supporter since 2016¹³⁹ - Accounting Directive:¹⁴⁰ large companies involved in mining or logging must publish details of payments they make to governments |

¹³⁷ Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries.

¹³⁸ Seychelles currently has no production in the extractive sector, but international companies have undertaken petroleum exploration activities offshore.

¹³⁹ Countries supporting the EITI (Supporting Countries) are committed to help the EITI through financial, technical, and political support at the international level and in implementing the EITI Standard in resource-rich countries. See https://eiti.org/files/documents/supporting_country_constituency_guidelines_final.pdf

¹⁴⁰ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

| Initiatives | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe | EU |
|--|------------------------|--|------------------------|------------------------|------------------------|---|
| ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy | No specific engagement | No specific engagement | No specific engagement | No specific engagement | No specific engagement | Engaged in implementation of ILO Tripartite Declaration |
| OECD Due Diligence Guidance for Responsible Supply Chains of Minerals | Not adhering | Not adhering However, the Government encourages adherence to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals but has no similar domestic measures requiring supply chain due diligence. | Not adhering | Not adhering | Not adhering | EU Conflict Mineral Regulation: ¹⁴¹ EU importers of certain minerals must meet OECD Due Diligence Guidance standards |
| OECD Guidelines for MNEs | Not adhering | Not adhering | Not adhering | Not adhering | Not adhering | - Engaged in implementation of OECD Guidelines for MNEs - EC participates in OECD Investment Committee |

¹⁴¹ Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas.

| Initiatives | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe | EU |
|--|--|--|--|--|---|---|
| UNGPs | No NAP | No NAP | In the process of developing a NAP or has committed to developing one | No NAP | No NAP | - Endorsed the UNGPs - Called all MS to produce a NAP |
| Relevant national initiatives on CSR/RBC | No specific measures to encourage CSR or RBC | No specific measures to encourage CSR or RBC | <ul style="list-style-type: none"> - Every company registered in Mauritius must set up a CSR fund and contribute each year the equivalent of 2% of its taxable income from the previous year. - In 2019, companies were required to remit at least 75% of their CSR funds to tax authorities for the National Social Inclusion Foundation (NSIF). The NSIF must channel the money to NGO projects in the following priority areas: poverty alleviation, educational support, social housing, family protection, people with severe disabilities, and victims of substance abuse. - Mandatory contribution to social funds under Property Development Scheme and Smart City Scheme | <ul style="list-style-type: none"> - Since 2013, the Seychelles Revenue Commission has been collecting a CSR tax of 0.5 per cent on monthly turnover for businesses with an annual turnover of SCR 1 million or more. - The CSR tax revenues are distributed by the Ministry of Finance to NGOs. - Focus on programs linked to social needs: environment; health and society; community, youth, sports and arts; and drug rehabilitation and substance abuse. | <ul style="list-style-type: none"> - No specific measures to encourage CSR or RBC - No RBC policies or practices in public procurement. - The former Zimbabwe Mining Revenue Transparency Initiative produced limited results. | <ul style="list-style-type: none"> - Renewed EU Strategy 2011-2014 for Corporate Social Responsibility - EU Timber Regulation¹⁴²: operators importing timber must have a due diligence system in place - Non-Financial Reporting Directive¹⁴³ requires certain large companies to disclose relevant non-financial information (environmental matters; social and employee aspects; respect for human |

¹⁴² Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market

¹⁴³ Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups

| Initiatives | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe | EU |
|-------------|---------|------------|--|------------|----------|--|
| | | | - National Code of Corporate Governance for Mauritius (2016) | | | rights; anti-corruption and bribery issues) - On-going Sustainable Corporate Governance Initiative ¹⁴⁴ |

Sources: Economic Development Board Mauritius; EITI; EU; FAO; Mauritius NCCG; OECD; OHCHR; UN Global Compact; US Department of State

Table 10: Business initiatives on CSR and RBC in ESA countries

| Sector | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|--------------------|---|---|--------------|------------|---|
| General | - CSR charter to address child labour and labour conditions (OPACO) ¹⁴⁵ - CSR policy (Moroni Terminal) ¹⁴⁶ | | | | National Corporate Governance Code of Zimbabwe (ZimCode): ¹⁴⁷ a framework designed to guide Zimbabwean companies on RBC. |
| Agriculture | | Vanilla - Implementation of 10-year CSR project | Sugar | | Tobacco |

¹⁴⁴ See <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance>

¹⁴⁵ OPACO, 'CHARTRE DE RESPONSABILITE SOCIALE DE L'ENTREPRISE (RSE)', available at: <http://www.ilo.org/ipeinfo/product/download.do?type=document&id=18436>, accessed 26/01/2021

¹⁴⁶ Hazi Comores, '« Nous sommes la première agence d'intérim des Comores »- Kamal Abdallah (HAZI COMORES) – Interview', available at: <https://hazicomores.com/opinion/2019/07/03/interview-du-directeur-g%C3%A9n%C3%A9ral-de-hazi-comores-mr-kamal-abdallah/>, accessed 26/01/2021

¹⁴⁷ The Institute of Directors Zimbabwe and the Zimbabwe Leadership Forum and Standards Association of Zimbabwe Institute partnered in 2009 to develop a national code. See <https://www.carrotsandsticks.net/reporting-instruments/national-code-on-corporate-governance/>

| Sector | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|------------------|---------|--|--|---|---|
| | | (Livelihoods Fund for Family Farming) ¹⁴⁸ - Fair trade cooperatives (Vanilla County) ¹⁴⁹ | - CSR Statement (Mauritius Sugar Industry) ¹⁵⁰ - Sustainability Report (Terra Foundation) ¹⁵¹ | | - CSR programmes (Aqua Tobacco Zimbabwe) ¹⁵² Sugar - CSR policies (Starafricacorporation) ¹⁵³ Crops - Tree planting programmes, donations to schools and hospitals (Seed Co) ¹⁵⁴ |
| Fisheries | | - Supporting neighbouring communities, environmental programmes (Unima) - Two Aquaculture Stewardship Council (ASC)-certified fisheries | - On-going certification of a fishery by the Marine Stewardship Council (MSC) | - On-going certification of a fishery by the Marine Stewardship Council (MSC) | |

¹⁴⁸ Livelihoods Funds, MADAGASCAR: a resilient vanilla supply chain with farmers: <https://livelihoods.eu/portfolio/madagascar-a-resilient-vanilla-supply-chain-with-farmers/>

¹⁴⁹ Vanilla County, CSR – A Sustainable Symbiotic Relationship: <https://vanillacounty.com/gallery/csr>

¹⁵⁰ Mauritius Sugar, CSR statement of the Mauritius Sugar Industry: <http://www.mauritiussugar.mu/index.php/en/CSR/csr.html>

¹⁵¹ Terra Mauricia Ltd, Annual Report 2019: https://www.terra.co.mu/wp-content/uploads/2020/10/annual_report_2019.pdf

¹⁵² Aqua Tobacco Zimbabwe, About the Company: <http://atz.co.zw/about/>

¹⁵³ Starafricacorporation, Social Responsibility: <http://www.starafricacorporation.com/social-responsibility/>

¹⁵⁴ Seed Co, Corporate Social Responsibility: <https://www.seedcogroup.com/zw/about-us/corporate-social-responsibility>

| Sector | Comoros | Madagascar | Mauritius | Seychelles | Zimbabwe |
|-------------------|----------------|--|---|-------------------------|---|
| Mining | | <ul style="list-style-type: none"> - Sustainability reporting, community investment, land agreements (Rio Tinto)¹⁵⁵ - Sustainability reporting (Ambatovy)¹⁵⁶ | | | <ul style="list-style-type: none"> - CSR initiatives, project donations (Zimplats)¹⁵⁷ |
| Textiles | | <ul style="list-style-type: none"> - Certification (Akanjo,¹⁵⁸ Epsilon)¹⁵⁹ | <ul style="list-style-type: none"> - Certification (Compagnie Mauricienne de Textile Ltée)¹⁶⁰ | | |
| UN Global Compact | No participant | 4 business participants | 25 business participants | 3 business participants | 12 business participants |

Source: own compilation from different governmental and other sources

¹⁵⁵ PACT Madagascar, Rio Tinto Scholarship's for Education Program: https://www.pact-madagascar.org/?page_id=424

¹⁵⁶ Ambatovy, Compensation: <https://www.ambatovy.com/ambatovy-html/docs/index.html%3Fp=421.html>

¹⁵⁷ Zimplats, Social Investments 2018: <https://www.zimplats.com/social-investments-2018/>

¹⁵⁸ Le Mag, Textiles with Ethical Labelling in Madagascar: <https://lemagcertification.afnor.org/en/textiles-with-ethical-labelling-in-madagascar/>

¹⁵⁹ Epsilon, CSR: <https://www.epsilon-mada.com/en/csr/>

¹⁶⁰ Compagnie Mauricienne de de Textile Ltée, Corporate Social Responsibility: <http://www.cmt.mu/corporate-social-responsibility/>

Appendix V. Overview of the strengths, weaknesses, opportunities and threats of the key provisions

Better implementation of multilateral environmental agreements

The table below provides a brief overview of key potential strengths and weaknesses related to the draft provisions on MEAs, climate and biodiversity in the proposed TSD Chapter.

Table 11: Better implementation of MEAs, climate and biodiversity – potential strengths and weaknesses

| Strengths | Weaknesses |
|--|--|
| <ul style="list-style-type: none"> The majority of key MEAs have been ratified by the ESA countries and key legal and policy actions have been undertaken. Sharing of technological expertise from the EU can accelerate the development of climate solutions in ESA5 countries The text can lay the basis for strong cooperation on environment and climate, including in areas related to trade and investment. | <ul style="list-style-type: none"> Insufficient institutional capacity in some ESA countries could limit the ability to implement MEAs effectively The text does not explicitly call for monitoring of policy actions or of results related to trade, investment and environment, including climate and biodiversity |

Source: Own compilation

The table below provides a brief overview of external opportunities and threats that could affect the implementation of the draft provisions.

Table 12: Better implementation of MEAs, climate and biodiversity – potential opportunities and threats

| Opportunities | Threats |
|--|---|
| <ul style="list-style-type: none"> Actions to better implement MEAs can help to improve livelihoods, climate resilience and food security. Both the EU and the ESA countries are engaged in international processes such as REDD+ that can reinforce actions under the agreement | <ul style="list-style-type: none"> Immediate economic needs could draw attention away from environmental and climate needs Illegal wildlife trade is stimulated by demand outside of the countries of origin and is maintained by international supply chains, so tackling this requires support and cooperation from other countries and work in international fora. |

Source: Own compilation

Multilateral labour standards and agreements

The table below provides a brief overview of key potential strengths and weaknesses related to the draft provisions on multilateral labour standards and agreements in the proposed TSD Chapter.

Table 13: Better implementation of multilateral labour standards and agreements – potential strengths and weaknesses

| Strengths | Weaknesses |
|--|---|
| <ul style="list-style-type: none"> The five ESA countries have already ratified a high number of ILO Conventions Provisions on gender and CSR/RBC can reinforce this proposed Article. | <ul style="list-style-type: none"> Insufficient institutional capacity, for example for labour inspections, could hinder implementation While ESA countries have developed their legal and policy frameworks, further actions are needed to implement ILO Conventions The proposed article refers to information exchange on the ratification of ILO Conventions but does not call for information exchange or monitoring for their implementation |

Source: Own compilation

The following table provides an overview of possible external opportunities and threats for the provisions.

Table 14: Better implementation of multilateral labour standards and agreements – potential opportunities and threats

| Opportunities | Threats |
|---|---|
| <ul style="list-style-type: none"> Synergies with work by ILO, other UN agencies and by bilateral development programmes could be strengthened | <ul style="list-style-type: none"> Concerns over costs could lead some enterprises to avoid compliance with stronger labour provisions. Implementation of labour standards in the informal sector may be difficult. |

Source: Own compilation

Gender equality

The table below provides a brief overview of key potential strengths and weaknesses related to the draft provisions on gender equality in the proposed TSD Chapter.

Table 15: Promotion of gender equality – potential strengths and weaknesses

| Strengths | Weaknesses |
|---|---|
| <ul style="list-style-type: none"> Though the baseline varies, all five ESA governments have already undertaken policy and legal actions on gender equality ESA countries have made progress in some areas of gender equality, and these provide a basis for further steps. The UN has a clear framework – including ILO Conventions, CEDAW and the Beijing Declaration and Platform – that is cited in the draft article and that provides a structure for legal and policy work in ESA countries Actions to address gender equality, including in the workforce and education, can support economic and human development EU development cooperation has provided support for gender equality, and strengthening this work would provide a mechanism for the Parties, together with civil society, to work on key gender equality issues | <ul style="list-style-type: none"> The draft article on gender equality does not specify legal or policy actions to be taken in detail, nor steps to be taken in cases of non-compliance A clear monitoring mechanism is not set out in the draft article, so progress in implementation may be difficult to track The draft article does not mention vulnerable categories of women workers (e.g., migrant workers), so potential measures may not be adapted to the reality of the workplace While other articles of the proposed text refer to both trade and investment, this draft article does not mention investment, which is an important element for deepening the EPA. |

Source: Own compilation

The table below provides a brief overview of possible opportunities and threats.

Table 16: Promotion of gender equality – potential opportunities and threats

| Opportunities | Threats |
|--|--|
| <ul style="list-style-type: none"> There are potential synergies with development cooperation from the EU Member States and other donors There are potential synergies with work by multilateral organisations, including ILO as well as work under the Beijing Declaration and Platform The private sector, including external investors, can support gender equality, including via CSR/RBC | <ul style="list-style-type: none"> Limitations in institutional capacities could slow progress in some ESA countries In countries where a large share of women work in the informal sector, it may be difficult to ensure workplace actions for gender equality, such as those on wage equality, are taken It may be difficult to eliminate discriminatory gender stereotypes and attitudes regarding the role of women and girls in society, as a result of the cultural nature of gender discrimination |

Source: Own compilation

Responsible supply chain management

The table below provides a brief overview of potential strengths and weaknesses related to the draft provisions on responsible supply chain management in the proposed TSD Chapter.

Table 17: Promotion of responsible supply chain management – potential strengths and weaknesses

| Strengths | Weaknesses |
|---|--|
| <ul style="list-style-type: none"> The Articles refer to UN and OECD work on CSR/RBC: for key sectors in ESA countries, CSR-RBC instruments and guidance are available for companies | <ul style="list-style-type: none"> Low interest in CSR-RBC on the part of some ESA governments and businesses Lack of resources to implement CSR-RBC initiatives in ESA SMEs |

Source: Own compilation

The table below provides a brief overview of possible opportunities and threats.

Table 18: Promotion of responsible supply chain management – potential opportunities and threats

| Opportunities | Threats |
|--|--|
| <ul style="list-style-type: none"> EU governments and businesses can bring experience and knowledge in CSR-RBC Partnerships with international organisations (e.g., OECD, UNWG) can support CSR/RBC activities | <ul style="list-style-type: none"> The increasing number of CSR-RBC instruments can produce CSR-RBC fatigue amongst companies; companies may be lost as to which instruments to choose; potential conflicts amongst CSR-RBC initiatives |

Source: Own compilation

Transparency and civil society participation

The table below provides a brief overview of potential strengths and weaknesses related to the draft provisions on transparency and civil society participation in the proposed TSD Chapter.

Table 19: Greater transparency and greater civil society participation – potential strengths and weaknesses

| Strengths | Weaknesses |
|--|---|
| <ul style="list-style-type: none"> ▪ Though at different levels, all ESA5 countries have seen improvements in civil society participation in recent years | <ul style="list-style-type: none"> ▪ Currently, awareness about the interim EPA and the negotiations for the EPA is very limited, |
| <ul style="list-style-type: none"> ▪ The need for better participation of civil society had already been highlighted during recent EESC consultations | <ul style="list-style-type: none"> ▪ There have been calls for greater civil society involvement in EPA negotiations, indicating that this is valuable for support and legitimacy of the agreement |
| <ul style="list-style-type: none"> ▪ Recent FTAs provide lessons learnt on design and implementation of transparency and civil society participation provisions | <ul style="list-style-type: none"> ▪ In ESA5 countries many organisations lack coordination and/or compete for limited resources (when they are not openly discouraged from operating by hostile governments) ▪ Civil society organisations in ESA5 can rarely count on a stable environment and support, including the availability of funding |

Source: Own compilation

The table below provides a brief overview of possible external opportunities and strengths related to these provisions.

Table 20: Greater transparency and greater civil society participation – potential opportunities and strengths

| Opportunities | Threats |
|---|---|
| <ul style="list-style-type: none"> ▪ There are potential synergies with EU development cooperation programmes and initiatives | <ul style="list-style-type: none"> ▪ The general lack of resources (and stable funding sources) for civil society organisations in most of the ESA5 countries pose a threat to the continuity of their work. ▪ External factors (e.g., natural disaster, COVID-19 pandemic) can further reduce the resources and role of civil society organisations in the policy process. |
| <ul style="list-style-type: none"> ▪ The support to civil society organisations in ESA5 countries could come also from the EU, via development cooperation initiatives. It would be valuable for EU development cooperation to continue supporting civil society in the ESA countries, although this is not explicitly set out in Annex IV of the Agreement (examples have | <ul style="list-style-type: none"> ▪ Political instability in some ESA5 countries can delay or hinder progress achieved over time. |

| Opportunities | Threats |
|--|---------|
| <p>been identified in the evaluation of the interim EPA).</p> | |
| <ul style="list-style-type: none"> There are potential synergies with CSR initiatives. The EPA could encourage CSR initiatives that strengthen the role and legitimacy of civil society organisations in the policy process, directly involving them in monitoring the implementation of the EPA. | |
| <ul style="list-style-type: none"> There are potential synergies with work by multilateral organisations, including UN agencies. | |

Source: Own compilation

Appendix VI. Overview of potential impacts on the SDGs

Table 21: Potential results of the TSD Chapter in terms of the SDGs

| SDG | Examples of provisions (from TSD draft)... | ...and their potential effects on the SDGs (from our analysis) | Potential scale of impact |
|--|--|---|---------------------------|
| 1. End poverty in all its forms everywhere | <ul style="list-style-type: none"> Countries will take urgent action to combat climate change Parties shall promote through laws and practices decent working conditions for all, with regard to, <i>inter alia</i>, social protection | <ul style="list-style-type: none"> Urgent action to build the resilience of those vulnerable to climate change will respond to Target 1.5 on the resilience of poor to climate-related extreme events. Promotion of social protection responds to Target 1.3 on implementation of nationally appropriate social protection systems. | + |
| 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture | <ul style="list-style-type: none"> Countries will effectively implement MEAs (Article X.4) Countries will take urgent action to combat climate change | <ul style="list-style-type: none"> Effective implementation of the CBD Nagoya Protocol ensures benefit sharing of natural resources, which (if implemented in ways to support local people) can help small-scale food producers to have access to land. Urgent action to combat climate change includes climate adaptation techniques in agriculture, which will help to improve food security. | + |
| 3. Ensure healthy lives and promote well-being for all at all ages | <ul style="list-style-type: none"> Countries will effectively implement MEAs (Article X.4) Parties shall take measures to promote CSR and RBC and support their uptake throughout global supply chains (Article X.9). | <ul style="list-style-type: none"> Full implementation of MEAs targeting the reduction of hazardous chemicals and in use of fossil fuels should contribute to Target 3.9 of reducing health impacts from hazardous chemicals and air, water and soil pollution. Examples of existing CSR initiatives in ESA5 countries include funding of projects to improve healthcare facilities. | + |
| 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all | <ul style="list-style-type: none"> Parties shall take measures to promote CSR and RBC and support their uptake throughout global supply chains (Article X.9). | <ul style="list-style-type: none"> Examples of existing CSR initiatives in ESA5 countries include funding of projects to improve education facilities. | + |
| 5. Achieve gender equality and empower all women and girls | <ul style="list-style-type: none"> Article X.10new on Trade and gender equality Parties shall effectively implement obligations under international agreements promoting gender equality or | <ul style="list-style-type: none"> Introduction of legal and policy frameworks that integrate relevant international agreements on women's rights will | ++ |

| SDG | Examples of provisions (from TSD draft)... | ...and their potential effects on the SDGs (from our analysis) | Potential scale of impact |
|--|---|---|---------------------------|
| | <p>women's rights, including ILO labour standards on elimination of employment discrimination.</p> <ul style="list-style-type: none"> Parties shall improve domestic laws and policies to promote gender equality Parties shall strengthen cooperation to ensure that benefits of trade under the EPA can be accessed by women. | <p>support and further uptake of gender equality and empowerment of women.</p> <ul style="list-style-type: none"> Ensuring benefit sharing of the trade agreement will work to counter potential economic discrimination and responds to target 5.a of ensuring women have equal rights to economic resources. | |
| 6. Ensure availability and sustainable management of water and sanitation for all | <ul style="list-style-type: none"> Countries will effectively implement MEAs Parties shall take measures to promote CSR and RBC and support their uptake throughout global supply chains (Article X.9). | <ul style="list-style-type: none"> Full implementation of MEAs targeting reduction of hazardous chemicals should contribute to Target 6.3 of improving water quality. Implementation of MEAs reducing deforestation and improving climate resilience will help to respond to Target 6.4 ensuring sustainable supplies of freshwater and 6.6 on protection and restoration of water-related ecosystems. Examples of existing CSR initiatives in ESA5 countries include funding of projects to improve water and sanitation facilities. | + |
| 7. Ensure access to affordable, reliable, sustainable and modern energy for all | <ul style="list-style-type: none"> Article X.5 on trade and climate change Countries will effectively implement MEAs (Article X.4) Cooperation in the promotion of renewable energy and low-carbon technologies | <ul style="list-style-type: none"> Implementation of the Paris climate agreement will impact the share of clean energy. Stricter enforcement of protected forest area could be linked to changes in energy use for homes that rely on wood for fuel. Cooperation in the promotion of renewable energy will help to develop renewable energy sources in ESA5 countries, responding to Target 7.2 of increasing the share of renewable energy in energy mix; Target 7a on enhancing cooperation to facilitate access to clean energy research and technology; and Target 7b on expanding infrastructure and technology for supplying sustainable energy services for small island developing States. | ++ |
| 8. Promote sustainable, inclusive and sustainable economic growth, full | <ul style="list-style-type: none"> Trade should be promoted in a way that is conducive to decent work for all (X.3) | <ul style="list-style-type: none"> Reinforcement of implementation of core labour standards will respond to Target 8.5 on decent work for all, Target 8.7 on eliminating forced labour and child labour and Target 8.8 on protection of labour rights. | ++ |

| SDG | Examples of provisions (from TSD draft)... | ...and their potential effects on the SDGs (from our analysis) | Potential scale of impact |
|---|--|--|---------------------------|
| and productive employment and decent work for all | <ul style="list-style-type: none"> Four core labour standards should be implemented and promoted: freedom of association, elimination of employment discrimination, forced labour and child labour Parties should implement the ILO Decent Work Agenda Parties should promote uptake of OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas Parties shall promote trade in goods and services beneficial to the environment or contributing to enhanced social conditions | | |
| 9. Build resilient infrastructure, promote inclusive and sustainable Industrialization and foster innovation | <ul style="list-style-type: none"> Cooperation in the promotion of renewable energy and low-carbon technologies (Article X.5) Parties shall take measures to promote CSR and RBC and support their uptake (Article X.9) | <ul style="list-style-type: none"> The impact of this should be a greater use of sustainable technology in industry, in line with Target 9.4 on adoption of clean and environmentally sound industrial processes. Promotion of CSR and RBC should encourage more sustainable business practices, responding to Target 9.2 on inclusive and sustainable industrialisation. | + |
| 10. Reduce inequalities within and among countries | <ul style="list-style-type: none"> Parties shall improve domestic laws and policies to promote gender equality (Article X.10new) Parties shall promote through laws and practices decent working conditions for all (Article X.3) Parties shall take measures to promote CSR and RBC and support their uptake (Article X.9) | <ul style="list-style-type: none"> Elimination of discriminatory laws and empowerment of all responds to Target 10.2 on social, economic and political inclusion of all and Target 10.3 on equal opportunities for all. Promotion of decent working conditions for all will help to create reduce inequalities, as in Target 10.4 on adopting wage and social protection policies to achieve greater equality. Greater uptake of CSR and RBC could help to address employment discrimination. | ++ |
| 11. Make cities and human settlements inclusive, safe, resilient and sustainable | <ul style="list-style-type: none"> Countries will take urgent action to combat climate change (Article X.5) Countries will effectively implement MEAs (Article X.4) | <ul style="list-style-type: none"> Climate adaptation actions will help to increase the resilience of communities to climate-related disasters, in line with Target 11.5 and 11.b on protecting the vulnerable from disasters, including through climate adaptation. Better management of waste exports and imports could help to decrease pollution around habitations, as in Target 11.6. | + |

| SDG | Examples of provisions (from TSD draft)... | ...and their potential effects on the SDGs (from our analysis) | Potential scale of impact |
|--|--|---|---------------------------|
| 12. Ensure sustainable consumption and production patterns | <ul style="list-style-type: none"> ▪ Countries will effectively implement MEAs (Article X.4) ▪ Parties shall take measures to promote CSR and RBC and support their uptake (Article X.9) ▪ Greater cooperation between Parties in sustainable production and consumption (Article X.4) ▪ Parties shall promote trade in goods and services beneficial to the environment or contributing to enhanced social conditions (X.9) | <ul style="list-style-type: none"> ▪ Implementation of MEAs will assist countries in managing natural resources more sustainably, as in Target 12.2. ▪ Implementation of MEAs regarding hazardous materials and waste should minimise their impact on the environment and human health, responding to Target 12.4. ▪ Promotion of CSR and RBC responds to Target 12.6 on encouraging large and transnational companies to adopt sustainable practices. ▪ Cooperation and technology transfer responds to Target 12.b regarding support for developing countries shift towards more sustainable consumption and production. ▪ Promotion of goods and services beneficial to the environment could encourage reuse of materials in line with Target 12.5 on reduction of waste generation through recycling and reuse. | ++ |
| 13. Take urgent action to combat climate change and its impacts | <ul style="list-style-type: none"> ▪ Countries will take urgent action to combat climate change (Article X.5) ▪ Countries will effectively implement MEAs (Article X.4) ▪ Removal of obstacles to trade and investment relevant to climate adaptation and mitigation (X.5) ▪ Reduction in ozone depleting substances and hydrofluorocarbons under the Montreal Protocol (X.5) | <ul style="list-style-type: none"> ▪ Action on climate change, including integration of measures into policies and strategies, responds directly to this SDG. ▪ Effective implementation of MEAs including the Paris Agreement and Montreal Protocol will contribute to reducing countries' impact on the climate. ▪ Removal of obstacles to trade and investment can contribute to raising capacity for effective climate change planning in management in small island developing States, as in Target 13.b | ++ |
| 14. Conserve and sustainable use the oceans, seas, and marine resources for sustainable development | <ul style="list-style-type: none"> ▪ Countries will effectively implement MEAs (Article X.4) ▪ The Parties recognise the importance of conserving and sustainably managing marine biological resources and marine ecosystems (Article X.8) ▪ Parties confirm need to take action to end illegal, unreported and unregulated fishing (Article X.8) ▪ Parties engage to conserve biodiversity affected by trade (X.6) | <ul style="list-style-type: none"> ▪ Effective implementation of MEAs, including those related to biodiversity and marine protection, will contribute to conservation of marine life and sustainable use of oceans. ▪ In particular, Target 14.4 on ending overfishing and illegal fishing; Target 14.5 on conservation of coastal and marine areas. | ++ |

| SDG | Examples of provisions (from TSD draft)... | ...and their potential effects on the SDGs (from our analysis) | Potential scale of impact |
|---|--|---|---------------------------|
| | <ul style="list-style-type: none"> Parties shall promote trade in goods and services beneficial to the environment or contributing to enhanced social conditions (X.9) | | |
| 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss | <ul style="list-style-type: none"> Countries will effectively implement MEAs (Article X.4) Parties engage to conserve biodiversity affected by trade (X.6) Parties shall promote trade in goods and services beneficial to the environment or contributing to enhanced social conditions (X.9) | <ul style="list-style-type: none"> Implementation of MEAs will contribute to most of the specific targets for this SDG. Specifically, the CBD in particular will contribute to conservation, restoration and sustainable use of a range of ecosystems and services. It will also reduce deforestation and contribute to afforestation. Implementation of MEAs will contribute to halting loss of biodiversity, including by ending poaching and trafficking and the illegal trade in wildlife. Other impacts include increased benefit sharing of genetic resources; fighting invasive alien species; integration of biodiversity concerns into national planning. | ++ |
| 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels | <ul style="list-style-type: none"> Parties should set up a civil society mechanism. Parties shall act with transparency in trade measures that affect protection of the environment and labour conditions, or vice versa, ensuring awareness and providing reasonable opportunity for stakeholders to submit views | <ul style="list-style-type: none"> Opportunities for civil society to participate in decision making and access justice corresponds to Target 16.3 on equal access to justice for all and Target 16.7 on inclusive and representative decision-making at all levels. | + |
| 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development | <ul style="list-style-type: none"> Cooperation in the promotion of renewable energy and low-carbon technologies (Article X.5) The Parties reaffirm the right of each Party to adopt or maintain measures to further the objectives of MEAs to which it is a party. | <ul style="list-style-type: none"> Development cooperation on low-carbon technologies would be in line with Target 17.6 on enhanced knowledge sharing; and Target 17.7 on promoting transfer of environmentally-sound technologies to developing countries. | ++ |

| SDG | Examples of provisions (from TSD draft)... | ...and their potential effects on the SDGs (from our analysis) | Potential scale of impact |
|-----|--|--|---------------------------|
| | <ul style="list-style-type: none"> Parties are encouraged to cooperate on trade-related aspects of labour policies, environment, climate, biodiversity, forests, fisheries and gender equality. | <ul style="list-style-type: none"> Reaffirming the right of each Party to establish and implement policies on sustainable development is in line with Target 17.15. Cooperation on a range of sustainable development-related goals responds to Target 17.9 on international support for capacity of developing countries to implement SDGs. | |

Source: Own compilation

Based on this analysis, the TSD Chapter is likely to have stronger results in terms of the following SDGs (presented using their commonly used short titles):

- SDG5 on gender equality
- SDG7 on affordable and clean energy
- SDG8 on decent work and economic growth
- SDG10 on reduced inequalities
- SDG12 on responsible consumption and production
- SDG13 on climate action
- SDG14 on life below water
- SDG15 on life on land
- SDG17 on partnerships for the goals