ECONOMIC PARTNERSHIP AGREEMENT

between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part

PREAMBLE

PARTIES TO THE AGREEMENT

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE REPUBLIC OF CROATIA,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBOURG,

HUNGARY,

THE REPUBLIC OF MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty on European Union and the Treaty on the functioning of the European Union, hereinafter referred to as 'the Member States of the European Union'

and

THE EUROPEAN UNION, of the one part, and

THE REPUBLIC OF BOTSWANA,

THE KINGDOM OF LESOTHO,

THE REPUBLIC OF MOZAMBIQUE,

THE REPUBLIC OF NAMIBIA,

THE REPUBLIC OF SOUTH AFRICA, and

THE KINGDOM OF SWAZILAND

hereinafter referred to as the 'Southern African Development Community Economic Partnership Agreement States', of the other part ('the SADC EPA States'),

CONSIDERING the Parties' wish to further strengthen their trade links and establish close and lasting relations based on partnership and cooperation;

CONVINCED that this Agreement will further deepen and encourage economic and trade relations between the Parties;

DESIRING to create new employment opportunities, attract investment and improve living standards in the territories of the Parties while promoting sustainable development;

RECOGNISING the importance of development finance cooperation for the implementation of this Agreement;

RECOGNISING the efforts by the SADC EPA States to ensure economic and social development for their peoples in the context of deepening regional integration in the Southern African Development Community region ('SADC region');

CONFIRMING the Parties' commitment to promote regional cooperation and economic integration, and to encourage the liberalisation of trade in the SADC region;

RECOGNISING the special needs and interests of the SADC EPA States and the need to address their diverse levels of economic development, geographic and socio-economic concerns;

RECOGNISING the special circumstances of Botswana, Lesotho, Namibia and Swaziland ('BLNS States') in this Agreement and the need to take into account the effects on them of trade liberalisation under the Trade, Development and Cooperation Agreement between South Africa and the European Community and its Member States, signed on 11 October 1999 ('TDCA');

RECOGNISING the special circumstances and needs of the Least Developed Countries ('LDCs') of the SADC EPA States through the use of special and differential treatment and asymmetry;

(b) shall not be applied for a period exceeding two (2) years. Where the circumstances warranting imposition of safeguard measures continue to exist, such measures may be extended for a further period of no more than two (2) years. Where a SADC EPA State or SACU, as the case may be, apply a safeguard measure, or where the EU apply a measure limited to the territory of one or more of its outermost regions, they may however apply that measure for a period not exceeding four (4) years and, where the circumstances warranting imposition of safeguard measures continue to exist, extend it for a further period of four (4) years;

(c) that exceed one (1) year shall contain clear elements progressively leading to their elimination at the end of the set period, at the latest; and

(d) shall not be applied to the import of a product that has previously been subject to such a measure, within a period of at least one (1) year from the expiry of the measure.

7. For the implementation of paragraphs 1 to 6, the following provisions shall apply:

(a) where a Party or SACU, as the case may be, takes the view that one of the situations referred to in paragraphs 2(a) to (c), 4 and/or 5 exists, it shall immediately refer the matter to the Trade and Development Committee for examination;

(b) the Trade and Development Committee may make any recommendation needed to remedy the circumstances which have arisen. If no recommendation has been made by the Trade and Development Committee aimed at remedying the circumstances, or no other satisfactory solution has been reached within thirty (30) days of the matter being referred to the Trade and Development Committee, the importing party may adopt the appropriate measures to remedy the circumstances in accordance with this Article;

(c) before taking any measure provided for in this Article or, in the cases to which paragraph 8 applies, the Party or SACU, as the case may be, shall, as soon as possible, supply the Trade and Development Committee with all relevant information required for a thorough examination of the situation, with a view to seeking a solution acceptable to the parties concerned;

(d) in the selection of safeguard measures pursuant to this Article, priority must be given to those which least disturb the operation of this Agreement. If the MFN applied rate in effect the day immediately preceding the day of entry into force of this Agreement is lower than the MFN applied rate at the time of taking the measure, measures applied in accordance with the provisions of paragraph 3(b) may exceed the MFN rate in effect the day immediately preceding the day of entry into force of this Agreement. In such a case, the Party or SACU, as the case may be, shall supply, in accordance with the provisions of paragraph (c), the Trade and Development Committee with the relevant information indicating that an increase of the duty up to the level of MFN applied at the time of entry into force is not sufficient and that a measure exceeding this duty is necessary to remedy or prevent the serious injury or disturbances pursuant to paragraph 2;

(e) any safeguard measure taken pursuant to this Article shall be notified immediately to the Trade and Development Committee and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit.

8. Where delay would cause damage which would be difficult to repair, the importing Party or SACU, as the case may be, may take the measures provided for in paragraphs 3, 4, and/or 5 on a provisional basis without complying with the requirements of paragraph 7.

(a) Such action may be taken for a maximum period of one hundred and eighty (180) days where measures are taken by the EU and two hundred (200) days where measures are taken by a SADC EPA State or SACU, as the case may be, or where measures taken by the EU are limited to the territory of one or more of its outermost region(s).

(b) The duration of any such provisional measure shall be counted as a part of the initial period and any extension referred to in paragraph 6.

(c) In taking such provisional measures, the interest of all parties involved shall be taken into account.

(d) The importing Party or SACU, as the case may be, shall inform the other Party concerned and it shall immediately refer the matter to the Trade and Development Committee for examination.