sanctions in a target-oriented manner and not to disadvantage employees who have already suffered damages because of the non-compliance. The sample chapters therefore specify that payments have to be made in cases of non-compliance, which benefit a fund for promoting standards and capacity-building. Only if these payments are not made, sanctions will be used by withdrawing trade benefits. It should also be pointed out that positive incentives such as increasing trade benefits have shown positive results in making progress with regard to implementing labour standards following the example of the USA - Cambodia Textile Agreement. As a result, this mechanism has been included in Sample Chapter 1 (EU - Developing Country).

5. Basic elements of social standards of a Sustainability Chapter

The following provisions represent the essential elements of social standards in bilateral Free Trade Agreements. The trading partners have a certain scope for formulating, that is to say it is possible in individual cases to adapt the concrete contents of the clauses to the current stage of development of the contracting states. The subsequent chapter outlines an optimal variant for the content of social standards in a Sustainability Chapter, which should be elaborated in accordance with the classification of the respective contractual partner in industrial resp. developing countries. An absolute minimum standard, however, must remain unaffected. The different text components in the sample texts have been coloured to show these variants.

**Normative framework**

The social orientation of a bilateral Free Trade Agreement should not only and not exclusively be expressed in the social part of the Sustainability Chapter, but already in its preamble. This forms the normative reference in general and is an essential component for the interpretation of the following chapters of the agreement. The preamble text must express the commitment of the contractual parties to take account of the requirements of economic and social coherence.

Due to the fact that the preamble has an interpretative function only, the general commitment to democracy and the rule of law, including the respect for human rights and the essential elements of decent work, has to be embedded as a central component at the beginning of the text of the agreement. To achieve this, a number of international standards, above all of the ILO and the UNO, exist, which determine general principles, rights and practical procedures and thereby define the normative framework. These include the international human rights documents, which also contain the fundamental social rights essential for the social dimension of sustainable development (e.g. the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, etc.), and the substantial declarations of the International Labour Organisation (ILO), i.e. the ILO Declaration on the Fundamental Principles and Rights at Work (Core Labour Standards)\(^\text{17}\), the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy ("ILO Tripartite Declaration")\(^\text{18}\) as well as the ILO Declaration on Social Justice for a Fair Globalization ("Social Justice Declaration")\(^\text{19}\) from 2008. The eight Core Labour Standards refer to the freedom of association and the right to collective bargaining, the abolition of forced and child labour and the prohibition of discrimination in the field of employment and occupation. In an Annex, the Tripartite Declaration especially mentions conventions and recommendations that are tailored to the problems of multinational enterprises, and

\(^{17}\) See Annex to relevant international standards, I.

\(^{18}\) Supra, II.

\(^{19}\) Supra, III.