

CHAPTER 17
TRADE AND ENVIRONMENT

Article 1
Objectives

The objectives of this Chapter are to:

- (a) contribute to the goal of sustainable development by promoting mutually supportive trade and environment policies; and
- (b) enhance the capacities and capabilities of the Parties to address trade-related environmental issues including through cooperation.

Article 2
Key Commitments

1. The Parties respect the right of each Party to set, administer and enforce its own environmental laws, regulations, policies and practices according to its priorities.
2. Each Party reaffirms its commitment to fulfil its international environmental obligations, and its intention to continue to pursue high levels of environmental protection.
3. The Parties recognise the importance of mutually supportive trade and environment policies and practices that support efforts to improve environmental protection, promote sustainable management of natural resources and enhance trade between the Parties. Accordingly:

- (a) each Party shall not weaken, derogate from, or fail to enforce or administer in a sustained or recurring manner, its environmental laws, regulations and policies in a manner affecting trade or investment between the Parties; and
 - (b) each Party shall ensure that its environmental laws, regulations and policies and practices are not set or applied for trade protectionist purposes.
- 4. Each Party acknowledges the importance of transparency and appropriate communication and consultation, in the development or implementation of any measures aimed at protecting the environment that may affect trade or investment between the Parties.
 - 5. Each Party shall promote public awareness of its environmental laws, regulations, policies and practices domestically, and ensure that the processes and institutions for the operation and enforcement of its environmental laws and regulations are fair, equitable and transparent.

Article 3

Environmental Goods and Services

- 1. The Parties recognise that facilitating trade in environmental goods and services through elimination of tariff and non-tariff barriers can enhance economic performance and address global environmental challenges including climate change; natural resources protection; water, soil and air pollution; management of waste and waste water; and depletion of the ozone layer.

2. Accordingly, the Parties shall:

- (a) eliminate all tariffs on environmental goods¹³ upon entry into force of this Agreement;
- (b) facilitate the movement of business persons involved in the sale, delivery or installation of environmental goods or the supply of environmental services¹⁴ in accordance with Chapter 14 (Temporary Entry of Business Persons);
- (c) endeavour to address any non-tariff barriers identified by either Party that impede trade in environmental goods or services, working through the Joint Commission as appropriate; and
- (d) encourage the application of good regulatory principles to the design of any future standards and regulations relating to environmental goods and services, including transparency, proportionality, a preference for least trade-distorting measures, and the use of internationally agreed standards.

Article 4

Voluntary Market Mechanisms

1. The Parties recognise the substantial benefits brought by international trade and investment, and the opportunity for enterprises, including those engaged in international trade and investment, to implement

¹³ For the purposes of this Agreement, environmental goods are those which positively contribute to the green growth and sustainable development objectives of the Parties. A list of environmental goods is attached as Annex 7.

¹⁴ For the purposes of this Agreement, environmental services refers to services directly related to the investment, sale, delivery or installation of environmental goods defined in subparagraph 2(a) of this Article, as well as services that fall under the WTO classification MTN.GNS/w/120 or the Provisional Central Product Classification, 1991.

policies that seek to strengthen coherence between trade and investment, economic and environmental objectives.

2. The Parties recognise that flexible, voluntary mechanisms, such as voluntary sharing of information and expertise, voluntary auditing and reporting, and market-based incentives, can contribute to the achievement and maintenance of high levels of environmental protection. Accordingly, each Party should encourage:

(a) the development and use of flexible and voluntary mechanisms to protect natural resources and the environment in its jurisdiction; and

(b) businesses and business organisations, non-governmental organisations, and other interested persons that are developing or applying voluntary environmental goals or standards, including labelling or other associated measures, to do so in a manner that is transparent; does not have the effect of creating unnecessary obstacles to trade; does not constitute a means of arbitrary or unjustified discrimination between the Parties; and base them, where appropriate, on internationally recognised standards, recommendations or guidelines.

Article 5

Cooperation

1. The Parties agree to cooperate on mutually agreed environmental issues, including through the interaction and involvement, as appropriate, of government, industry, educational and research institutions of each Party.

2. The Parties may encourage and facilitate cooperative activities, as appropriate, through the following modes of cooperation:
 - (a) exchange of environmental experts and management personnel, including study visits and other technical exchanges;
 - (b) exchange of technical information and publications to enhance mutual understanding of environmental laws, policies and institutions of the Parties;
 - (c) joint conferences, seminars, workshops and meetings; and
 - (d) collaborative research on subjects of mutual interest.
3. To facilitate identification of cooperative activities, the Parties shall, as a first step after this Agreement enters into force, exchange lists of their initial priorities.
4. Any cooperative activities agreed to shall take into consideration each Party's environment priorities and needs as well as the resources available. The resourcing of cooperative activities shall be decided by the Parties on a case by case basis.
5. Each Party may, as appropriate, involve its non-government sectors and other organisations in identifying potential areas for cooperation, and in undertaking cooperative activities.

Article 6

Institutional Arrangements

Contact Points

1. Each Party shall designate a contact point or contact points to facilitate communication between the Parties and to assist in the implementation of this Chapter, including coordination of environmental cooperation activities pursuant to Article 5.

Meeting of the Parties

2. A meeting of the Parties, comprised of senior environment officials or such other persons as deemed appropriate by each Party, shall take place within the first year after this Agreement enters into force, and subsequently thereafter as mutually decided by the Parties.
3. The functions of the meeting of the Parties include, but are not limited to:
 - (a) establishing, overseeing and evaluating cooperative activities;
 - (b) serving as a forum for dialogue on environmental matters of mutual interest or concern; and
 - (c) reviewing the operation and outcomes of this Chapter.
4. After three years, or as otherwise agreed, the Parties shall review the operation and outcomes of this Chapter, and may report the result of this review to the Joint Commission. This report may also be made public.

Public Participation

5. Each Party may, as appropriate, consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.
6. Each Party may provide an opportunity for its domestic stakeholders to submit views or advice to it on matters relating to the operation of this Chapter, and shall seek to inform its public of activities undertaken pursuant to this Chapter.
7. The Parties shall prepare a report on their work at the end of each meeting of the Parties. The Parties' report shall be made public, unless the Parties decide otherwise.

Article 7 Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every attempt through dialogue, consultation and cooperation to resolve any issue that might arise.
2. Should any issue arise in relation to the implementation of this Chapter, a Party may request consultations with the other Party, through its contact point. The contact point shall identify the office or official responsible for the issue and assist as necessary in facilitating communications between the Parties.

3. The Parties shall decide a timeframe for completion of consultations under paragraph 2 of this Article, which shall not exceed 180 days, unless otherwise mutually agreed.
4. As part of the consultations, the Parties may seek advice or assistance from any person or body they consider appropriate.
5. If consultations fail to resolve the matter, either Party may request through the Contact Point that a joint meeting of the Parties be convened to consider the matter. The joint meeting shall take place, at an appropriately senior level, as soon as practicable, and no later than 90 days following the request. The contact points shall liaise to verify and prepare a summary of the facts in relation to the issue before the joint meeting.
6. To assist its deliberations the joint meeting may decide to request advice from an independent expert or experts.
7. The joint meeting shall produce a report providing conclusions and recommendations on resolving the issue. The Parties shall implement the conclusions and recommendations of the joint meeting as soon as practicable.
8. Should the joint meeting be unable to reach agreement on the report, or should either Party have concerns about the implementation of the recommendations of the joint meeting, the issue may be referred to the Joint Commission for final consideration and resolution of the issue.
9. Neither Party may have recourse to Chapter 21 (Dispute Settlement) for any matter arising under this Chapter.