

## **CHAPTER 19**

### **ENVIRONMENT**

#### **Article 19.1: Definitions**

For the purposes of this Chapter:

**environmental law** means a law 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 or greenhouse gases;
- (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 law or regulation, or provision thereof, directly related to worker safety or health, nor any law or regulation, or provision thereof, the primary purpose of which is managing the subsistence or aboriginal harvesting of natural resources; and

**law or regulation** means:

- (a) for Australia, an Act of the Commonwealth Parliament, or a regulation made by the Governor-General in Council under delegated authority under an Act of the Commonwealth Parliament, that is enforceable at the central level of government; and
- (b) for Peru, a law of Congress, Legislative Decree, Decree or Resolution promulgated by the central level of government to implement a law of Congress that is enforceable by action of the central level of government.

#### **Article 19.2: Objectives**

1. The objectives of this Chapter are to promote mutually supportive trade and environmental policies; promote high levels of environmental protection and effective

enforcement of environmental laws; and enhance capacities of the Parties to address trade-related environmental issues, including through cooperation.

2. The Parties further recognise 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 19.3 General Commitments**

1. The Parties recognise the importance of mutually supportive trade and environmental policies and practices to improving environmental protection in the furtherance of sustainable development.

2. The Parties recognise 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.

3. Without prejudice to paragraph 2, each Party recognises that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental laws.

4. Each Party shall strive to ensure that its environmental laws and policies encourage high levels of environmental protection and continue to improve its respective levels of environmental protection.

5. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of the other Party.

### **Article 19.4 Multilateral Environmental Agreements**

1. The Parties recognise that multilateral environmental agreements to which they are party play an important role, globally and domestically, in protection of the environment and that their respective implementation of these agreements is critical to achieving the environmental objectives of these agreements. Accordingly, each Party affirms its commitment to implement the multilateral environmental agreements to which it is party.

2. The Parties emphasise the need to enhance the mutual supportiveness between trade and environmental laws and policies, through dialogue between the Parties on trade and environmental issues of mutual interest, particularly with respect to multilateral environmental agreements and international trade agreements to which both Parties are party.

3. The Parties recognise the importance of conservation and sustainable use of biological diversity, and their key role in achieving sustainable development. Accordingly, each Party shall promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy and international agreements to which they are party.<sup>1</sup>

4. The Parties further recognise<sup>2</sup> that they require, through and in accordance with national measures: prior informed consent to access such genetic resources and, where such 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 acknowledge that access to traditional knowledge associated with genetic resources from providers, as well as the equitable sharing of benefits that may result from the utilisation of that traditional knowledge, may be addressed through contracts that reflect mutually agreed terms between users and providers.

6. Parties shall cooperate to address matters of mutual interest related to trade and biodiversity in accordance with relevant international obligations and with their laws and policies.

7. The Parties acknowledge that climate change requires collective action, and recognise the importance of implementation of their respective commitments under the multilateral agreements to which they are party.<sup>3</sup> Recognising that each Party's actions should reflect domestic circumstances and capabilities, the Parties shall, as appropriate, cooperate to address matters of joint or common interest.

8. The Parties affirm the importance of combating the illegal trade in wild fauna and flora. Accordingly, each Party shall adopt, maintain and implement laws, regulations and any other measures to fulfil its obligations under the multilateral environmental agreements to which they are party.<sup>4</sup>

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<sup>1</sup> For greater certainty, for each Party, this provision pertains to obligations under the *Convention on Biological Diversity*, done at Rio de Janeiro on 5 June, 1992, and obligations within its related legal instruments, to which it is Party.

<sup>2</sup> The Parties understand that the requirements established in this paragraph apply to the extent required by each Party's legislation for access to genetic resources for commercial or potentially commercial purposes, and, to the extent required by each Party's legislation, for non-commercial purposes.

<sup>3</sup> For greater certainty, for each Party, this provision relates to obligations under the *United Nations Framework Convention on Climate Change* done at New York on 9 May, 1992, and obligations within its related legal instruments, to which it is party.

<sup>4</sup> For greater certainty, for each Party, this provision relates to obligations under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington D.C. on 3 March, 1973, to which it is Party.

### **Article 19.5 Environmental Consultations**

1. Each Party shall designate and notify a contact point on Environment, to facilitate communications between the Parties on any matter covered by this Chapter.
2. 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.

### **Article 19.6 Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 27 (Dispute Settlement) for any matter arising under this Chapter.