

CHAPTER 17

ENVIRONMENT

ARTICLE 17.1: CONTEXT AND OBJECTIVES

1. 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 recognize that economic development, social development, and environmental protection are interdependent and mutually reinforcing components of sustainable development. They underline the benefits of cooperation on trade-related environmental issues as part of a global approach to trade and sustainable development.
3. The Parties recognize that it is not their intention in this Chapter to harmonize their environmental laws, but to strengthen their trade relations and cooperation in a way that promotes sustainable development in the context of paragraphs 1 and 2.
4. In this regard, the Parties:
 - (a) recognize their commitments to promote compliance and effective implementation of each Party's environmental law;
 - (b) will strive to promote the conservation and sustainable use of biodiversity, and the preservation of traditional knowledge relevant to the conservation of biological diversity and the sustainable use of its components; and
 - (c) reaffirm their intention to strengthen cooperation on environmental matters.
5. Neither Party shall have recourse to Chapter 22 (Dispute Settlement) for any matter arising under this Chapter.

ARTICLE 17.2: SCOPE

This Chapter shall apply to measures adopted or maintained by the Parties affecting trade-related aspects of environmental issues.

ARTICLE 17.3: GENERAL PRINCIPLES

1. The Parties shall endeavor to seek mutually supportive trade and environmental policies and shall promote the adequate use of their resources, including biodiversity, in accordance with the objective of sustainable development.

2. The Parties reaffirm each other's sovereign right over their natural resources, reiterate their sovereign rights to establish their own levels of environmental protection and their own environmental development, policies and priorities, and to adopt or modify accordingly their environmental laws, regulations and policies.

3. The Parties reaffirm their willingness to comply with their commitments under this Chapter, taking into account the differences in their levels of development and the respect of their current and future needs and aspirations.

ARTICLE 17.4: SPECIFIC COMMITMENTS

1. Each Party shall endeavor to ensure that its laws and policies provide for high levels of environmental protection and of sustainable use and conservation of its natural resources. Each Party shall also strive to continue improving its protection levels on those matters.

2. The Parties recognize that it is inappropriate to promote trade or investments by weakening or reducing the protections afforded in their environmental laws. Accordingly, neither Party shall derogate from, or offer to derogate from, such laws in a manner that weakens or reduces the protections afforded in those laws as an incentive to promote trade or investment between the Parties.

3. The Parties recognize that it is inappropriate to use their environmental laws and policies in a manner that constitutes a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade or investment.

4. The Parties recognize the importance that their environmental laws provide for a fair and transparent public participation mechanism.

5. Each Party shall endeavor to maintain its laws, regulations, and policies consistent and in compliance with multilateral environmental agreements (hereinafter referred to as "MEAs") to which it is a party, as well as with international efforts towards achieving sustainable development.

ARTICLE 17.5: ENFORCEMENT OF LAWS

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, after the date of entry into force of this Agreement.

2. Nothing in this Chapter shall be construed to empower a Party's competent authorities to carry out activities oriented towards the enforcement of environmental legislation in the territory of the other Party.

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.
3. Each Party shall provide that the 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 develop, introduce, and implement, any measures aimed at protecting the environmental conditions that affect trade or investment between the Parties in a transparent manner.

ARTICLE 17.8: ENVIRONMENTAL COMMITTEE

1. The Parties hereby establish an Environmental Committee (hereinafter referred to as the "Committee"), which shall comprise appropriate senior officials within their administrations.
2. The Committee shall:
 - (a) establish an agreed work program of cooperative activities;
 - (b) oversee and evaluate the agreed cooperative activities;
 - (c) serve as a forum for dialogue on environmental matters of mutual interest;
 - (d) review the operation and outcomes of this Chapter; and
 - (e) take any other action under its functions whenever the Parties so agree.
3. The Committee may consider any other matters within the scope of this Chapter, and may also identify possible new areas of cooperation.
4. The Committee shall meet as necessary, to discuss matters of common interest and oversee the implementation of this Chapter, including the cooperative activities. Meetings may be conducted in person or by any technological means available to the Parties.

ARTICLE 17.9: CONTACT POINTS

After the date of entry into force of this Agreement, the Parties shall designate a contact point for environmental matters to facilitate communication between the Parties.

ARTICLE 17.10: ENVIRONMENTAL CONSULTATIONS

1. Any matter arising related to the interpretation or implementation of this Chapter shall be resolved amicably and *bona fide* by the Parties through direct dialogue, consultations, and cooperation.
2. A Party may request consultations with the other Party by delivering a written request to the contact point designated under Article 17.9, explaining the reasons for the consultations.
3. If the Parties fail to resolve the matter through their contact points, such matter may be discussed by the Committee.

ARTICLE 17.11: COOPERATION

1. The Parties hereby agree to promote cooperation activities on mutual interest.
2. The Parties shall endeavor to assure that cooperation activities:
 - (a) are consistent with the programs, strategies of development, and national priorities of each Party;
 - (b) would create opportunities for the public to take part in the development and implementation of such activities; and
 - (c) would take into consideration the economy, and the legal system of each Party.
3. The areas of cooperation between the Parties in respect of this Chapter may include, but are not limited to:
 - (a) environmental management;
 - (b) institutional capacity for enforcement of environmental law; including MEAs;
 - (c) cleaner production technologies;
 - (d) forestry;
 - (e) water quality;
 - (f) air quality;
 - (g) energy efficiency and renewable energy;

- (h) innovative environmental technologies, including technologies of carbon dioxide capture;
- (i) measures for evaluating the vulnerability and adaptation to climate change; and
- (j) such other environmental matters as the Parties may agree in accordance with their priorities.