

CHAPTER 5: ENVIRONMENT

Article 5.1: Scope and Objectives

1. The Parties recognize the importance of mitigating the arbitrage of environmental regulations, which is inimical to sustainable development.
2. The Parties recognize that the environment plays an important role in their economic, social, and cultural well-being.

Article 5.2: Enforcement of Environmental Laws

1. No Party shall fail to effectively enforce its environmental laws.
2. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental laws. Accordingly, a Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in those laws to encourage trade or investment.
3. Each Party shall provide appropriate sanctions or remedies for violations of its environmental laws, including sanctions or remedies to deter future violations.

Article 5.3: Public Information and Participation

1. Each Party shall promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.
2. Each Party shall provide for the receipt and consideration of written questions or comments from persons of that Party regarding its implementation of this Chapter. Each Party shall respond in a timely manner to these questions or comments in writing, and make the questions or comments and the responses available to the public, for example by posting on an appropriate public website.
3. Each Party shall make use of existing, or establish new, consultative mechanisms, for example national advisory committees, to seek views on matters related to the implementation of this Chapter. These mechanisms shall include persons with relevant experience, including experience in natural resource conservation and management or other environmental matters.

Article 5.4: Procedural Matters

1. Each Party shall ensure that an interested person may request that the Party's competent authorities investigate alleged violations of its environmental laws, and that the competent authorities give those requests due consideration.

2. Each Party shall ensure that persons with a recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental laws, and the right to seek appropriate remedies or sanctions for violations of those laws.

3. Each Party shall ensure that administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental laws are available under its law and that those proceedings are fair, equitable, transparent, and comply with due process of law, including the opportunity for parties to the proceedings to support or defend their respective positions. The Parties recognize that these proceedings should not be unnecessarily complicated nor entail unreasonable fees or time limits.

4. Each Party shall provide that any hearings in these proceedings are conducted by impartial and independent persons who do not have an interest in the outcome of the matter. Hearings in these proceedings shall be open to the public, except when the administration of justice otherwise requires, and in accordance.

5. Each Party shall provide that final decisions on the merits of the case in these proceedings are:

- (a) in writing and state the reasons on which the decisions are based;
- (b) made available without undue delay to the parties to the proceedings and, in accordance with its law, to the public; and
- (c) based on information or evidence presented by the parties or other sources.

6. Each Party shall also provide, as appropriate, that parties to these proceedings have the right, in accordance with its law, to seek review and, if warranted, correction or redetermination, of final decisions in such proceedings.

7. Each Party shall ensure that it takes account of relevant factors when establishing sanctions or remedies, which may include the nature and gravity of the violation, prior violations, damage to the environment, and any economic benefit derived by the violator.

Article 5.5: Environmental Impact Assessment

1. Each Party shall maintain appropriate procedures for assessing the environmental impacts of proposed projects that are subject to an action by that Party's central level of government that may cause significant effects on the environment with a view to avoiding, minimizing, or mitigating adverse effects.

2. Each Party shall ensure that such procedures provide for the disclosure of information to the public and, in accordance with its law, allow for public participation.

Article 5.6: Multilateral Environmental Agreements

1. Each Party shall adopt, maintain, and implement laws, regulations, and all other measures necessary to fulfill its respective obligations under the multilateral environmental to which they are or have been Parties.
2. The Parties commit to consult and cooperate as appropriate with respect to environmental issues of mutual interest. This includes exchanging information on the implementation of multilateral environmental agreements; ongoing negotiations of new multilateral environmental agreements; and, each Party's respective views on becoming a party to additional multilateral environmental agreements.
3. In the event of any inconsistency between a Party's obligations under this Agreement and its respective obligations under the multilateral environmental agreements, a Party's obligations under this Agreement shall not preclude the Party from taking a particular measure to comply with its obligations under such multilateral environmental agreement.

Article 5.7: Air Quality

1. The Parties recognize that air pollution is a serious threat to public health, ecosystem integrity, and sustainable development and contributes to other environmental problems; and note that reducing certain air pollutants can provide multiple benefits.
2. Noting that air pollution can travel long distances and impact each Party's ability to achieve its air quality objectives, the Parties recognize the importance of reducing both domestic and transboundary air pollution.
3. The Parties further recognize the importance of public participation and transparency in the development and implementation of measures to prevent air pollution and in ensuring access to air quality data. Accordingly, each Party shall make air quality data and information about its associated programs and activities publicly available, and shall seek to ensure these data and information are easily accessible and understandable to the public.
4. The Parties recognize the value of harmonizing air quality monitoring methodologies, while ensuring that any such harmonization does not result in suppression of accurate air quality reporting.
5. The Parties recognize the importance of international agreements and other efforts to improve air quality and control air pollutants, including those that have the potential for long-range transport.
6. The Parties shall cooperate to address matters of mutual interest with respect to air quality. Cooperation may include exchanging information and experiences in areas related to:
 - (a) ambient air quality planning;
 - (b) modeling and monitoring, including spatial distribution of main sources and their emissions;

- (c) measurement and inventory methodologies for air quality and emissions' measurements; and
- (d) reduction, control, and prevention technologies and practices.

Article 5.8: Marine Litter

1. The Parties shall cooperate to prevent and reduce marine litter, including plastic litter and microplastics, in order to preserve human health and marine and coastal ecosystems, prevent the loss of biodiversity, and mitigate marine litter's costs and impacts.
2. Recognizing the global nature of the challenge of marine litter, each Party shall take measures to prevent and reduce marine litter.
3. The Parties shall cooperate to address matters of mutual interest with respect to combatting marine litter, such as addressing land and sea-based pollution, promoting waste management infrastructure, and advancing efforts related to abandoned, lost, or otherwise discarded fishing gear.

Article 5.9: Corporate Social Responsibility and Responsible Business Conduct

Nothing in this Agreement prevents Parties from requiring compliance with standards and guidelines regarding corporate social responsibility and responsible business conduct, provided such requirement is consistent with Chapter 3 (National Treatment).

Article 5.10: Trade and Biodiversity

1. The Parties recognize the importance of conservation and sustainable use of biological diversity, as well as the ecosystem services it provides, and their key role in achieving sustainable development.
2. Accordingly, each Party shall promote and encourage the conservation and sustainable use of biological diversity.
3. The Parties recognize the importance of respecting, preserving, and maintaining knowledge and practices of indigenous peoples and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity.
4. The Parties recognize the importance of facilitating access to genetic resources within their respective national jurisdictions, consistent with each Party's international obligations. The Parties further recognize that some Parties may require, through national measures, prior informed consent to access such genetic resources in accordance with national measures and, if access is granted, the establishment of mutually agreed terms, including with respect to sharing of benefits from the use of such genetic resources, between users and providers.

5. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures concerning the conservation and sustainable use of biological diversity. Each Party shall make publicly available information about its programs and activities, including cooperative programs, related to the conservation and sustainable use of biological diversity.

6. The Parties shall cooperate to address matters of mutual interest. Cooperation may include exchanging information and experiences in areas related to:

- (a) the conservation and sustainable use of biological diversity;
- (b) mainstreaming conservation and sustainable use of biological diversity across relevant sectors;
- (c) the protection and maintenance of ecosystems and ecosystem services; and
- (d) access to genetic resources and the sharing of benefits arising from their utilization.

Article 5.11: Marine Wild Capture Fisheries

1. The Parties acknowledge their role as major consumers, producers, and traders of fisheries products and the importance of the marine fisheries sectors to their development and to the livelihoods of fishing communities, including those engaged in artisanal, small scale, and indigenous fisheries. The Parties also recognize the need for individual and collective action within international fora to address the urgent resource problems resulting from overfishing and unsustainable utilization of fisheries resources.

2. Accordingly, the Parties recognize the importance of taking measures aimed at the conservation and the sustainable management of fisheries and the contribution of those measures to providing environmental, economic and social opportunities for present and future generations. The Parties also recognize the importance of promoting and facilitating trade in sustainably managed and legally harvested fish and fish products.

Article 5.12: Sustainable Fisheries Management

1. In furtherance of the objectives of conservation and sustainable management, each Party shall operate a fisheries management system that regulates marine wild capture fishing to:

- (a) prevent overfishing and overcapacity through appropriate measures, such as limited entry, time, area, and other restrictions, and the setting and enforcement of catch or effort limits;
- (b) reduce bycatch of non-target species and juveniles, including through the regulation of, and implementation of measures associated with, fishing gear and

methods that result in bycatch and the regulation of fishing in areas where bycatch is likely to occur;

- (c) promote the recovery of overfished stocks for all marine fisheries in which that Party's persons conduct fishing activities; and
 - (d) protect marine habitat by cooperating, as appropriate, to prevent or mitigate significant adverse impacts from fishing.
2. Further, each Party shall adopt, maintain, and implement measures to prohibit:
- (a) the use of poisons and explosives for the purpose of commercial fish harvesting; and
 - (b) the practice of shark finning.
3. Each Party shall base its fisheries management system on the best scientific evidence available and on internationally recognized best practices for fisheries management and conservation as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species.¹⁹

Article 5.13: Conservation of Marine Species

1. Each Party shall adopt, maintain, and implement measures to conserve sharks, sea turtles, seabirds, and marine mammals. Such measures shall include:
- (a) studies and assessments of the impact of fisheries operations on non-target species and their marine habitats, including through collection of species-specific data for non-target species and estimates of their bycatch, as appropriate;
 - (b) gear-specific studies and data collection on impacts on non-target species and on the efficacy of management measures to reduce those adverse impacts, as appropriate;
 - (c) measures to avoid, mitigate, or reduce bycatch of non-target species in fisheries, including appropriate measures pertaining to the use of bycatch mitigation devices, modified gear, or other techniques to reduce the impact of fishing operations on these species; and
 - (d) cooperation on national and regional bycatch reduction measures, such as measures applicable to commercial fisheries pertaining to transboundary stocks of non-target species.

2. Each Party shall prohibit the killing of great whales¹ for commercial purposes unless authorized in a multilateral treaty to which the Party is a party.

Article 5.14: Fisheries Subsidies

1. The Parties recognize that the implementation of a fisheries management system that is designed to prevent overfishing and overcapacity and to promote the recovery of overfished stocks must include the control, reduction, and eventual elimination of all subsidies that contribute to overfishing and overcapacity. To that end, no Party shall grant or maintain any of the following subsidies within the meaning of Article 1.1 of the SCM Agreement that are specific within the meaning of Article 2 of the SCM Agreement:

- (a) subsidies provided to a fishing vessel or operator while listed for IUU fishing by the flag State, the subsidizing Party, or a relevant Regional Fisheries Management Organization or Regional Fisheries Management Arrangement in accordance with the rules and procedures of that organization or arrangement and in conformity with international law; and
- (b) subsidies for fishing that negatively affect fish stocks that are in an overfished condition.

2. Subsidy programs that are established by a Party before the date of entry into force of this Agreement and are subsidies referred to in paragraph 1(b) shall be brought into conformity with paragraph 1 as soon as possible and no later than three years after the date of entry into force of this Agreement.

3. In relation to subsidies that are not prohibited by paragraph 1, each Party shall not introduce new, nor extend nor enhance existing, subsidies within the meaning of Article 1.1 of the SCM Agreement, to the extent they are specific within the meaning of Article 2 of the SCM Agreement, that contribute to overfishing or overcapacity.

4. Each Party shall notify the other Party, within one year of the date of entry into force of this Agreement and every two years thereafter, of any subsidy within the meaning of Article 1.1 of the SCM Agreement that is specific within the meaning of Article 2 of the SCM Agreement, that the Party grants or maintains to persons engaged in fishing or fishing related activities.

5. These notifications shall cover subsidies provided within the previous two-year period and shall include the information required under Article 25.3 of the SCM Agreement and, to the extent possible, the following information:

¹ Great whales are the following 16 species: *Balaena mysticetus*, *Eubalaena glacialis*, *Eubalaena japonica*, *Eubalaena australis*, *Eschrichtius robustus*, *Balaenoptera musculus*, *Balaenoptera physalus*, *Balaenoptera borealis*, *Balaenoptera edeni*, *Balaenoptera acutorostrata*, *Balaenoptera bonaerensis*, *Balaenoptera omurai*, *Megaptera novaeangliae*, *Caperea marginata*, *Physeter macrocephalus*, and *Hyperoodon ampullatus*.

- (a) program name;
- (b) legal authority for the program;
- (c) catch data by species in the fishery for which the subsidy is provided;
- (d) status, whether overfished, fully fished, or underfished, of the fish stocks in the fishery for which the subsidy is provided;
- (e) fleet capacity in the fishery for which the subsidy is provided;
- (f) conservation and management measures in place for the relevant fish stock; and
- (g) total imports and exports per species.

7. Each Party shall also provide information in relation to other subsidies that the Party grants or maintains to persons engaged in fishing or fishing related activities that are not covered by paragraph 1, in particular fuel subsidies.

8. A Party may request additional information from the notifying Party regarding the notifications provided under paragraphs 5 and 6. The notifying Party shall respond to that request as quickly as possible and in a comprehensive manner.

9. Each Party shall notify the other Parties on an annual basis of any list of vessels and operators identified as having engaged in IUU fishing.

10. The Parties shall work in the WTO towards strengthening international rules on the provision of subsidies to the fisheries sector and enhancing transparency of fisheries subsidies.

Article 5.15: Illegal, Unreported, and Unregulated (IUU) Fishing

1. The Parties recognize the importance of concerted international action to address IUU fishing as reflected in regional and international instruments.

2. In support of international efforts to combat IUU fishing and to help deter trade in products from IUU fishing, each Party shall:

- (a) implement port state measures, including through actions consistent with the Port State Measures Agreement;
- (b) adopt and maintain, review, or revise measures to:
 - (i) deter vessels flying its flag and, to the extent provided for in each Party's law, its nationals, from engaging in IUU fishing; and

- (ii) address the transshipment at sea of fish caught through IUU fishing or fish products derived from IUU fishing.
 - (c) maintain a vessel documentation scheme and promote the use of International Maritime Organization numbers, or comparable unique vessel identifiers, as appropriate, for vessels operating outside of its national jurisdiction, in order to enhance transparency of fleets and traceability of fishing vessels;
 - (d) act consistently with relevant conservation and management measures adopted by Regional Fisheries Management Organizations or Regional Fisheries Management Agreements of which it is not a party so as not to undermine those measures;
 - (e) not undermine catch or trade documentation schemes operated by Regional Fisheries Management Organizations or Regional Fisheries Management Agreements;
 - (f) develop and maintain publicly available and easily accessible registry data of fishing vessels flying its flag; promote efforts by non-Parties to develop and maintain publicly available and easily accessible registry data of such vessels flying its flag; and support efforts to complete a Global Record of Fishing Vessels, Refrigerated Transport Vessels, and Supply Vessels; and
 - (g) cooperate with other Parties through the exchange of information and best practices to combat trade in products derived from IUU fishing.
3. A Party shall, to the extent possible, provide the other Parties the opportunity to comment on proposed measures that are designed to prevent trade in fisheries products derived from IUU fishing.

Article 5.16: Conservation and Trade

1. Each Party shall prohibit the importation of illegally harvested wild fauna and flora.
2. Each Party shall:
 - (a) exchange information and experiences on issues of mutual interest related to combatting the illegal take of, and illegal trade in, wild fauna and flora, including combatting illegal logging and associated illegal trade, and promoting the legal trade in associated products;
 - (b) undertake joint activities on conservation issues of mutual interest, including through relevant regional and international fora; and

- (c) implement resolutions of the Convention on International Trade in Endangered Species of Wild Flora and Fauna that aim to protect and conserve species whose survival is threatened by international trade.
3. Each Party further commits to:
- (a) take appropriate measures to protect and conserve wild fauna and flora that it has identified to be at risk within its territory, including measures to conserve the ecological integrity of specially protected natural areas, for example grasslands and wetlands;
 - (b) maintain or strengthen government capacity and institutional frameworks to promote the conservation of wild fauna and flora, and endeavor to enhance public participation and transparency in these institutional frameworks; and
 - (c) develop and strengthen cooperation and consultation with interested non-governmental entities and other stakeholders in order to enhance implementation of measures to combat the illegal take of, and illegal trade in, wild fauna and flora.
6. Further, each Party shall:
- (a) adopt risk assessment measures as part of its inspection regime to target shipments containing wild fauna and flora, including parts and products thereof, at ports of entry;
 - (b) treat intentional transnational trafficking of wildlife protected under its laws, as a serious crime as defined in the United Nations Convention on Transnational Organized Crime.

Article 5.17: Sustainable Forest Management and Trade

1. The Parties acknowledge their role as major consumers, producers, and traders of forest products and the importance of a healthy forest sector to provide livelihoods and job opportunities, including for indigenous peoples.
2. The Parties acknowledge the importance of:
- (a) the conservation and sustainable management of forests for providing environmental economic, and social benefits for present and future generations;
 - (b) the critical role of forests in providing numerous ecosystem services, including carbon storage, maintaining water quantity and quality, stabilizing soils, and providing habitat for wild fauna and flora; and
 - (c) ending illegal logging and associated trade.

3. The Parties recognize that forest products, when sourced from sustainably managed forests, contribute to fulfilling global environmental objectives, including sustainable development, conservation and sustainable use of resources, and green growth.

4. Accordingly, each Party commits to:

- (a) maintain or strengthen government capacity and institutional frameworks to promote sustainable forest management; and
- (b) promote trade in legally harvested forest products.

5. The Parties shall exchange information and cooperate, as appropriate, on initiatives to promote sustainable forest management, including initiatives designed to combat illegal logging and associated trade.

Article 5.18: Environmental Goods and Services

1. The Parties recognize the importance of trade and investment in environmental goods and services, including clean technologies, as a means of improving environmental and economic performance, contributing to green growth and jobs, and encouraging sustainable development, while addressing global environmental challenges.

2. Accordingly, the Parties shall strive to facilitate and promote trade and investment in environmental goods and services. For purposes of this paragraph, a good is an environmental good only if the good itself is produced in an environmentally sustainable manner.

3. The Parties shall cooperate in international fora on ways to further facilitate and liberalize global trade in environmental goods and services, and may develop cooperative projects on environmental goods and services to address current and future global environmental challenges.

Article 5.19: Definitions

For the purposes of this Chapter:

environmental laws means statutes or regulations of a Party, or provisions thereof, including any that implement the Party's obligations under any multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

- (a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;
- (b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; or

- (c) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas,

but does not include a statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources. Each Party shall set out such statutes, regulations, or provisions in Annex 5 to this Chapter.

fishing means searching for, attracting, locating, catching, taking, or harvesting fish, or any activity which can reasonably be expected to result in the attracting, locating, catching, taking, or harvesting of fish.

fishing vessel means to any vessel, ship, or other type of boat used for, equipped to be used for, or intended to be used for fishing.

illegal, unreported, and unregulated fishing or **IUU fishing** means “Illegal, unreported, and unregulated fishing” as defined in paragraph 3 of the Food and Agriculture Organization International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing.

operator means the owner of the vessel, or any person onboard, who is in charge of or directs or controls the vessel at the time of the IUU infraction.

overfished means the stock of fish is at such a low level that mortality from fishing needs to be restricted to allow the stock to rebuild to a level that produces maximum sustainable yield or alternative reference points based on the best scientific evidence available. Fish stocks that are recognized as overfished by the national jurisdiction where the fishing is taking place or by a relevant RFMO or RFMA shall also be considered overfished.

Annex 5: List of Environmental Laws

[The Parties will identify their environmental laws.]