

CHAPTER 16 ENVIRONMENT

Article 16.1 : Objectives

The objectives of this Chapter are to:

- (a) promote an integrated approach to sustainable development, recognising that the goals of achieving economic growth, social wellbeing and a healthy environment are mutually supportive;
- (b) encourage and promote sound environment policies to achieve a high level of environmental protection and the sustainable management of natural and infrastructure resources;
- (c) encourage the creation of enabling settings for the promotion of trade and investment opportunities for environmental goods and services, including energy-related technologies that contribute to the protection of the environment;
- (d) improve the capacities and capabilities of the Parties to address trade-related environmental issues, including climate change; and
- (e) achieve a better understanding of each Party's environment systems, including policies and practices, scientific knowledge and technological developments, and strengthen the broader relationships of the Parties.

Article 16.2 : General Principles

1. Each Party shall strive actively to ensure that its laws and policies provide for and encourage high levels of environmental protection and promote the sustainable management of natural and infrastructure resources.
2. Each Party shall respect the other Party's sovereign right to establish its own policies and national priorities, and to adopt, modify, administer and enforce its own environmental laws, regulations, policies and practices according to its priorities.
3. Each Party shall ensure that its environmental laws, regulations, policies and practices are consistent with and effectively implement its international commitments on environmental protection, including those established by multilateral environment agreements to which it is party.
4. Each Party shall ensure that its environmental laws, regulations, policies and practices shall not be used for trade protectionist purposes.

5. Each Party shall not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties, after the date this Agreement enters into force.

6. Each Party shall not weaken or reduce the environmental 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 or regulations in a manner affecting trade or investment between the Parties.

7. 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 16.3 : Multilateral Environmental Agreements

1. The Parties recognise the value and importance of international environmental governance and agreements as a response of the international community to global or regional environmental problems, including climate change.

2. The Parties shall strive to enhance the mutual supportiveness between multilateral environmental agreements to which both Parties are party and international trade rules.

3. In the event a Party proposes to take a measure to comply with its obligations under a multilateral environment agreement that may directly and adversely affect the other Party's trade or investment, either Party may seek to engage in dialogue to resolve the matter.

Article 16.4 : Trade Favouring Environment

1. The Parties recognise the importance of trade and investment in environmental goods and services beneficial to the environment in their economies as a contribution to sustainable development.

2. The Parties resolve to make efforts to facilitate and promote trade and investment in environmental goods and services beneficial to the environment, including environmental technologies, renewable energy, and energy-efficient goods and services.

Article 16.5 : Transparency

Further to Article 17.4 (Administrative Proceedings), the Parties, in accordance with their respective domestic laws, agree to develop, introduce and implement any measures aimed at protecting the environment 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 with non-state actors, including the private sector.

Article 16.6 : Review of Environmental Impacts

Each Party shall, as appropriate, share information with the other Party regarding its experiences in assessing and addressing any environmental effects of this Agreement.

Article 16.7 : Institutional Arrangements

Contact Points

1. Each Party shall designate an office within its ministry responsible for environment related matters that shall serve as the contact point with the other Party to facilitate communication between the Parties and for the implementation of this Chapter, including co-ordination of environmental co-operation activities pursuant to Article 16.8.

Environment Committee

2. The Parties hereby establish an Environment Committee (hereinafter referred to as “the Committee”). The Committee shall comprise senior officials or their designates from the ministry responsible for environment related matters and other appropriate agencies or ministries of each Party.

3. The Committee shall:

- (a) establish an agreed work programme of co-operative activities;
- (b) oversee and evaluate the co-operative 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 it decides appropriate for the implementation of this Chapter.

4. The Committee shall meet¹ within the first year after this Agreement enters into force, and subsequently thereafter as mutually decided by the Parties.

5. After three years, or as otherwise agreed, the Committee 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.

¹ The Committee may meet via teleconference, via video-conference or through any other means mutually determined by the Parties. Should the Parties decide to meet in person, the venue for meetings shall alternate between the Parties.

Stakeholder Consultation

6. The Committee may consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.

7. Each Party shall provide an opportunity for its domestic stakeholders to submit views or advice to it on matters relating to the operation of this Chapter, and may develop mechanisms to inform its public of activities undertaken pursuant to this Agreement in accordance with its laws, regulations, policies and practices.

8. The Committee shall prepare a report on its work at the end of each Committee meeting. The Committee's report may be made public.

Article 16.8 : Co-operation

1. The Parties recognise the importance of co-operation on trade-related environmental matters in order to support the effective implementation of this Agreement and promote the achievement of the objectives of this Chapter.

2. Taking account of their national priorities and available resources, the Parties commit to expanding their co-operative relationship in bilateral, regional and multilateral fora on environmental matters, including, where relevant, through the interaction of government and non-government organisations (including business, industry, education and research institutions).

3. The Parties also commit to co-operate on mutually agreed environmental issues as set out in Annex 16-A.

Article 16.9 : 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 co-operation to resolve any issue that might affect its operation. The Parties may seek advice or assistance from any person or body they consider appropriate.

2. A Party may request consultations with the other Party regarding any matter arising under this Chapter through the contact point. Unless the Parties otherwise agree, consultations shall commence within 30 days of a Party's acknowledged receipt of a request for consultations submitted to the contact point of the other Party.

3. The Parties shall decide a timeframe for consultations under paragraph 2 which shall not exceed 180 days, unless otherwise mutually agreed.

4. If consultations fail to resolve the matter, either Party may request through the contact point that the Committee be convened to consider the matter. The Committee shall meet as soon as practicable, and no later than 90 days following the request. The contact

points shall liaise to verify the facts in relation to the issue before the meeting of the Committee.

5. To assist its deliberations, the Committee may request advice from an independent expert or experts.

6. The Committee shall produce a report providing conclusions and recommendations on resolving the issue. The Committee's report, including its conclusions and recommendations, may be made public.

7. The Parties shall implement the conclusions and recommendations of the Committee as soon as practicable.

8. If the Committee under paragraph 4 fails to resolve the issue, the requesting Party may refer the issue to the Joint Commission.

9. Neither Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.

ANNEX 16-A

CO-OPERATION

1. In order to promote the achievement of the objectives of this Chapter and to assist in the fulfilment of their obligations pursuant to it, the Parties have established the following indicative list of areas of potential co-operation, which may be pursued at bilateral, regional or multilateral levels:

- (a) co-operation in international fora responsible for environmental aspects of trade and sustainable development, including in particular the WTO, Organization for Economic Cooperation and Development, United Nations Environment Programme and multilateral environmental agreements;
- (b) co-operation on trade related aspects of multilateral environmental agreements, including exchanging views on the relationship between multilateral environmental agreements and international trade rules;
- (c) exchange of information on the trade impact of environmental regulations, norms and standards and the environmental impact of policies and practices to facilitate trade;
- (d) co-operation on trade related aspects of the current and future international climate change regime, including issues relating to global carbon markets and ways to address adverse effects of trade on climate;
- (e) the development of methods and tools to assess the environmental impacts of trade;
- (f) promotion of public awareness and education programmes related to environmental goods and services; and
- (g) other areas of mutual interest relevant to the environment as the Parties may deem appropriate.

2. To advance their common interest in trade-related environment and energy issues, the Parties agree to co-operate on matters including but not limited to:

- (a) dissemination of energy-related technologies that contribute to protection of the environment, including renewable energy and energy-efficient products and services;
- (b) policies, laws, regulations and other measures relating to the production and use of energy and protection of the environment;

- (c) co-operation in international fora responsible for energy aspects of trade and sustainable development, including in particular the International Energy Agency, APEC and multilateral environmental agreements; and
- (d) any measures proposed by either Party to ensure that energy activities in its territory are undertaken in a manner sensitive to environmental concerns.

3. The Parties shall encourage and facilitate, as appropriate, the following means for undertaking co-operative activities:

- (a) collaborative research on subjects of mutual interest;
- (b) exchange of environment experts and management personnel;
- (c) exchange of technical information and publications;
- (d) workshops and exchange of best practice; and
- (e) any other modes of co-operation decided by the Parties.

4. To facilitate identification of co-operative activities, the Parties shall, as a first step after this Agreement enters into force, exchange lists of their initial priorities.

5. Each Party may, as appropriate, involve its non-government sectors and other organisations in identifying potential areas for co-operation, and in undertaking co-operative activities as mutually decided.