

(a) a reasonable opportunity to support or defend their respective positions; and

(b) a decision based on the evidence and submissions of record or, where required by its law, the record compiled by the administrative authority.

3. Each Party shall ensure, subject to appeal or further review as provided for in its law, that such decision shall be implemented by, and shall govern the practice of, the office or authority with respect to the administrative action at issue.

Article 12.7

Regulatory quality and performance and good administrative behaviour

1. The Parties agree to cooperate in promoting regulatory quality and performance, including through exchange of information and best practices on their respective regulatory reform processes and regulatory impact assessments.

2. The Parties subscribe to the principles of good administrative behaviour, and agree to cooperate in promoting it, including through exchange of information and best practices.

Article 12.8

Non-discrimination

Each Party shall apply to interested persons of the other Party transparency standards no less favourable than those accorded to its own interested persons, to the interested persons of any third country, or to any third country, whichever are the best.

CHAPTER THIRTEEN

TRADE AND SUSTAINABLE DEVELOPMENT

Article 13.1

Context and objectives

1. Recalling Agenda 21 on Environment and Development of 1992, the Johannesburg Plan of Implementation on Sustainable Development of 2002 and the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work, the Parties reaffirm their commitments to promoting the development of international trade in such a way as to contribute to the objective of sustainable development and will strive to ensure that this objective is integrated and reflected at every level of their trade relationship.

2. The Parties recognise that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development. They underline the benefit of cooperation on trade-related social and environmental issues as part of a global approach to trade and sustainable development.

3. The Parties recognise that it is not their intention in this Chapter to harmonise the labour or environment standards of the Parties, but to strengthen their trade relations and cooperation in ways that promote sustainable development in the context of paragraphs 1 and 2.

Article 13.2

Scope

1. Except as otherwise provided in this Chapter, this Chapter applies to measures adopted or maintained by the Parties affecting trade-related aspects of labour⁽⁸⁴⁾ and environmental issues in the context of Articles 13.1.1 and 13.1.2.

2. The Parties stress that environmental and labour standards should not be used for protectionist trade purposes. The Parties note that their comparative advantage should in no way be called into question.

Article 13.3

Right to regulate and levels of protection

Recognising the right of each Party to establish its own levels of environmental and labour protection, and to adopt or modify accordingly its relevant laws and policies, each Party shall seek to ensure that those laws and policies provide for and encourage high levels of environmental and labour protection, consistent with the internationally recognised standards or agreements referred to in Articles 13.4 and 13.5, and shall strive to continue to improve those laws and policies.

Article 13.4

Multilateral labour standards and agreements

1. The Parties recognise the value of international cooperation and agreements on employment and labour affairs as a response of the international community to economic, employment and social challenges and opportunities resulting from globalisation. They commit to consulting and cooperating as appropriate on trade-related labour and employment issues of mutual interest.

⁽⁸⁴⁾ When labour is referred to in this Chapter, it includes the issues relevant to the Decent Work Agenda as agreed on in the International Labour Organisation (hereinafter referred to as the 'ILO') and in the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work.

2. The Parties reaffirm the commitment, under the 2006 Ministerial Declaration of the UN Economic and Social Council on Full Employment and Decent Work, to recognising full and productive employment and decent work for all as a key element of sustainable development for all countries and as a priority objective of international cooperation and to promoting the development of international trade in a way that is conducive to full and productive employment and decent work for all, including men, women and young people.

3. The Parties, in accordance with the obligations deriving from membership of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, commit to respecting, promoting and realising, in their laws and practices, the principles concerning the fundamental rights, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

The Parties reaffirm the commitment to effectively implementing the ILO Conventions that Korea and the Member States of the European Union have ratified respectively. The Parties will make continued and sustained efforts towards ratifying the fundamental ILO Conventions as well as the other Conventions that are classified as 'up-to-date' by the ILO.

Article 13.5

Multilateral environmental agreements

1. The Parties recognise 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 reaffirm their commitments to the effective implementation in their laws and practices of the multilateral environmental agreements to which they are party.

3. The Parties reaffirm their commitment to reaching the ultimate objective of the United Nations Framework Convention on Climate Change and its Kyoto Protocol. They commit to

cooperating on the development of the future international climate change framework in accordance with the Bali Action Plan ⁽⁸⁵⁾.

Article 13.6

Trade favouring sustainable development

1. The Parties reconfirm that trade should promote sustainable development in all its dimensions. The Parties recognise the beneficial role that core labour standards and decent work can have on economic efficiency, innovation and productivity, and they highlight the value of greater policy coherence between trade policies, on the one hand, and employment and labour policies on the other.

2. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services, including environmental technologies, sustainable renewable energy, energy efficient products and services and eco-labelled goods, including through addressing related non-tariff barriers. The Parties shall strive to facilitate and promote trade in goods that contribute to sustainable development, including goods that are the subject of schemes such as fair and ethical trade and those involving corporate social responsibility and accountability.

Article 13.7

Upholding levels of protection in the application and enforcement of laws, regulations or standards

1. A Party shall not fail to effectively enforce its environmental and labour laws, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties.

2. A Party shall not weaken or reduce the environmental or labour protections afforded in its laws to encourage trade or investment, by waiving or otherwise derogating from, or offering to waive or otherwise derogate from, its laws, regulations or standards, in a manner affecting trade or investment between the Parties.

Article 13.8

Scientific information

The Parties recognise the importance, when preparing and implementing measures aimed at protecting the environment and social conditions that affect trade between the Parties, of taking account of scientific and technical information, and relevant international standards, guidelines or recommendations.

⁽⁸⁵⁾ UNFCCC Decision-1/CP.13 adopted by the thirteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.

*Article 13.9***Transparency**

The Parties, in accordance with their respective domestic laws, agree to develop, introduce and implement any measures aimed at protecting the environment and labour conditions that affect trade 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 13.10***Review of sustainability impacts**

The Parties commit to reviewing, monitoring and assessing the impact of the implementation of this Agreement on sustainable development, including the promotion of decent work, through their respective participative processes and institutions, as well as those set up under this Agreement, for instance through trade-related sustainability impact assessments.

*Article 13.11***Cooperation**

Recognising the importance of cooperating on trade-related aspects of social and environmental policies in order to achieve the objectives of this Agreement, the Parties commit to initiating cooperative activities as set out in Annex 13.

*Article 13.12***Institutional mechanism**

1. Each Party shall designate an office within its administration which shall serve as a contact point with the other Party for the purpose of implementing this Chapter.
2. The Committee on Trade and Sustainable Development established pursuant to Article 15.2.1 (Specialised Committees) shall comprise senior officials from within the administrations of the Parties.
3. The Committee shall meet within the first year of the entry into force of this Agreement, and thereafter as necessary, to oversee the implementation of this Chapter, including cooperative activities undertaken under Annex 13.
4. Each Party shall establish a Domestic Advisory Group(s) on sustainable development (environment and labour) with the task of advising on the implementation of this Chapter.
5. The Domestic Advisory Group(s) comprise(s) independent representative organisations of civil society in a balanced representation of environment, labour and business organisations as well as other relevant stakeholders.

*Article 13.13***Civil society dialogue mechanism**

1. Members of Domestic Advisory Group(s) of each Party will meet at a Civil Society Forum in order to conduct a dialogue encompassing sustainable development aspects of trade relations between the Parties. The Civil Society Forum will meet once a year unless otherwise agreed by the Parties. The Parties shall agree by decision of the Committee on Trade and Sustainable Development on the operation of the Civil Society Forum no later than one year after the entry into force of this Agreement.
2. The Domestic Advisory Group(s) will select the representatives from its members in a balanced representation of relevant stakeholders as set out in Article 13.12.5.
3. The Parties can present an update on the implementation of this Chapter to the Civil Society Forum. The views, opinions or findings of the Civil Society Forum can be submitted to the Parties directly or through the Domestic Advisory Group(s).

*Article 13.14***Government consultations**

1. A Party may request consultations with the other Party regarding any matter of mutual interest arising under this Chapter, including the communications of the Domestic Advisory Group(s) referred to in Article 13.12, by delivering a written request to the contact point of the other Party. Consultations shall commence promptly after a Party delivers a request for consultations.
2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. The Parties shall ensure that the resolution reflects the activities of the ILO or relevant multilateral environmental organisations or bodies so as to promote greater cooperation and coherence between the work of the Parties and these organisations. Where relevant, subject to the agreement of the Parties, they can seek advice of these organisations or bodies.
3. If a Party considers that the matter needs further discussion, that Party may request that the Committee on Trade and Sustainable Development 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 endeavour to agree on a resolution of the matter. The resolution of the Committee shall be made public unless the Committee otherwise decides.
4. The Committee may seek the advice of either or both Domestic Advisory Group(s) and each Party may seek the advice of its own Domestic Advisory Group(s). A Domestic Advisory Group of a Party may also submit communications on its own initiative to that Party or to the Committee.

*Article 13.15***Panel of experts**

1. Unless the Parties otherwise agree, a Party may, 90 days after the delivery of a request for consultations under Article 13.14.1, request that a Panel of Experts be convened to examine the matter that has not been satisfactorily addressed through government consultations. The Parties can make submissions to the Panel of Experts. The Panel of Experts should seek information and advice from either Party, the Domestic Advisory Group(s) or international organisations as set out in Article 13.14, as it deems appropriate. The Panel of Experts shall be convened within two months of a Party's request.

2. The Panel of Experts that is selected in accordance with the procedures set out in paragraph 3, shall provide its expertise in implementing this Chapter. Unless the Parties otherwise agree, the Panel of Experts shall, within 90 days of the last expert being selected, present to the Parties a report. The Parties shall make their best efforts to accommodate advice or recommendations of the Panel of Experts on the implementation of this Chapter. The implementation of the recommendations of the Panel of Experts shall be monitored by the Committee on Trade and Sustainable Development. The report of the Panel of Experts shall be made available to the Domestic Advisory Group(s) of the Parties. As regards confidential information, the principles in Annex 14-B (Rules of Procedure for Arbitration) apply.

3. Upon the entry into force of this Agreement, the Parties shall agree on a list of at least 15 persons with expertise on the issues covered by this Chapter, of whom at least five shall be non-nationals of either Party who will serve as chair of the Panel of Experts. The experts shall be independent of, and not be affiliated with or take instructions from, either Party or organisations represented in the Domestic Advisory Group(s). Each Party shall select one expert from the list of experts within 30 days of the receipt of the request for the establishment of a Panel of Experts. If a Party fails to select its expert within such period, the other Party shall select from the list of experts a national of the Party that has failed to select an expert. The two selected experts shall decide on the chair who shall not be a national of either Party.

*Article 13.16***Dispute settlement**

For any matter arising under this Chapter, the Parties shall only have recourse to the procedures provided for in Articles 13.14 and 13.15.

CHAPTER FOURTEEN

DISPUTE SETTLEMENT

SECTION A

Objective and scope*Article 14.1***Objective**

The objective of this Chapter is to avoid and settle any dispute between the Parties concerning the good faith application of this Agreement and to arrive at, where possible, a mutually agreed solution.

*Article 14.2***Scope**

This Chapter applies to any dispute concerning the interpretation and application of the provisions of this Agreement unless otherwise provided ⁽⁸⁶⁾.

SECTION B

Consultations*Article 14.3***Consultations**

1. The Parties shall endeavour to resolve any dispute regarding the interpretation and application of the provisions referred to in Article 14.2 by entering into consultations in good faith with the aim of reaching a mutually agreed solution.

2. A Party shall seek consultations by means of a written request to the other Party identifying any measure at issue and the provisions of the Agreement that it considers applicable. A copy of the request for consultations shall be delivered to the Trade Committee.

3. Consultations shall be held within 30 days of the date of the submission of the request and take place, unless the Parties agree otherwise, in the territory of the Party complained against. The consultations shall be deemed concluded within 30 days of the date of the submission of the request, unless the Parties agree to continue consultations. All information disclosed during the consultations shall remain confidential.

4. Consultations on matters of urgency, including those regarding perishable or seasonal goods ⁽⁸⁷⁾ shall be held within 15 days of the date of the submission of the request, and shall be deemed concluded within 15 days of the date of the submission of the request.

⁽⁸⁶⁾ For disputes relating to the Protocol on Cultural Cooperation all references in this Chapter to the Trade Committee shall be understood as referring to the Committee on Cultural Cooperation.

⁽⁸⁷⁾ Seasonal goods are goods whose imports, over a representative period, are not spread over the whole year but concentrated on specific times of the year as a result of seasonal factors.