

Public Summary of Second Set of U.S. Text Proposals
Under the U.S.-Kenya Strategic Trade and Investment Partnership

Agriculture – Second Tranche

The United States tabled a second tranche of proposed agriculture text that includes additional provisions intended to facilitate trade for agricultural producers, to advance food security, promote sustainable production, as well as to encourage cooperation in the areas of innovation and technology.

The proposed text acknowledges that there is no one-size-fits-all solution to sustainable agriculture and promotes collaborative work to share best practices and explore science- and evidence-based solutions tailored to the conditions of Kenya and the United States.

The proposed text is aimed at increasing transparency and regulatory certainty for agricultural exporters and importers. It also encourages U.S.-Kenyan cooperation to promote innovation, fair trade, and individualized approaches to advance sustainability goals, with consideration of the needs of small producers.

The proposed text provides for technical consultations between the Parties to cooperatively resolve issues arising under the agriculture text. Finally, the proposed text includes annexes on meat and cheese terms, distilled spirits and wine.

Good Regulatory Practices

The United States tabled proposed text for a chapter on good regulatory practices (GRPs) with articles that cover a range of rules for rule-making across the full regulatory life-cycle at the central level of government. Applying GRPs in the United States and Kenya provides citizens, traders, and other interested persons with greater transparency about regulatory processes.

The proposed text stems from the United States' recognition that early information about planned regulatory actions through the use of regulatory agendas allows interested persons to engage with regulatory authorities, thus providing more time to prepare to comply. The text also includes core provisions on the transparent development of regulations, such as publishing draft regulations and allowing adequate time for comments to be considered. Public consultations on draft regulatory measures can contribute to better regulations, as regulators do not always have complete information to anticipate the impact and consequences of regulations.

The proposed text includes several articles relating to information that can aid regulatory decision-making. For example, there is an obligation for regulatory authorities to prepare guidance or establish mechanisms on using the best available information and data when planning regulatory actions. Regulators are also encouraged to use appropriate tools and techniques to evaluate proposed measures and to have guidance materials for those carrying out the analysis so that there can be consistency across regulatory authorities.

The proposed text provides for stakeholders to have the opportunity to request issuance, modification, or repeal of regulations if change is justified due to technological changes, new information, or new standards.

Because regulations can have cross-border impact, the proposed text contains an article on transparent access to regulatory information, which recognizes that the use of information technology tools can expand online access to relevant information, including information about registries of existing laws, the procedural requirements of regulatory authorities, websites where draft regulations are posted and comments accepted, and the acceptability of electronic documentation, where appropriate. The text also reflects the fact that these same types of online resources are beneficial for MSMEs seeking to understand regulatory measures in both the U.S. and Kenyan markets.

Finally, the proposed text acknowledges that expert advisors can provide advice on planned regulatory actions as a complement to, and not a substitute for, public consultations. The proposed text therefore details transparency requirements relating to the functioning and outputs of expert advisors.

Workers' Rights and Protections

The United States tabled proposed text on Workers' Rights and Protections that includes provisions and initiatives that benefit workers and ensure free and fair trade that contributes to promoting sustainable and inclusive growth for both Kenya and the United States. The U.S. proposed text requires that each Party adopt and maintain internationally recognized labor rights in its laws. Further, the text includes provisions aimed at promoting compliance with labor laws through commitments related to non-derogation from, and the effective enforcement of, labor laws.

The U.S. text proposal also includes provisions establishing cooperative mechanisms to help the Parties support each other in achieving ambitious labor goals and to collaborate constructively on labor issues, including through capacity building, and sharing information and best practices. The Parties would identify and collaborate on emerging labor issues, including related to promoting labor rights of workers in both the digital and informal economies, as well as inclusive and equitable workforce development. The proposed text includes a mechanism to address forced labor in supply chains.

Additionally, the proposed text includes a mechanism to help create corporate accountability in cases where an entity violates local labor laws. Finally, the proposed text establishes processes and mechanisms for the Parties to maintain regular communication and cooperation on the implementation of the labor commitments, including with members of the public. In addition to a commitment to promote public awareness of labor laws, several provisions include mechanisms to engage with stakeholders and the public.