

## **CHAPTER SEVENTEEN ENVIRONMENT**

### **Article 17.1: General Provisions**

1. The Parties affirm their commitments to promote the development of international trade in order to contribute to the objective of achieving sustainable development and will strive to ensure that this objective is integrated and reflected at every level of their trade relationship.
2. The Parties shall seek mutually supportive trade and environmental policies and shall promote the adequate use of their resources in accordance with the objective of achieving sustainable development and in line with their national laws, regulations and policies.
3. The Parties shall strengthen the role of trade and trade policy in the promotion of the conservation and sustainable use of biological diversity and of natural resources, as well as the preservation of traditional knowledge relevant to the conservation of biological diversity and the sustainable use of its components.
4. The Parties reaffirm their full resolve to fulfil their commitments under this Chapter taking into account their own capacities, in particular technical and financial capacities of both Parties.
5. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of the other Party.

### **Article 17.2: Objectives**

The objectives of this Chapter are, among others, to:

- (a) promote international trade in such a way as to contribute to the objective of sustainable development and its integration at every level of their trade relationship for the welfare of present and future generations; and
- (b) promote communication and cooperation between the Parties with a view to implementing this Chapter and strengthening the relationship between trade and environmental policies and practices in the development of environmental issues of mutual interest.

### **Article 17.3: Levels of Protection**

The Parties reaffirm each other's sovereign right over its natural resources to establish its own levels of environmental protection and its own environmental development priorities, and to adopt or modify accordingly its environmental laws and policies. Each Party shall strive to ensure that those laws and policies provide for and encourage high levels of environmental protection and shall strive to continue to improve its respective levels of environmental protection, including through such environmental laws and policies.

### **Article 17.4: Multilateral Environmental Agreements**

1. The Parties recognize the value of international environmental governance and agreements as a response of the international community to global or regional environmental problems and they commit to consulting and cooperating as appropriate with respect to negotiations on trade-related environmental issues of mutual interest.
2. The Parties affirm their commitments to the effective implementation in their respective laws and practices of the multilateral environmental agreements to which both Parties are Parties.
3. Nothing in this Agreement shall be construed to prevent a Party from adopting measures to comply with the multilateral environmental agreements to which that Party is a party, provided those measures are not applied in a discriminatory and arbitrary manner and do not constitute an unjustifiable barrier to trade.

### **Article 17.5: Application and Enforcement of Environmental Law**

1. The Parties shall not fail to effectively enforce their environmental laws and regulations, including those they adopt or maintain through a sustained or recurrent action or inaction, in a manner affecting trade or investment between the Parties.
2. The Parties shall not weaken or reduce the environmental protections provided by their laws and regulations to encourage trade or investment, by waiving or otherwise derogating from, or offering to waive or otherwise derogate from, their laws or regulations in a manner affecting trade or investment between the Parties.
3. The Parties recognize the right of each Party to exercise reasonable discretion with regard to decisions on resource allocation relating to

investigation, control and enforcement of domestic environmental laws and regulations, while not undermining the fulfilment of the obligations undertaken under this Chapter.

#### **Article 17.6: Procedural Guarantee**

1. Each Party shall ensure that persons with a recognized interest under its law in a particular matter have appropriate access to tribunals for the enforcement of the Party's environmental laws. Such tribunals may include administrative, quasi-judicial, judicial, or other relevant tribunals.

2. Each Party shall ensure that proceedings before such tribunals for the enforcement of its environmental laws are fair, equitable, and transparent. Each Party shall provide that parties to such proceedings may seek remedies to ensure the enforcement of their rights under its laws.

#### **Article 17.7: Transparency**

The Parties, in accordance with their respective laws, agree to prepare, adapt and apply any measures aimed at protecting the environmental conditions that affect trade or investment between the Parties in a transparent manner, with due notice and public consultation, and with appropriate and timely communication to and consultation of non-state actors including the private sector.

#### **Article 17.8: Trade Favoring Environment**

The Parties shall strive to facilitate and promote trade and foreign direct investment in goods and services focused on the protection and preservation of environment, in accordance with its domestic law.

#### **Article 17.9: Biological Diversity**

1. The Parties recognize the importance of the biological diversity conservation, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilization of genetic resources, in accordance with their domestic legislation, and the key role of biological diversity in achieving sustainable development.

2. Each Party shall endeavor to create conditions to facilitate access to genetic resources for environmentally sound uses, recognizing that each Party has the sovereign right over its natural resources and the authority to

determine access to its genetic resources in accordance with its national legislation and that access to genetic resources shall be subject to the prior informed consent of any Party providing such resources, unless otherwise determined by that Party.

#### **Article 17.10: Climate Change**

1. The Parties recognize that climate change and its adverse effects are a common and global concern that calls for the widest possible cooperation by all countries in the context of international commitments and their participation in an effective and appropriate international response, to limit or reduce the adverse effects of climate change, for the benefit of present and future generations of mankind.

2. The Parties recognize the importance of achieving the objectives of the *United Nations Framework Convention on Climate Change* (hereinafter referred to as “UNFCCC”) and the *Paris Agreement* in order to address the urgent threat of climate change and commit to enhancing their efforts and support to effectively implement the UNFCCC and the *Paris Agreement*, taking into account the role of trade in achieving these objectives.

3. Considering the global objective of promoting a paradigm shift towards low-carbon, climate resilient economies, the Parties shall endeavor to promote the sustainable use of natural resources and to promote trade and investment measures that facilitate access, dissemination and use of best available technologies and know-how for clean energy production and use, and for mitigation and adaptation programmes and projects to climate change.

#### **Article 17.11: Environmental Cooperation**

Recognizing the importance of cooperation on trade-related aspects of environmental policies in order to achieve the objectives of this Agreement, the Parties commit to initiating and developing cooperative activities as set out in Annex 17-A.

#### **Article 17.12: Institutional Mechanism**

1. The Parties hereby establish an Environmental Affairs Committee (hereinafter referred to as “Committee”). The Committee shall comprise appropriate senior officials from the Ministry of Environment or other relevant ministries of each Party.

2. The Committee shall:
  - (a) establish an agreed work program of co-operative activities;
  - (b) oversee and evaluate the agreed co-operative activities;
  - (c) serve as a forum for dialogue on environmental matters of mutual interest;
  - (d) review the implementation and outcomes of this Chapter;
  - (e) facilitate consultation through information exchange;
  - (f) take any other action it decides appropriate for the implementation of this Chapter; and
  - (g) consider any other issues related to this chapter as determined by the Joint Committee.
3. The Committee shall meet within one year of the date this Agreement enters into force, and thereafter as necessary, to discuss matters of common interest and oversee the implementation of this Chapter, including the co-operative activities set out in Article 17.11. Meetings may be held in person or by any technological means available to the Parties.
4. The Committee may consider any other issues within the scope of this Chapter, and may also identify possible new areas of cooperation, and may take any other action under its duties whenever the Parties so agree.
5. The work of the Committee shall be based on dialogue, effective cooperation, furthering of commitments and initiatives under this Chapter and seeking mutually satisfactory solutions to any difficulties that may arise.
6. Decisions of the Committee will be taken by consensus of the Parties.

#### **Article 17.13: Contact Point**

1. Each Party shall designate a contact point for environment matters within the Ministry of Environment or other relevant ministries of each Party to facilitate communication between the Parties.
2. The contact point shall assist the Committee in carrying out its work, including coordination of cooperative activities on environment under Article 17.11 and Annex 17-A.

#### **Article 17.14: Consultation**

1. The Parties shall at all times endeavor to agree on the interpretation and application of this Chapter, and shall make every attempt through dialogue, consultation, exchange of information and co-operation to resolve amicably and in good faith any issue that might affect its operation.
2. A Party may request consultations with the other Party in writing regarding any matter arising under this Chapter. The Parties shall commence consultations within 60 days after a Party delivers such request to the contact point of the other Party.
3. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.
4. If a Party deems that the matter needs further discussion, the Party may request that the Committee be convened to consider the matter by delivering a written request to the contact point of the other Party. The Committee shall convene promptly and endeavor to agree on a resolution of the matter.
5. If the Committee under paragraph 4 fails to resolve the issue, the requesting Party may refer the issue to the Joint Committee.
6. Each Party shall maintain the confidentiality of any information provided as confidential by the other Party. Consultations shall be held in a place mutually agreed.

#### **Article 17.15: Dispute Settlement**

Neither Party shall have recourse to Chapter Twenty (Dispute Settlement) for any matter arising under this Chapter.

## **Annex 17-A**

### **Environmental Cooperation**

1. In order to promote the achievement of the objectives of this Chapter and to assist in the fulfillment of their obligations under this Chapter, the Parties have established the following list of areas of cooperation which include, but are not limited to:

- (a) carry out dialogues on actions and progress made in environmental matters within the framework of this Agreement;
- (b) cooperation on environmental issues in other bilateral, regional and multilateral forums in which they participate, including in particular the WTO, the United Nations Environment Programme, and multilateral environmental agreements;
- (c) exchange of views on the trade impact of environmental regulations, norms, and standards;
- (d) cooperation on trade related aspects of climate change;
- (e) scientific and technical cooperation on trade related aspects of biological diversity;
- (f) cooperation on aspects of plastic waste management and treatment with approach of circular economy;
- (g) exchange of views on the relationship between multilateral environmental agreements and international trade rules;
- (h) cooperation focused on the prevention and management of environmental disasters;
- (i) exchange of best environmental practices and technical information;
- (j) cooperation on environmental education; and
- (k) other forms of environmental cooperation as the Parties may deem appropriate.

2. The Parties agree to identify priority areas to establish cooperative activities, and will prepare a work program, including these priority areas and activities after the entry into force of this Agreement.

3. Any co-operative activities agreed to pursuant this Chapter shall take into consideration each Party's environmental priorities and needs as well as the resource available.