

CHAPTER NINETEEN

ENVIRONMENT

ARTICLE 19.1: GENERAL PROVISIONS

1. The Parties affirm their commitments to promote the development of international trade in order to contribute to the objective of sustainable development.
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 sustainable development.
3. Each Party retains the right to exercise prosecutorial discretion and to make decisions on the allocation of resources to comply with its environmental policy objectives.
4. 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.
5. The Parties agree to strengthen the communication and cooperation between their respective environmental authorities in the development of environmental issues of mutual interest.

ARTICLE 19.2: LEVELS OF PROTECTION

Recognizing the right of each Party 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 19.3: 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 shall comply with their obligations under 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 19.4: TRADE FAVORING ENVIRONMENT

1. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services.
2. The Parties agree to identify a list of environmental goods and services of mutual interest and to facilitate their trade. Such list could be modified upon request of either Party.

ARTICLE 19.5: APPLICATION AND ENFORCEMENT OF ENVIRONMENTAL LAW

1. A Party shall not fail to effectively enforce its environmental laws and regulations, through a sustained or recurring course of 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.

ARTICLE 19.6: BIOLOGICAL DIVERSITY

1. The Parties recognize the importance of the conservation and sustainable use of biological diversity as a key element in the achievement of sustainable development.
2. Recognizing that each Party has the sovereign rights over its natural resources and the authority to determine access to its genetic resources in accordance with its domestic legislation, each Party shall endeavor to create conditions to facilitate access to genetic resources for environmentally sound uses.
3. The Parties remain committed to encouraging the conservation and sustainable use of biological diversity and all its components and levels, including plants, animals, and habitats.
4. The Parties recognize the importance of respecting and preserving traditional knowledge and practices of their indigenous and other communities which contribute to the conservation and sustainable use of biological diversity.
5. The Parties agree to exchange views and information on the conservation and sustainable use of biological diversity, including practices related to genetic resources and/or traditional knowledge and discussions on the CBD.

ARTICLE 19.7 : ENVIRONMENT AND ENTERPRISE

1. The Parties shall exchange information on each Party's environmental guidelines for the enterprises with a view to enhancing a better understanding of them.

2. Each Party shall strive to promote compliance with its environmental guidelines by enterprises operating in its territory.

ARTICLE 19.8 : CLIMATE CHANGE

1. The Parties recognize that the climate change and its adverse effects are a common concern. In that sense, and under their international commitments, the Parties agree to promote joint measures to limit or reduce the adverse effects of the climate change.

2. For promoting sustainable development, each Party, within its own capacities, shall adopt policies and measures on issues such as:

- (a) improvement of energy efficiency;
- (b) research, promotion, development and use of new and renewable energy, technologies of carbon dioxide capture, and updated and innovative environmental technologies that do not affect food security or the conservation of biological diversity; and
- (c) measures for evaluating the vulnerability and adaptation to climate change.

ARTICLE 19.9: TECHNOLOGY FAVORING ENVIRONMENT

The Parties agree to promote the development, diffusion, access, use, adequate management, and maintenance of clean and efficient technologies, including those reducing toxic chemical emissions.

ARTICLE 19.10: INSTITUTIONAL MECHANISM

1. The Parties hereby establish an Environmental Affairs Council comprising high-level representatives of each Party.

2. The Council shall meet within one year following the date of entry into force of this Agreement, and thereafter as necessary, to discuss matters of mutual interest, and oversee the implementation of this Chapter, including cooperative activities undertaken under Annex 19A.

3. Each Party shall designate an office within its administration that shall serve as a contact point with the other Party for purposes of implementing this Chapter.

ARTICLE 19.11: 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 19A.

ARTICLE 19.12: ENVIRONMENTAL CONSULTATIONS

1. A Party may request consultations with the other Party in writing regarding any matter of mutual interest arising under this Chapter. The Parties shall commence consultations promptly after a Party delivers such request to the contact point of the other Party.
2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.
3. If a Party deems that the matter needs further discussion, the Party may request that the Council be convened to consider the matter by delivering a written request to the contact point of the other Party. The Council shall convene promptly and endeavor to agree on a resolution of the matter.

ARTICLE 19.13: REVIEW OF ENVIRONMENT IMPACTS

The Parties shall strive to review, monitor, and assess positive and negative impacts of the implementation of this Agreement on environment.

ARTICLE 19.14: DISPUTE SETTLEMENT

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

ANNEX 19A

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 indicative list of areas of cooperation:

- (a) exchange of views on the positive and negative impacts of this Agreement on environment and ways to enhance, prevent, or mitigate them, taking into account environment impact assessments carried out by the Parties;
- (b) cooperation in international fora responsible for environmental aspects of trade and sustainable development, including in particular WTO, the United Nations Environment Programme, and multilateral environmental agreements;
- (c) exchange of information and cooperation on private and public certification and labeling schemes, including eco-labeling, and green public procurement;
- (d) exchange of views on the trade impact of environmental regulations, norms, and standards;
- (e) cooperation on trade-related aspects of biological diversity;
- (f) cooperation on trade-related aspects of multilateral environmental agreements;
- (g) exchange of views on the relationship between multilateral environmental agreements and international trade rules;
- (h) prevention and management of environmental disasters;
- (i) good environmental practices;
- (j) 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.