

APPENDIX 9

NEW CHAPTER 22 (ENVIRONMENT AND TRADE)

CHAPTER 22

ENVIRONMENT AND TRADE

Article 1 **Context and Objectives**

1. Recalling the *Stockholm Declaration on the Human Environment of 1972*, the *Rio Declaration on Environment and Development of 1992*, *Agenda 21 of 1992*, the *Johannesburg Plan of Implementation on Sustainable Development of 2002*, the *Rio+20 Outcome Document "The Future We Want" of 2012*, and the *Transforming our world: the 2030 Agenda for Sustainable Development*, the Parties recognize that economic development, social development and environmental protection are interdependent and mutually supportive components of sustainable development. They underline the benefit of cooperation on environmental issues as part of a global approach to sustainable development.

2. The Parties reaffirm their commitments to promoting economic development in such a way as to contribute to the objective of sustainable development and to ensure that this objective is integrated and reflected in their trade relationship.

Article 2 **Scope**

Except as otherwise provided for in this Chapter, this Chapter applies to the measures adopted or maintained by the Parties for addressing environmental issues.

Article 3 **Enforcement of Environmental Measures**

1. A Party shall not fail to effectively enforce its environmental measures, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the Parties.

2. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in its environmental measures. Accordingly, neither Party shall waive or otherwise derogate from such measures in a manner that weakens or reduces the protections afforded in those measures.

3. The Parties agree that environmental standards shall not be used for trade protectionist purposes.

4. 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 4 Levels of Protection

1. The Parties reaffirm each Party's sovereign right to establish its own levels of environmental protection and its own environmental development priorities, and adopt, modify or enforce its environmental laws and regulations.
2. Each Party shall seek to ensure that its laws and policies provide for and encourage high levels of environmental protection, and shall strive to continue to improve its respective levels of environmental protection.

Article 5 Multilateral Environmental Agreements

1. The Parties recognize that multilateral environmental agreements ("MEAs") play an important role globally and domestically in protecting the environment. The Parties further recognize that this Chapter can contribute to realising the goals of MEAs.
2. The Parties commit to consulting and cooperating, as appropriate, with respect to negotiations under the MEAs to which both Parties are party on trade-related environmental issues of mutual interest.

Article 6 Environmental Impact

1. Each Party commits to reviewing the impact of the implementation of this Agreement on the environment, at an appropriate time after the entry into force of this Agreement, through their respective participative processes and institutions.
2. Each Party may, as appropriate, share information with the other Party on techniques and methods that may be used in reviewing the environmental impacts of this Agreement.

Article 7 Bilateral Cooperation

Recognizing the importance of cooperation on environmental issues in achieving the goals of sustainable development, the Parties commit to building on their existing bilateral agreements and to further strengthening cooperative activities in areas of common interest, as appropriate, and in particular trade-related environmental issues in ways that the Parties deem appropriate.

Article 8 Institutional Arrangements

1. Each Party shall designate an office within its administration which shall serve as a contact point with the other Party for the purpose of implementing this Chapter.

The Parties shall notify each other promptly of any amendments to the details of their contact points.

2. The Parties hereby establish a Committee on Environment and Trade. The Committee shall comprise senior officials from within the administrations of the Parties.

3. The Committee shall meet when deemed necessary to oversee the implementation of this Chapter.

4. The Parties recognize that adequate and sustainable financial resources are necessary for the implementation of this Chapter, and that these resources should be made available.

Article 9 Non-application of Dispute Settlement

1. Neither Party shall have recourse to dispute settlement under Chapter 16 (Dispute Settlement) for any matter arising under this Chapter.

2. Without prejudice to paragraph 1, a Party may request consultations with the other Party, under the FTA Joint Commission, regarding any matter arising under this Chapter. The Parties shall make every effort to arrive at a mutually satisfactory resolution to the matter.