

CHAPTER 18

ENVIRONMENT

ARTICLE 18.1: LEVELS OF PROTECTION

1. Recognising 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, regulations and policies, each Party shall endeavour to ensure that its laws, regulations and policies provide for and encourage high levels of environmental protection and shall endeavour to continue to improve its respective levels of environmental protection, including through such environmental laws, regulations and policies.
2. Each Party recognises that it is inappropriate to use environmental laws, regulations or policies for trade protectionist purposes.

ARTICLE 18.2: MULTILATERAL ENVIRONMENTAL AGREEMENTS

1. The Parties recognise that multilateral environmental agreements to which both Parties are party play an important role, globally and domestically, in protecting the environment and that their respective implementation of these agreements is critical to achieving the environmental objectives of these agreements. Accordingly, the Parties shall continue to seek means to enhance the mutual supportiveness of multilateral environmental agreements and international trade agreements to which both Parties are party.
2. To this end, the Parties shall consult, as appropriate, with respect to negotiations on trade-related environmental issues of mutual interest.

ARTICLE 18.3: APPLICATION AND ENFORCEMENT OF ENVIRONMENTAL LAWS

1. Neither Party shall fail to enforce its environmental laws, regulations and policies, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties. Each Party retains the right to exercise reasonable discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters in the enforcement of its environmental laws, regulations and policies and to make bona fide decisions regarding the allocation of resources to enforcement.
2. Each Party recognises that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in its environmental laws, regulations and policies. Accordingly, each Party shall endeavour to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws, regulations and policies in a manner that weakens or reduces the protections afforded in those laws, regulations and policies as an encouragement for trade with the other Party, or as an encouragement for the establishment, acquisition, expansion, or retention of an investment in its territory.

ARTICLE 18.4: TRADE FAVOURING ENVIRONMENT

Each Party shall endeavour to facilitate and promote trade and investment in environmental goods and services, including environmental technologies, sustainable renewable energy, and energy efficient goods and services, including through addressing related non-tariff barriers.

ARTICLE 18.5: PROCEDURAL GUARANTEES

Any matter relating to this Chapter which arises under Chapter 19 (Transparency) shall be subject to Article 18.7.

ARTICLE 18.6: INSTITUTIONAL MECHANISM

Contact Point

1. Each Party shall designate a contact point for environmental matters to facilitate communication between the Parties.

Ad hoc Committee

2. A Party may request the establishment of an *ad hoc* Committee to discuss any matter related to the implementation of this Chapter by delivering a written request to the contact point of the other Party and the other Party shall give due consideration to the request. The *ad hoc* Committee shall comprise appropriate senior officials from the environmental ministry and/or other appropriate agencies and ministries of each Party. The *ad hoc* Committee shall discuss the matter at a time and place agreed to by the Parties.⁸⁹

ARTICLE 18.7: CONSULTATIONS

1. A Party may request consultations with the other Party regarding any matter arising under this Chapter 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 to the contact point of the other Party. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter.

2. If consultations under paragraph 1 fail to resolve the matter, and a Party deems that the matter needs further discussion, that Party may request the establishment of an *ad hoc* Committee under Article 18.6.2 to consider the matter. Where the establishment of such an *ad hoc* Committee is requested under this paragraph, that *ad*

⁸⁹ Where convenient, the *ad hoc* Committee may meet at meetings of appropriate international bodies at which both Parties are represented.

hoc Committee shall be established without undue delay and shall endeavour to agree on a resolution of the matter.

ARTICLE 18.8: COOPERATION

1. Recognising the importance of cooperating on trade-related aspects of environmental policies in order to achieve the objectives of this Agreement, the Parties commit to enhancing close cooperation through cooperative activities in areas of mutual interest as set out in paragraphs 2 and 3.
2. Areas of cooperation may include, but should not be limited to, trade impact of environmental laws and regulations, trade-related aspects of international climate change regimes, trade-related environment issues and trade-related aspects of biodiversity.
3. Cooperative activities may include, but should not be limited to, exchanges of people and information, sharing information on the environmental effects of trade agreements, cooperation in relevant regional and international fora, conferences and seminars, and development of joint research or collaborative projects.

ARTICLE 18.9: DISPUTE SETTLEMENT

Neither Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Chapter, including such matters as referred to in Article 18.5.

