

# Chapter 13: Environment – Text of the 2023 Canada - Ukraine Free Trade Agreement

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The 2017 CUFTA will remain in force until entry into force of the 2023 modernized agreement. Until such time, please refer to the [2017 CUFTA text](#) for information on the existing trade agreement between Canada and Ukraine.

## Article 13.1: Definitions

For the purposes of this Chapter:

**environmental law** means a statute or regulation of a Party, or provision thereof, including any that implements the Party's obligations under a 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<sup>Footnote1</sup> of wild fauna or flora including endangered species, their habitat, and specially protected natural areas,

but does not include a statute or regulation, or provision thereof, directly related to worker safety or health, nor any statute or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources;

**specially protected natural areas** means those areas as defined by the Party in its law; and

**statute or regulation** means, for Canada, an Act of the Parliament of Canada or regulation made under an Act of the Parliament of Canada that is enforceable by action of the central level of government.

## **Article 13.2: Context and Objectives**

1. The Parties recognize that a healthy environment is an integral element of sustainable development and recognize the contribution that trade makes to sustainable development.

2. The Parties recognize that the objectives of this Chapter are to:

- (a) promote mutually supportive trade and environmental policies and practices;
- (b) promote high levels of environmental protection and effective enforcement of environmental laws; and
- (c) enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development.

3. Taking account of their respective national priorities and circumstances, the Parties recognize that enhanced cooperation to protect and conserve the environment and the sustainable use and management of their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, support implementation of multilateral environmental agreements to which they are a party, and complement the objectives of this Agreement.

4. The Parties recognize that the environment plays an important role in the economic, social, and cultural well-being of Indigenous Peoples, and rural or remote communities, and acknowledge the importance of engaging with these groups in the long-term conservation of the environment.

5. The Parties further recognize that it is inappropriate to establish or use their environmental laws or other measures in

a manner which would constitute a disguised restriction on trade or investment between the Parties.

## **Article 13.3: Right to Regulate and Levels of Protection**

1. The Parties recognize the sovereign right of each Party to establish its own levels of domestic environmental protection and its own environmental priorities, and to establish, adopt, or modify its environmental laws and policies accordingly.
2. Each Party shall endeavour to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection, and shall endeavour to continue to improve its respective levels of environmental protection.
3. The Parties recognize that a key principle underpinning their environmental laws and policies is that those who pollute the environment should bear the cost of that pollution.

## **Article 13.4: Enforcement of Environmental Laws**

1. A Party shall not fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction<sup>Footnote2</sup> in a manner affecting trade or investment between the Parties.<sup>Footnote3, Footnote4</sup>
2. Each Party retains the right to exercise discretion and to make decisions regarding: (a) investigatory, prosecutorial, regulatory, and compliance matters; and (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priorities. Accordingly, the Parties understand that, with respect to the enforcement of environmental laws, a Party is in compliance with paragraph 1 if a course of action or inaction reflects a reasonable exercise of that discretion, or results from a *bona fide* decision regarding the allocation of those resources in accordance with priorities for enforcement of its environmental laws.

3. Without prejudice to Article 13.3(1), the Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their environmental laws. Accordingly, a Party shall not waive or otherwise derogate, or offer to waive or otherwise derogate, from its environmental laws in a manner that weakens or reduces the protection afforded in those law in order to encourage trade or investment between the Parties.

4. Nothing in this Chapter shall be construed to authorize a Party to enforce its environmental laws in the territory of the other Party.

## **Article 13.5: 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 in accordance with its procedures, and make the questions, comments, and responses available to the public, including by publishing them on an appropriate public website.

3. Each Party shall make use of existing, or establish new, consultative mechanisms, including a national advisory committee, to seek views on matters related to the implementation of this Chapter. These mechanisms may include persons with relevant experience, as appropriate, including experience in business, natural resource conservation and management, or other environmental matters.

## **Article 13.6: 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, in accordance with its law.

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 environmental 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 providing 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 with its law.

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

- (a) in writing, and if appropriate 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 submitted by the parties to the proceedings, or other sources, in accordance with its law.

6. Each Party shall also ensure, 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 those proceedings.

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

## **Article 13.7: Scientific and Technical Information**

1. When preparing and implementing measures aimed at environmental protection that may affect trade or investment between the Parties, each Party shall take into account relevant scientific and technical information and related international standards, guidelines, or recommendations.

2. For the purposes of this Chapter, the Parties acknowledge that where there are threats of serious or irreversible damage to the environment, the lack of full scientific certainty should not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

## **Article 13.8: Environmental Impact Assessment**

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

2. Each Party shall ensure that these procedures provide for the assessment of environmental, economic, health, and social impacts and cumulative impacts, consideration of best available scientific information and if applicable, consideration of

traditional knowledge of Indigenous Peoples, and rural or remote communities, and, in accordance with its law, allow for meaningful public participation.

## **Article 13.9: Multilateral Environmental Agreements**

1. The Parties recognize the important role that multilateral environmental agreements can play in protecting the environment and as a response of the international community to global or regional environmental problems.
2. Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.
3. The Parties shall consult and cooperate as appropriate with respect to environmental issues of mutual interest, in particular trade-related issues, pertaining to relevant multilateral environmental agreements. This includes: exchanging information on the implementation of multilateral environmental agreements to which a Party is party; ongoing negotiations of new multilateral environmental agreements; and, each Party's respective views on becoming a party to additional multilateral environmental agreements.
4. Nothing in this Agreement shall prevent a Party from adopting or maintaining measures to implement a multilateral environmental agreement to which it is a party, provided that those measures do not constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade or investment.

## **Article 13.10: Climate Change**

1. The Parties recognize that climate change is a growing threat that requires urgent and collective action. Accordingly, the Parties are resolved to demonstrate international leadership and work together to pursue domestic and global efforts to limit the global temperature increase to 1.5 degrees Celsius above

pre-industrial levels and transition to net-zero greenhouse gas emissions by 2050.

2. The Parties recognize the importance of nature-based climate solutions as actions that sustainably manage, protect, and restore natural and modified ecosystems, including forests and other terrestrial and marine ecosystems, to mitigate and adapt to the effects of climate change while simultaneously providing human well-being and biodiversity benefits.

3. Each Party shall effectively implement its obligations under the *Paris Agreement*, done at Paris on 12 December 2015 as amended.

4. The Parties acknowledge the important contribution of subnational governments, women, Indigenous Peoples, rural or remote communities, as well as private sector and interested stakeholders, in addressing and responding to climate change.

5. Each Party shall promote the positive contribution of trade to the transition to a net-zero and climate-resilient economy, recognizing the importance of mutually supportive trade and climate change policies.

6. Each Party shall endeavour to find innovative solutions to mitigate and adapt to the effects of climate change, including through the use of market-based approaches and trade-related climate measures to achieve overall green growth objectives.

7. The Parties recognize that reducing human-caused methane emissions is one of the fastest ways to decrease near-term global warming and could contribute significantly to global efforts to limit warming to 1.5 degrees Celsius. The Parties affirm their intention to reduce global anthropogenic methane emissions across all sectors by at least 30 percent below 2020 levels by 2030, as part of the *Global Methane Pledge*, done at Glasgow on 12 November 2021.

8. Consistent with Article 13.24, the Parties shall cooperate bilaterally and in international forums to address matters of mutual interest, as appropriate, to:

- (a) enhance their efforts towards the implementation of the *Paris Agreement*;



- (b) improve transparency, including through greenhouse gas emissions measurement, reporting, and verification;
- (c) increase energy efficiency;
- (d) promote the rapid transition from unabated coal power to clean energy sources;
- (e) encourage the development and deployment of cost-effective, low-emissions technologies and alternatives;
- (f) promote environmental sustainability, including through the promotion of sustainable transport and sustainable urban infrastructure development;
- (g) reduce emissions of short-lived climate pollutants, including methane;
- (h) promote carbon pricing and measures to mitigate carbon leakage risks; and
- (i) address impacts and risks associated with climate change through adaptation measures, including nature-based climate solutions.

## **Article 13.11: Protection of the Ozone Layer**

1. The Parties recognize that emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment. The Parties also note that certain substances that deplete the ozone layer and some of their alternatives contribute to climate change, and note the opportunity to control those substances in a coherent manner to minimize impacts on both the ozone layer and the climate. Accordingly, each Party recognizes the importance of implementing their obligations under the *Montreal Protocol on Substances That Deplete the Ozone Layer* done at Montreal on 16 September 1987, as adjusted and amended.

2. Consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest related to the substances

referred to in paragraph 1. Cooperation may include exchanging information and experiences in areas related to:

- (a) environmentally friendly alternatives to those substances;
- (b) refrigerant management practices, policies, and programs;
- (c) methodologies for stratospheric ozone measurements; and
- (d) combatting illegal trade in those substances.

## **Article 13.12: Protection of the Marine Environment from Ship Pollution**

1. The Parties recognize the importance of protecting and preserving the marine environment. To that end, each Party recognizes the importance of implementing obligations under the *International Convention for the Prevention of Pollution from Ships* done at London on 2 November 1973 (MARPOL Convention)<sup>Footnote5</sup> and taking measures to prevent the pollution of the marine environment from ships.

2. Consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest with respect to pollution of the marine environment from ships. Areas of cooperation may include:

- (a) addressing accidental and deliberate pollution from ships, and pollution from routine operations of ships;
- (b) developing technologies to minimize ship-generated waste;
- (c) addressing underwater vessel noise to reduce impacts on marine ecosystems;
- (d) assessing the adequacy of port waste reception facilities;
- (e) increasing protection in special geographic areas; and

- (f) conducting enforcement measures including notifications to flag States and, as appropriate, by port States.

## **Article 13.13: Circular Economy**

1. The Parties recognize that the circular economy offers a systemic approach to adopting sustainable consumption and production patterns. The Parties further recognize the role that international trade can play in the transition to a circular economy, including facilitating the movement of secondary materials and related goods and services through global supply chains.

2. Consistent with Article 13.24, the Parties shall cooperate, as appropriate, to address matters of mutual interest to advance a more resource-efficient and circular economy.

## **Article 13.14: Air Quality**

1. The Parties recognize that air pollution is a global challenge with far reaching impacts on health, the economy, and the environment, and affirm the need to promote sustainable development policies that support improved air quality. Further, the Parties recognize that air pollution contributes to climate change and note the importance of addressing air pollution and climate change in a coherent manner. The Parties also recognize the importance of reducing emissions of short-lived climate forcers, such as methane and black carbon, to both improve air quality and mitigate climate change.

2. The Parties recognize the importance of international agreements and other international efforts to improve air quality and control air pollutants, including pollutants that have the potential for long-range transport. The Parties further recognize that broader cooperation can be beneficial in meeting these objectives. Accordingly, the Parties reaffirm their commitment to contributing to the achievement of the relevant objectives and goals of such forums.

3. Consistent with Article 13.24, the Parties shall cooperate, as appropriate, to address matters of mutual interest with respect to air quality. This cooperation may include exchanging information and experiences in areas such as: ambient air quality management and air quality standards; best practices related to sound management of chemicals that are air pollutants; and air pollutant reduction, control, and prevention technologies and practices.

## **Article 13.15: Chemicals Management**

1. The Parties recognize the importance of pursuing the sound management of chemicals through their complete life cycle in order to enhance the protection of human health and the environment, as well as its contribution to the achievement of the Sustainable Development Goals under the United Nations 2030 Agenda for Sustainable Development.

2. The Parties also recognize the importance of implementing their obligations under the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal*, done at Basel on 22 March 1999, the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*, done at Rotterdam on 10 September 1998, the *Stockholm Convention on Persistent Organic Pollutants*, done at Stockholm on 22 May 2004, and the *Minamata Convention on Mercury*, done at Geneva on 19 January 2013.

3. Consistent with Article 13.24, the Parties shall cooperate, as appropriate, to address matters of mutual interest with respect to chemicals management. This cooperation may include exchanging information and experiences in areas such as: risk assessment and risk management methodologies, tools, and models; scientific data and assessment; environmental monitoring; pollutant release and transfer registers; implementation of relevant international agreements; and governance structures to manage chemicals.

## **Article 13.16: Plastic Pollution and Waste**

1. The Parties recognize the importance of taking action to prevent and reduce plastic pollution and waste, including microplastics, in order to preserve human health and the environment, prevent the loss of biodiversity, and mitigate the costs and impacts of plastic pollution and waste.
2. Recognizing the global nature of the challenge of taking action under paragraph 1(a), each Party shall adopt or maintain measures to prevent and reduce plastic pollution and waste, including microplastics.
3. Recognizing that the Parties are taking action to address plastic pollution and waste in other forums, consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest with respect to addressing plastic pollution and waste, including microplastics, such as addressing land and sea-based pollution, promoting waste reduction, improving waste management, addressing plastic waste throughout its lifecycle, promoting the transition to a circular economy, and advancing efforts related to abandoned, lost, or otherwise discarded fishing gear.

## **Article 13.17: Corporate Social Responsibility and Responsible Business Conduct**

1. The Parties recognize the importance of promoting corporate social responsibility and responsible business practices.
2. Each Party shall encourage enterprises organized or constituted under its law, or operating in its territory, to adopt and implement principles and standards of responsible business conduct and corporate social responsibility that are related to the environment. These principles and standards shall be consistent with internationally recognized standards and guidelines that have been adopted by that Party to strengthen coherence between economic and environmental objectives.

## **Article 13.18: Voluntary Mechanisms to Enhance Environmental Performance**

1. The Parties recognize that flexible, voluntary mechanisms, such as voluntary auditing and reporting, market-based mechanisms, voluntary sharing of information and expertise, and public-private partnerships can contribute to the achievement and maintenance of high levels of environmental protection and complement regulatory measures. The Parties also recognize that those mechanisms should be designed in a manner that maximizes their environmental benefits and avoids the creation of unnecessary barriers to trade.

2. Therefore, in accordance with its laws or policies, each Party shall encourage, as appropriate:

- (a) the use of those mechanisms to protect the environment and natural resources in its territory; and
- (b) its relevant authorities, private sector entities, non-governmental organizations, and other interested persons involved in the development of criteria used to evaluate environmental performance, to continue to develop and improve the criteria used in those mechanisms.

3. If private sector entities or non-governmental organizations develop mechanisms for the promotion of products based on their environmental qualities, those mechanisms must not be misleading or deceptive under the relevant law of a Party.

4. Each Party should encourage its private sector entities and non-governmental organizations to develop mechanisms that:

- (a) are based on relevant scientific and technical information;
- (b) are based on relevant international standards, recommendations, guidelines, or best practices, as appropriate;
- (c) promote competition and innovation; and
- (d) do not treat a product less favourably on the basis of origin.

## Article 13.19: Trade and Biological Diversity

1. The Parties recognize the importance of conservation and sustainable use of biological diversity, including the ecosystem services it provides. The Parties also recognize the key role that conservation and sustainable use of biodiversity plays in achieving sustainable development.

2. The Parties recognize the importance of respecting, preserving, and maintaining knowledge and practices of Indigenous Peoples, and rural or remote communities embodying traditional lifestyles, that contribute to the conservation and sustainable use of biological diversity in accordance with its law.

3. The Parties recognize the importance of facilitating access to genetic resources within their respective national jurisdictions, consistent with their international obligations. The Parties further recognize that each Party may require, through national measures, prior informed consent to access 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 genetic resources between users and providers.

4. The Parties recognize that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health. The Parties also recognize that the prevention, detection, early response and management, and when possible, eradication of invasive alien species, are critical strategies to averting or mitigating the adverse effects.

5. The Parties affirm the importance of ensuring that international trade in wild fauna and flora does not affect the survival of species in the wild and combatting the illegal take<sup>Footnote6</sup> of, and illegal trade in, wild fauna and flora. Further, the Parties acknowledge that illegal trade undermines efforts to conserve and sustainably manage wild fauna and flora, has social consequences, distorts legal trade in wild fauna and flora,

and reduces the economic and environmental value of wild fauna and flora.

6. Each Party shall:

- (a) promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy;
- (b) adopt, maintain, and implement laws, regulations, and any other measures to fulfil its obligations under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington, D.C. on 3 March 1973, (CITES) [Footnote7](#), [Footnote8](#), [Footnote9](#);
- (c) endeavour to implement CITES resolutions that aim to protect and conserve species whose survival is threatened by international trade;
- (d) maintain or strengthen government capacity and institutional frameworks to promote the conservation of wild fauna and flora, and endeavour to enhance public participation and transparency in the institutional frameworks;
- (e) adopt or maintain 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 such as grasslands and wetlands;
- (f) adopt or maintain measures to combat, and cooperate to prevent, the trade of wild fauna and flora that, based on credible evidence [Footnote10](#), were taken or traded in violation of its law or another applicable law [Footnote11](#), the primary purpose of which is to conserve, protect, or manage wild fauna or flora;
- (g) endeavour to adopt measures to combat the trade of wild fauna and flora transshipped through its territory that, based on credible evidence, were illegally taken or traded, including sanctions, penalties, or other effective measures, such as administrative measures that can act as a deterrent to that trade;



- (h) endeavour to maintain or strengthen enforcement techniques to facilitate increased detection of illegal shipments containing wild fauna or flora, including parts and products thereof, at ports of entry; and
- (i) treat intentional transnational trafficking of wildlife protected under its law<sup>Footnote12</sup> as a serious crime as defined in the United Nations Convention on Transnational *Organized Crime* done at New York on 15 November 2000.<sup>Footnote13</sup>

7. In implementing paragraph 6 (f) and (g), the Parties recognize that each Party:

- (a) retains the right to exercise administrative, investigatory, and enforcement discretion including by taking into account in relation to each situation the strength of the available evidence and the seriousness of the suspected violation; and
- (b) retains the right to make decisions regarding the allocation of administrative, investigatory, and enforcement resources.

8. Consistent with Article 13.24, the Parties shall cooperate to address matters of mutual interest with respect to trade and biological diversity, which may include:

- (a) conservation and sustainable use of biological diversity and its mainstreaming across relevant sectors;
- (b) protection and maintenance of ecosystems and ecosystem services;
- (c) access to genetic resources and the sharing of benefits arising from their utilization;
- (d) exchange of information and experiences on issues related to combatting the illegal take of, and illegal trade in, wild fauna and flora, and promoting the legal trade in associated products;
- (e) undertaking, as appropriate, of joint activities on conservation issues, including through relevant regional and international forums; and

- (f) identifying opportunities to enhance cooperation on law enforcement and share information, for example by enhancing participation in law enforcement networks, and, as appropriate, by establishing new networks with the objective of developing a strong and effective global international network.

## **Article 13.20: Sustainable Agriculture**

1. The Parties note the increasing impact that global challenges, such as loss of biodiversity, land degradation, droughts, emergence of new pests and diseases, and climate change have on sustainable agriculture.
2. Considering this increasing impact, the Parties recognize the importance of strengthening policies and developing programs that contribute to more productive, sustainable, inclusive, and resilient agricultural practices.
3. Consistent with Article 13.24, the Parties shall, as appropriate, exchange information and best practices in the development and the implementation of integrated policies and programs to promote the economic, social, and environmental aspects of sustainable agriculture.
4. The Parties may cooperate in areas of mutual interest such as improving agricultural productivity taking into account the protection and sustainable use of ecosystems and natural resources, adaptation and resilience to climate change, and meeting the particular needs of farmers and rural communities.

## **Article 13.21: Marine Sustainable Fisheries and Aquaculture**

[Footnote14](#)

1. The Parties recognize:
  - (a) that a healthy ocean is critical to sustainably developing ocean economies;
  - (b) their role as consumers, producers, and traders of fisheries and aquaculture products;

- (c) the importance of fisheries and aquaculture sectors to the development and livelihoods of coastal communities, including those engaged in artisanal, small scale, and Indigenous fisheries;
- (d) the need for individual and collective action within international forums to address overfishing and unsustainable utilization of fisheries resources, and their impacts;
- (e) the importance of taking measures aimed at the conservation and sustainable management of fisheries, and the contribution of those measures to environmental, economic, and social opportunities for present and future generations; and
- (f) the importance of promoting and facilitating trade in sustainably and legally harvested fisheries products.

2. Accordingly, the Parties shall implement conservation measures, and shall seek to operate a fisheries management framework that is based on the best scientific evidence available and internationally recognized best practices in accordance with the *United Nations Convention on the Law of the Sea* done at Montego Bay on 10 December 1982 ("UNCLOS") and other relevant international instruments.

3. In furtherance of the objectives of conservation and sustainable fisheries, each Party shall seek to implement a fisheries management framework that regulates marine wild capture fishing and is designed to implement conservation and management measures that are consistent with the rules of international law, including those reflected in UNCLOS, and to act in accordance with the principles of the Food and Agricultural Organization (FAO) *Code of Conduct for Responsible Fisheries*.

4. The Parties shall cooperate with and participate, where appropriate, in regional fisheries management organizations ("RFMOs") and regional fisheries management arrangements ("RFMAs"), as members, observers, or cooperating non-contracting parties, with the aim of achieving good governance, including by advocating for science-based decisions by these

RFMOs and RFMAs, and ensuring compliance with those decisions.

5. Each Party shall promote the long-term conservation of sharks, sea turtles, seabirds, and marine mammals through the implementation and enforcement of conservation and management measures. Such measures shall include, as appropriate:

- (a) monitoring, studies, and assessments of the impact of fisheries and aquaculture operations on non-target species and their marine habitats;
- (b) gear-specific studies and data collection of impacts on non-target species;
- (c) measures to prevent, mitigate, or reduce bycatch of non-target species in fisheries; and
- (d) cooperation on regional bycatch reduction measures, including measures applicable to commercial fisheries of straddling and high seas stocks and highly migratory species.

6. Each Party shall adopt or maintain measures designed to prohibit the practice of shark finning.

7. The Parties agree to continue to collaborate in the WTO towards strengthening international rules on the provisions of subsidies in the fisheries sector and enhancing transparency of fisheries subsidies.<sup>[Footnote15](#)</sup>

8. The Parties recognize the importance of concerted international action to prevent, deter, and eliminate illegal, unreported, and unregulated ("IUU") fishing as reflected in regional and international instruments<sup>[Footnote16](#)</sup>, and shall endeavour to improve cooperation internationally in this regard, including with and through competent international organizations.

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

- (a) implement port state measures, consistent with the *Agreement on Port State Measures to Prevent, Deter*

*and Eliminate Illegal, Unreported and Unregulated Fishing*. done at Rome on 23 November 2009 (*Port State Measures Agreement*); and

- (b) support monitoring, control, surveillance, compliance, and enforcement schemes, including by adopting, maintaining, reviewing, or revising, as appropriate, measures to:
  - (i) deter vessels flying its flag and its nationals from engaging in IUU fishing;
  - (ii) address the transshipment at sea of fish caught through IUU fishing or fish products derived from IUU fishing; and
  - (iii) implement catch or trade document schemes consistent with the *FAO Voluntary Guidelines for Catch Documentation*.

10. In support of the development and management of an environmentally responsible and economically competitive aquaculture industry, the Parties shall endeavour to act in accordance with the principles of the *FAO Code of Conduct for Responsible Fisheries* that are applicable to the aquaculture sector.

## **Article 13.22: Sustainable Forest Management and Trade**

1. The Parties recognize the importance of conservation and sustainable management of forests in contributing to economic, environmental, and social objectives, livelihoods and job opportunities, including for Indigenous Peoples, and in rural or remote communities.

2. Accordingly, the Parties recognize 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, regulating temperature, maintaining water quantity and quality, stabilizing soils, and providing habitat for wild fauna and flora; and
- (c) combatting illegal logging and associated trade.

3. The Parties recognize that forest products, when sourced from sustainably managed forests and used appropriately, store carbon and help to reduce greenhouse gas emissions in other sectors and thus contribute toward achieving global environmental objectives, including those related to climate change.

4. Accordingly:

- (a) each Party shall maintain or strengthen government capacity and institutional frameworks to promote sustainable forest management;
- (b) each Party shall encourage trade in forest products from sustainably managed forests harvested in accordance with the law of the country of harvest; and
- (c) 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 13.23: Environmental Goods and Services**

1. The Parties recognize the importance of trade and investment in environmental goods and services, including those goods and services that are particularly relevant to climate change mitigation and adaptation and, in particular, 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, each Party shall endeavour to facilitate and promote trade and investment in environmental goods and services.

3. The Parties shall facilitate joint activities to support the growth of, and trade and investment in, environmental goods and services. These activities may include:

- (a) exchanging information on policies and programs that can support the commercialization, scale-up, and deployment of environmental goods and services, including goods of particular relevance for climate change mitigation and adaptation;
- (b) exchanging information on the utilization of environmental goods and services to promote sustainable growth in all economic sectors, such as agriculture and natural resource extraction, and the transition to a more circular economy;
- (c) considering ways that environmental goods and services can contribute to climate change mitigation and adaptation, in particular in the design and construction of green and climate resilient public infrastructure, as well as for the promotion, use, and scale-up of goods and services related to clean and renewable energy, energy efficiency, and sustainable transportation;
- (d) promoting research and development opportunities between and among researchers, academic institutions, and the private sector, including women and Indigenous researchers and scientists, and women-owned and Indigenous-owned enterprises, to encourage the growth of the environmental goods and services sectors, value chains, and the development and deployment of clean technologies; and
- (e) developing cooperative projects on environmental goods and services to address current and future global environmental challenges.

4. The Parties shall cooperate in international forums on ways to further facilitate and liberalize global trade in environmental goods and services.

5. The Parties shall endeavour to address any identified potential barriers to trade in environmental goods and services, including by working through the Committee of the Environment (Committee) referred to in Article 13.25.

6. The Committee shall consider issues identified by a Party related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade.

7. If appropriate, the Committee may work on identified potential barriers to trade in conjunction with other relevant committees established or continued under this Agreement.

## **Article 13.24 Cooperation**

1. The Parties recognize the importance of cooperation as a mechanism to implement this Chapter, to enhance its benefits, including gender responsive and inclusive benefits, and to strengthen the Parties' joint and individual capacities to protect the environment, and capacities to promote sustainable development as they strengthen their trade and investment relations.

2. Taking account of their national priorities, circumstances, and available resources, the Parties shall cooperate to address matters of common interest related to the implementation of this Chapter if there is mutual benefit from that cooperation. If appropriate, each Party may involve the public, interested stakeholders, and any other entity, including Indigenous Peoples, in the cooperative activities undertaken pursuant to this Article.

3. If possible and appropriate, the Parties shall seek to complement and use existing cooperation mechanisms and take into account the relevant work of regional and international organizations.

4. The Parties may cooperate through various means such as: dialogues, workshops, seminars, conferences, collaborative programmes, and projects; technical assistance that promotes and facilitates cooperation and training; sharing of best practices on policies and procedures; and exchange of experts.



5. If appropriate, each Party shall promote inclusive public participation in the development and implementation of cooperative activities under this Article.

## **Article 13.25: Contact Points and the Committee on the Environment**

1. Each Party shall designate and notify a contact point from its relevant authorities in order to facilitate communication between the Parties in the implementation of this Chapter. Each Party shall promptly notify the other Party of any change of its contact point.

2. The Parties continue the Committee on the Environment established under the 2017 Agreement ("the Committee") composed of senior governmental representatives of each Party. The functions of the Committee are to:

- (a) oversee and review the implementation of this Chapter;
- (b) provide a forum to discuss cooperative activities under this Chapter;
- (c) discuss any matter of common interest;
- (d) consider and endeavour to resolve matters referred to it under Article 13.27 (Senior Representative Consultations);
- (e) coordinate and work with other committees established under this Agreement as appropriate; and
- (f) perform any other functions as the Parties may decide.

3. The Committee shall meet within one year of the date of entry into force of this Agreement and subsequently as decided by the Committee.

4. The Committee shall adopt decisions and reports by consensus, and make them publicly available unless the Committee decides otherwise.

5. The Committee shall prepare a summary record of each meeting unless it decides otherwise. The Committee may prepare reports and recommendations on any activity or action related to the implementation of this Chapter. The Committee shall submit a copy of its summary records, reports, and recommendations to the Joint Commission referred to in Article 27.1 (Joint Commission).

6. The Parties shall make summary records, decisions, reports, and recommendations of the Committee available to the public, unless otherwise decided by the Parties.

## **Article 13.26: Environment Consultations**

1. The Parties shall endeavour to agree on the interpretation and application of this Chapter, and shall make every effort through dialogue, consultation, exchange of information, and, if appropriate, cooperation to address any matter that might affect the operation of this Chapter.

2. A Party (the requesting Party) may request consultations with the other Party (the responding Party) regarding any matter arising under this Chapter by delivering a request for consultations to the responding Party's contact point. The requesting Party shall include in its request information that is specific and sufficient to enable the responding Party to respond, including identification of the matter at issue and an indication of the legal basis for the request.

3. Unless the Parties decide otherwise, the Parties shall enter into consultations promptly and no later than 30 days after the date of receipt by the responding Party of the request.

4. The Parties shall make every effort to arrive at a mutually satisfactory resolution to the matter, which may include by undertaking appropriate cooperative activities. The Parties may seek advice or assistance from any person or body they deem appropriate in order to examine the matter.

## **Article 13.27: Senior Representative Consultations**

1. If the Parties fail to resolve the matter under Article 13.26, the requesting Party may request in writing that the Committee on the Environment convene to consider the matter and deliver the request to the responding Party's contact point.
2. The Committee shall promptly convene following the delivery of the request referred to in paragraph 1, and shall attempt to resolve the matter including, if appropriate, by gathering relevant scientific and technical information from governmental or non-governmental experts.

## **Article 13.28: Ministerial Consultations**

1. If the Parties fail to resolve the matter under Article 13.27, the requesting Party may refer the matter to the relevant Ministers of the Parties by delivering a written request to the responding Party's contact point.
2. Consultations pursuant to Articles 13.26 and 13.27, and this Article may be held in person or by any technological means available as decided by the Parties. If held in person, consultations shall be in the capital of the responding Party unless the Parties decide otherwise.
3. All consultations under Articles 13.26, 13.27 and 13.28 shall be confidential and without prejudice to the rights of a Party in any future proceedings.

## **Article 13.29: Dispute Resolution**

If the Parties fail to resolve the matter under Articles 13.26, 13.27, and 13.28 within 75 days after the date of receipt of a request under Article 13.26, or any other period as the Parties may decide, the requesting Party may request the establishment of a panel under Article 28.7 (Establishment of a Panel).

# Footnotes

## Footnote 1

The Parties recognize that "protection or conservation" may include the protection or conservation of biological diversity.

[Return to footnote1referrer](#)

## Footnote 2

For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" if the course of action or inaction is consistent or ongoing, and is "recurring" if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

[Return to footnote2referrer](#)

## Footnote 3

For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" if the course involves: (a) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (b) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

[Return to footnote3referrer](#)

## Footnote 4

For purposes of dispute settlement, a failure is presumed to be in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.

[Return to footnote4referrer](#)

## Footnote 5

For greater certainty, this provision pertains to pollution regulated by the *International Convention for the Prevention of Pollution from Ships*, done at

London, 2 November 1973, as modified by the *Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships*, done at London, 17 February 1978, and the *Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973 as Modified by the Protocol of 1978 relating thereto*, done at London, 26 September 1997 (MARPOL Convention), and any existing and future amendments to the MARPOL Convention, to which the Parties are parties.

[Return to footnote5referrer](#)

#### **Footnote 6**

For the purposes of this Article, the term "take" means captured, killed, or collected and with respect to a plant, also means harvested, cut, logged or removed.

[Return to footnote6referrer](#)

#### **Footnote 7**

For the purposes of this Article, a Party's CITES obligations include existing and future amendments to which the Parties are parties and any existing and future reservations or exemptions applicable to a Party.

[Return to footnote7referrer](#)

#### **Footnote 8**

To establish a violation of paragraph 6(b), a Party must demonstrate that the other Party has failed to adopt, maintain or implement laws, regulations or other measures to fulfil its obligations under CITES in a manner affecting trade or investment between the Parties.

[Return to footnote8referrer](#)

#### **Footnote 9**

If a Party considers that the other Party is failing to comply with its obligations under paragraph 6(b), it shall endeavour, in the first instance, to address the matter through a consultative or other procedure under CITES.

[Return to footnote9referrer](#)

**Footnote 10**

For greater certainty, for the purposes of this paragraph, each Party shall retain the right to determine what constitutes "credible evidence".

[Return to footnote10referrer](#)

**Footnote 11**

For greater certainty, "another applicable law" means a law of the territory where the take or trade occurred and is only relevant to the question of whether the wild fauna and flora has been taken or traded in violation of that law.

[Return to footnote11referrer](#)

**Footnote 12**

For greater certainty, the term "wildlife" includes all species of wild fauna and flora, including animals, timber, and marine species, and their related parts and products. Further, for the purposes of this Article, the term "protected" means a CITES-listed species or a species that is listed under a Party's law as endangered, threatened, or being at risk within its territory.

[Return to footnote12referrer](#)

**Footnote 13**

The term "serious crime" has the same meaning as that under paragraph 2(b) of the *United Nations Convention on Transnational Organized Crime*.

[Return to footnote13referrer](#)

**Footnote 14**

Paragraphs 1 through 9 do not apply to aquaculture, with the exception of paragraphs 1 (b), 1 (c) and 5 (a).

[Return to footnote14referrer](#)

**Footnote 15**

Fisheries subsidies mean subsidies for marine wild capture fishing.

[Return to footnote15referrer](#)

**Footnote 16**

These include: the 2001 FAO *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*; the 2005 *Rome Declaration on Illegal, Unreported and Unregulated Fishing*; the 2009 FAO *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing*; and instruments establishing and adopted by Regional Fisheries Management Organizations.