

**PROTOCOL AMENDING THE FREE TRADE AGREEMENT BETWEEN THE
EFTA STATES AND THE REPUBLIC OF SERBIA**

Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation (hereinafter referred to as “the EFTA States”), on the one part,

and the Republic of Serbia (hereinafter referred to as “Serbia”), on the other,

hereinafter each individual State referred to as a “Party” or collectively referred to as the “Parties”:

Having regard to the Free Trade Agreement between the EFTA States and the Republic of Serbia, signed in Geneva on 17 December 2009, hereinafter referred to as “the Agreement”,

Having regard to their commitment to pursue the objective of sustainable development and recognising the importance of coherence and mutual supportiveness of trade, environment and labour policies in this respect,

Having regard to discussions at the first meeting of the EFTA-Serbia Joint Committee held in Geneva on 25 October 2012, as well as subsequent exchanges, on the addition of a chapter on trade and sustainable development to the Agreement,

Having regard to Article 40 of the Agreement,

AGREE TO THE FOLLOWING AMENDMENTS TO THE AGREEMENT:

Article 1

The following text shall replace the PREAMBLE of the Agreement in its entirety:

“PREAMBLE

Iceland, the Principality of Liechtenstein, the Kingdom of Norway, the Swiss Confederation (hereinafter referred to as “the EFTA States”), on the one part,

and the Republic of Serbia (hereinafter referred to as “Serbia”), on the other,

hereinafter each individual State referred to as a “Party” or collectively referred to as the “Parties”:

RECOGNISING the common wish to strengthen the links between the EFTA States on the one part and Serbia on the other by establishing close and lasting relations;

RECALLING their intention to participate actively in the process of Euro-Mediterranean economic integration and expressing their preparedness to co-operate in seeking ways and means to strengthen this process;

REAFFIRMING their commitment to democracy, human rights and fundamental freedoms, and to the political and economic freedoms, in accordance with their obligations under international law, including the United Nations Charter and the Universal Declaration of Human Rights;

REAFFIRMING their commitment to pursue the objective of sustainable development and recognising the importance of coherence and mutual supportiveness of trade, environment and labour policies in this respect;

REAFFIRMING their rights and obligations under multilateral environmental agreements to which they are a party and the respect for the fundamental rights of workers, including the principles set out in the relevant International Labour Organisation (ILO) Conventions to which they are a party;

AIMING to create new employment opportunities and improve health and living standards, along with high levels of protection of health and safety and of the environment in their respective territories;

DESIRING to create favourable conditions for the development and diversification of trade between them and for the promotion of commercial and economic co-operation in areas of common interest on the basis of equality, mutual benefit, non-discrimination and international law;

DETERMINED to promote and further strengthen the multilateral trading system, building on their respective rights and obligations under the Marrakesh Agreement establishing the World Trade Organisation (hereinafter referred to as “the WTO”) and the other agreements negotiated thereunder, thereby contributing to the harmonious development and expansion of world trade;

CONSIDERING that no provision of this Agreement may be interpreted as exempting the Parties from their obligations under other international agreements, especially the Marrakesh Agreement establishing the WTO and the other agreements negotiated thereunder;

DETERMINED to implement this Agreement with the objectives to preserve and protect the environment through environmentally sound management and to ensure the optimal use of the world’s resources in accordance with the objective of sustainable development;

AFFIRMING their commitment to the rule of law, to prevent and combat corruption in international trade and investment and to promote the principles of transparency and good governance;

ACKNOWLEDGING the significance of responsible corporate conduct and its contribution to sustainable economic development and affirming their support to efforts for the promotion of relevant international standards;

DECLARING their readiness to examine the possibility of developing and deepening their economic relations in order to extend them to fields not covered by this Agreement;

CONVINCED that this Agreement will enhance the competitiveness of their firms in global markets and create conditions encouraging economic, trade and investment relations between them;

ACKNOWLEDGING the importance of good corporate governance and corporate social responsibility for sustainable development, and affirming their aim to encourage enterprises to observe, internationally recognised guidelines and principles in this respect, such as the OECD Guidelines for Multinational Enterprises, the OECD Principles of Corporate Governance and the UN Global Compact;

HAVE DECIDED, in pursuit of the above, to conclude the following Agreement (hereinafter referred to as “this Agreement”):”.

Article 2

Paragraph 1 of Article 1 “Objectives” of the Agreement shall be replaced in its entirety by the following new wording:

“1. The EFTA States and Serbia shall establish a free trade area by means of this Agreement and the complementary agreements on trade in agricultural products, concurrently concluded between each individual EFTA State and Serbia, with a view to spurring prosperity and sustainable development in their territories.”

Subparagraph 2 (e) of Article 1 “Objectives” of the Agreement shall be replaced by subparagraph 2 (f) of the same Article with the following wording:

“(f) to contribute in this way to the harmonious development and expansion of world trade.”

Subparagraph (e), shall be added to paragraph 2 of Article 1 “Objectives” of the Agreement, with the following wording:

“(e) to develop international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Parties’ trade relationship; and”.

Article 3

After Article 31, a new CHAPTER 6 with the title “Trade and Sustainable Development” containing Articles 32 - 41 shall be added to the Agreement, with the following text:

“CHAPTER 6

TRADE AND SUSTAINABLE DEVELOPMENT

ARTICLE 32

Context and Objectives

1. The Parties recall the Stockholm Declaration on the Human Environment of 1972, the Rio Declaration on Environment and Development of 1992, Agenda 21 on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Rio+20 Outcome Document “*The Future We Want*” of 2012, the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998, the Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work of 2006 and the ILO Declaration on Social Justice for a Fair Globalization of 2008.
2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually supportive components of sustainable development. They underline the benefit of cooperation on trade-related labour and environmental issues as part of a global approach to trade and sustainable development.
3. The Parties reaffirm their commitment to promote the development of international trade in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in the Parties’ trade relationship.

ARTICLE 33

Scope

Except as otherwise provided in this Chapter, this Chapter applies to measures adopted or maintained by the Parties affecting trade-related and investment-related aspects of labour¹ and environmental issues.

¹ When labour is referred to in this Chapter, it includes the issues relevant to the Decent Work Agenda as agreed on in the ILO.

ARTICLE 34

Right to Regulate and Levels of Protection

1. Recognising the right of each Party, subject to the provisions of this Agreement, to establish its own level of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, each Party shall seek to ensure that its laws, policies and practices provide for and encourage high levels of environmental and labour protection, consistent with standards, principles and agreements referred to in Articles 36 and 37 and shall strive to further improve the level of protection provided for in those laws and policies.
2. The Parties recognise the importance, when preparing and implementing measures related to the environment and labour conditions that affect trade and investment between them, of taking account of scientific, technical and other information, and relevant international standards, guidelines and recommendations.

ARTICLE 35

Upholding Levels of Protection in the Application and Enforcement of Laws, Regulations or Standards

1. A Party shall not fail to effectively enforce its environmental and labour laws, regulations or standards in a manner affecting trade or investment between the Parties.
2. Subject to Article 34, a Party shall not:
 - (a) weaken or reduce the level of environmental or labour protection provided by its laws, regulations or standards with the sole intention to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory; or
 - (b) waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws, regulations or standards in order to encourage investment from another Party or to seek or to enhance a competitive trade advantage of producers or service providers operating in its territory.

ARTICLE 36

International Labour Standards and Agreements

1. The Parties recall the obligations deriving from membership of the ILO and the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* adopted by the International Labour Conference at its 86th Session in 1998, to respect, promote and realise the principles concerning the fundamental rights, namely:

- (a) the freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

2. The Parties reaffirm their commitment, under the *Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work* of 2006, to recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all.

3. The Parties recall the obligations deriving from membership of the ILO to effectively implementing the ILO Conventions which they have ratified and to make continued and sustained efforts towards ratifying the fundamental ILO Conventions as well as the other Conventions that are classified as “up-to-date” by the ILO.

4. The violation of fundamental principles and rights at work shall not be invoked or otherwise used as a legitimate comparative advantage. Labour standards shall not be used for protectionist trade purposes.

ARTICLE 37

Multilateral Environmental Agreements and Environmental Principles

1. The Parties recall their obligations deriving from multilateral environmental agreements to which they are a party, reaffirm their commitment to the effective implementation in their laws, regulations, standards and practices of these agreements, as well as their adherence to environmental principles reflected in the international instruments referred to in Article 32.

2. The Parties also recall their obligation to effectively enforce their domestic environmental laws, regulations and standards.

ARTICLE 38

Promotion of Trade and Investment Favouring Sustainable Development

1. The Parties shall strive to facilitate and promote foreign investment, as well as trade in and dissemination of goods and services beneficial to the environment, including through addressing related non-tariff barriers. This may further include the fostering of sound environmental technology, research, development and innovation in

support of green economy, sustainable renewable energy, energy efficient and eco-labelled goods and services.

2. The Parties shall strive to facilitate and promote foreign investment, trade in and dissemination of goods and services that contribute to sustainable development, including goods and services that are the subject of schemes such as fair and ethical trade.

3. To this end, the Parties agree to exchange views and may consider, jointly or bilaterally, cooperation in this area.

4. The Parties shall encourage cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development and are beneficial to the environment.

ARTICLE 39

Cooperation in International Fora

The Parties shall strive to strengthen their cooperation on trade and investment related labour and environmental issues of mutual interest in relevant bilateral, regional and multilateral fora in which they participate.

ARTICLE 40

Implementation and Consultations

1. The Parties shall designate the administrative entities which shall serve as contact point(s) for the purpose of implementing this Chapter.

2. A Party may through the contact point(s) referred to in paragraph 1 request expert consultations or consultations within the Joint Committee regarding any matter arising under this Chapter. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. Where relevant, subject to the agreement of the Parties, they can seek advice of the relevant international organisations or bodies.

3. If a Party considers that a measure of another Party does not comply with the obligations under this Chapter, it may have recourse to consultations according to Article 43.

ARTICLE 41

Review

The Parties shall periodically review in the Joint Committee progress achieved in pursuing the objectives set out in this Chapter, and consider relevant international developments to identify areas where further action could promote these objectives.”

The numbers of all existing chapters and articles following the new CHAPTER 6 shall be renumbered accordingly.

Article 4

The reference to “Article 34” in paragraph 3 of Article 33 “Consultations” of the Agreement shall be replaced by “Article 44”.

Article 5

The reference to “Article 36” in subparagraph (b) of Annex VII “Regarding Transitional Rules covering certain Articles of the Free Trade Agreement between the EFTA States and the Republic of Serbia” shall be replaced by “Article 46”.

Article 6

The reference to “Chapter 7” in Article 7 of the Bilateral Agreements on Agriculture between Iceland and Serbia, the Kingdom of Norway and Serbia, and the Swiss Confederation and Serbia shall be replaced by “Chapter 8”.

Article 7

The above amendments shall enter into force on the first day of the third month following the deposit of the last instrument of ratification, acceptance or approval with the Depositary, who shall notify all the other Parties.

Article 8

The Secretary-General of the European Free Trade Association shall deposit the text of this Protocol with the Depositary.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Protocol to amend the Agreement.

Done at Belgrade, this 20th day of May 2015, in one original in English, which shall be deposited with the Depositary, who shall transmit certified copies to all the Parties.

For Iceland

For the Republic of Serbia

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For the Principality of Liechtenstein

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For the Kingdom of Norway

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For the Swiss Confederation

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