

## CHAPTER 22

### ENVIRONMENT

#### Article 22.1 Definitions

For the purposes of this Chapter:

“**2030 Agenda**” means the *UN 2030 Agenda for Sustainable Development* adopted by the UN General Assembly Resolution 70/1 on 25 September 2015, and its Sustainable Development Goals;

“**CITES**” means the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* done at Washington, D.C. on 3 March 1973;

“**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, including the mitigation of climate change, 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 including greenhouse gases;
- (b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto;
- (c) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas;<sup>1, 2</sup> or
- (d) the protection, preservation, and enhancement of natural water resources,

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

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<sup>1</sup> For the purposes of this Chapter, the term “specially protected natural areas” means those areas as defined by the Party in its legislation.

<sup>2</sup> The Parties recognise that such protection or conservation may include the protection or conservation of biological diversity.

**“Montreal Protocol”** means the *Montreal Protocol on Substances that Deplete the Ozone Layer* done at Montreal on 16 September 1987;

**“Paris Agreement”** means the *Paris Agreement* done at Paris on 12 December 2015 by the Conference of the Parties to the UNFCCC at its 21st session; and

**“UNFCCC”** means the *United Nations Framework Convention on Climate Change* done at New York on 9 May 1992.

## **Article 22.2**

### **Māori Environmental Concepts**

In order to acknowledge the special relationship of Māori with the environment in New Zealand, the Parties include the following concepts for the purposes of this Chapter:

**“kaitiakitanga”** refers to the Māori concept of active stewardship, guardianship, and protection of our natural surroundings (land, sea, water, and air), and of the mauri of the environment; and

**“mauri”** refers to the essential quality and vitality of a being or entity. It is also used for a physical object or ecosystem in which this essence is located. All objects have mauri. A waterway, for example, or a mountain have a mauri including through their connection to the land.

## **Article 22.3**

### **Context and Objectives**

1. The Parties recall the *Agenda 21* and the *Rio Declaration on Environment and Development* adopted by the UN Conference on Environment and Development in 1992, the *Johannesburg Plan of Implementation of the World Summit on Sustainable Development* of 2002, the Outcome Document of the UN Conference on Sustainable Development of 2012 titled *The Future We Want* endorsed by the UN General Assembly Resolution 66/288 adopted on 27 July 2012, and the 2030 Agenda.
2. 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; encourage the Parties to address the urgent threat of climate change; and enhance the capacities of the Parties to address trade or investment-related environmental issues, including through cooperation.
3. The Parties recognise that:

- (a) sustainable development encompasses economic development, social development, and environmental protection, all three being interdependent and mutually reinforcing, and affirm their commitment to promote the development of international trade and investment in a way that contributes to the objective of sustainable development;
- (b) enhanced cooperation to protect and conserve the environment and sustainably manage their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, and complement the objectives of this Agreement;
- (c) the urgent need to address climate change, as outlined in the *Intergovernmental Panel on Climate Change Special Report on Global Warming of 1.5°C*, is a contribution to the economic, social, and environmental objectives of sustainable development; and
- (d) the environment plays an important role in the economic, social, and cultural well-being of Māori in the case of New Zealand, and acknowledge the importance of engaging with Māori in the long-term conservation of the environment.

#### **Article 22.4** **General Commitments**

1. The Parties recognise the sovereign right of each Party to establish its own environmental priorities and levels of environmental protection relating to the environment, including mitigation of and adaptation to climate change, and those which a Party establishes pursuant to the multilateral environmental agreements to which it is a party, and to establish, maintain, or modify its relevant law and policies accordingly.
2. Each Party shall endeavour to ensure that its environmental and other relevant law and policies provide for, and encourage, high level of environmental protection, and to continue to improve its respective level of environmental protection.
3. Without prejudice to paragraph 1, the Parties recognise 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 that law in order to encourage trade or investment between the Parties.

4. Neither Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction to encourage trade or investment between the Parties.
5. The Parties recognise that each Party retains the right to exercise discretion and to make decisions regarding:
  - (a) investigations, prosecutions, and regulatory and compliance matters; and
  - (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priority.

Accordingly, the Parties understand that with respect to the enforcement of environmental laws, a Party is in compliance with paragraph 4 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.

6. The Parties further recognise that it is inappropriate to establish or use their environmental laws in a manner which would constitute a disguised restriction on trade or investment between the Parties.

#### **Article 22.5** **Multilateral Environmental Agreements**

1. The Parties recognise the important role multilateral environmental agreements play in protecting the environment, including reducing biodiversity loss and addressing climate change, and the need to enhance the mutual supportiveness between trade and environmental laws and policies.
2. Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate as appropriate with respect to environmental issues of mutual interest related to multilateral environmental agreements, in particular trade-related issues, including:
  - (a) exchanging information on the implementation of multilateral environmental agreements to which a Party is a party;
  - (b) exchanging information on ongoing negotiations of new multilateral environmental agreements; and
  - (c) exchanging each Party's respective views on becoming a party to additional multilateral environmental agreements.

## **Article 22.6 Climate Change**

1. The Parties recognise the importance of achieving the objectives of the UNFCCC and the Paris Agreement in order to address the urgent threat of climate change, and the role of trade and investment in pursuing this objective, and commit to working together to take actions to address climate change. The Parties recognise that nothing in this Agreement prevents a Party from taking measures to fulfil its commitments under the UNFCCC and the Paris Agreement provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination against the other Party or a disguised restriction on trade. The Parties reaffirm their right to make use of the general exceptions and general provisions in Chapter 32 (General Exceptions and General Provisions), recalling their understanding that the measures referred to in Article XX(b) of GATT 1994 and Article XIV(b) of GATS include environmental measures necessary to protect human, animal or plant life or health and measures necessary to mitigate climate change, and that Article XX(g) of GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.
  
2. Accordingly, the Parties affirm their commitment to implement the Paris Agreement and to take action to reduce greenhouse gas emissions with the aim of strengthening the global response to climate change by holding the increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, and their ambition of achieving their respective domestic net zero targets by 2050, and shall:
  - (a) promote the mutual supportiveness of trade, investment, and climate policies and measures;
  - (b) facilitate and promote trade and investment in goods and services of particular relevance for climate change mitigation and adaptation; and
  - (c) promote carbon pricing as an effective policy tool for reducing greenhouse gas emissions efficiently, and promote environmental integrity in the development of international carbon markets.
  
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate bilaterally and in international fora, including at the WTO and the UN, to address matters of mutual interest with respect to trade-related aspects of climate change policies and measures, and on ways to mitigate and adapt to climate change, that may include:
  - (a) implementation of the Paris Agreement;

- (b) international trade-related aspects of the fight against climate change, such as carbon leakage and systems of carbon pricing, and linking emissions trading schemes;
- (c) supporting the development, adoption, and implementation of ambitious and effective greenhouse gas emissions reduction measures by the International Maritime Organization to be implemented by ships engaged in international trade;
- (d) supporting the development, adoption, and implementation of ambitious and effective greenhouse gas emissions reduction measures by the International Civil Aviation Organization; and
- (e) policies, laws, and measures that can contribute to a reduction in greenhouse gas emissions and increased climate resilience and ways to mitigate and adapt to climate change.

**Article 22.7**  
**Environmental Goods and Services**

1. The Parties recognise the importance of facilitating trade and investment in environmental goods and services, including clean technology, as a means of improving environmental and economic performance, contributing to clean growth and jobs, and encouraging sustainable development while addressing global environmental challenges including climate change.
2. Accordingly, each Party shall:
  - (a) eliminate customs duties on originating goods of the other Party upon entry into force of this Agreement on HS six-digit subheadings containing the environmental goods listed in Annex 22A (Environmental Goods List),<sup>3</sup> in accordance with Chapter 2 (National Treatment and Market Access for Goods) and Annex 2A (Schedule of Tariff Commitments for Goods). The Environment and Climate Change Sub-Committee established under Article 30.9 (Sub-Committees – Institutional Provisions) shall keep this list under review, in conjunction with other relevant committees established under this Agreement, as appropriate, and may make recommendations to the Joint Committee for modifications to Annex 22A (Environmental Goods List). In keeping this list under review, the Environment and Climate Change Sub-Committee may consider factors such as the extent to which a good contributes to the clean growth and sustainable development objectives of the Parties,

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<sup>3</sup> For the purposes of this Agreement, the environmental goods listed in Annex 22A (Environmental Goods List) are goods which can positively contribute to the clean growth and sustainable development objectives of the Parties, including climate change mitigation and adaptation, and wider environmental goals.

advances in available technologies, any potential dual-use of proposed environmental goods, relevant multilateral or plurilateral developments, and other environmental and climate factors; and

- (b) facilitate and promote trade and investment in environmental goods and services, and endeavour to address any potential tariff and non-tariff barriers to such trade and investment that may be identified by a Party, including by working through the Environment and Climate Change Sub-Committee and in conjunction with other relevant committees established under this Agreement, as appropriate.
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate on ways to enhance trade in environmental goods and services. Areas of cooperation may include:
- (a) renewable and low carbon energy;
  - (b) energy efficient products and services;
  - (c) clean transport including uptake of electric vehicles;
  - (d) energy storage technologies;
  - (e) sustainable financial services;
  - (f) clean heat;
  - (g) carbon capture, utilisation, and storage;
  - (h) climate change adaptation and resilience technologies and services;
  - (i) conservation of biological diversity, pollution abatement, and water conservation; and
  - (j) identification of, and further liberalisation of trade in, environmental services.
4. The Parties acknowledge that achieving the objectives of the UNFCCC and the Paris Agreement requires collective action. Accordingly, the Parties shall also cooperate in international fora, including at the WTO and under the UN Environment Programme, on ways to further facilitate and liberalise global trade in environmental goods and services.

**Article 22.8**  
**Fossil Fuel Subsidy Reform and Transition to Clean Energy**

1. The Parties recognise the need to reduce the use of fossil fuels and to support the global transition to clean energy in order to further the implementation of the Sustainable Development Goals of the 2030 Agenda and the objectives of the UNFCCC and Paris Agreement. The Parties further recognise that fossil fuel subsidies can distort trade and investment, disadvantage renewable and clean energy, encourage wasteful consumption, and contribute significantly to global greenhouse gas emissions.
2. Accordingly, each Party shall:
  - (a) take steps to eliminate harmful fossil fuel subsidies where they exist, with limited exceptions in support of legitimate public policy objectives;
  - (b) as fellow members of the Powering Past Coal Alliance, end unabated coal-fired electricity generation in their territories as part of a clean energy transition aligned with the goals of the Paris Agreement;
  - (c) encourage the transition to clean energy for electricity, heat, and transport;
  - (d) ensure that information on fossil fuel support measures, including any subsidies, is published;
  - (e) end new direct financial support, such as officially supported export credits, for fossil fuel energy in non-parties, except in limited circumstances where it:
    - (i) meets a legitimate policy goal, such as improved safety or environmental standards; or
    - (ii) supports a clean energy transition aligned with the goals of the Paris Agreement;
  - (f) end international aid funding for fossil fuel energy except in limited circumstances where it is not feasible to provide access to energy solely from renewable sources and the aid:
    - (i) is essential as part of a humanitarian response;
    - (ii) is to meet a legitimate policy goal such as improved safety or environmental standards; or
    - (iii) supports a clean energy transition aligned with the goals of the Paris Agreement; and



- (g) encourage non-parties to develop and undertake best practice approaches to fossil fuel subsidy reform.
3. The Parties shall cooperate bilaterally and in relevant international fora such as the WTO, UNFCCC, and G20 in relation to fossil fuel subsidy reform and the transition to clean energy.

### **Article 22.9** **Marine Capture Fisheries<sup>4</sup>**

1. The Parties recognise the importance of kaitiakitanga in conserving and sustainably managing fisheries and the mauri of marine ecosystems, and the role of trade in pursuing these objectives.
2. The Parties acknowledge their roles in the marine fisheries sector and recognise the importance of the conservation and sustainable use of fisheries resources and marine ecosystems, and the role of trade in pursuing these objectives.
3. In this regard, the Parties acknowledge that inadequate fisheries management, fisheries subsidies that contribute to overfishing and overcapacity, and illegal, unreported and unregulated (“IUU”) fishing<sup>5</sup> threaten fish stocks, the environment, trade, and livelihoods, and recognise the need for individual and collective action to end such practices.
4. Accordingly, each Party shall operate a fisheries management system designed to:
  - (a) prevent overfishing and overcapacity;
  - (b) reduce bycatch of non-target species and juveniles;
  - (c) promote the recovery of overfished stocks; and
  - (d) minimise adverse impacts on associated marine ecosystems.

Such a management system shall be based on the best scientific evidence available, the precautionary approach, an ecosystem-based approach, and

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<sup>4</sup> For greater certainty, this Article does not apply with respect to aquaculture or inland fishing.

<sup>5</sup> The term “illegal, unreported and unregulated fishing” is to be understood to have the same meaning as paragraph 3 of the *International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* of the UN Food and Agricultural Organisation (“FAO”) done at Rome on 2 March 2001 (“2001 IUU Fishing Plan of Action”).

internationally recognised best practices as reflected in relevant international instruments.<sup>6</sup>

5. Each Party shall promote the long-term conservation of sharks, marine turtles, seabirds, marine mammals, and other species recognised as threatened in relevant international agreements to which each Party is a party.
6. The Parties recognise 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 or IUU fishing. To that end, neither Party shall grant or maintain any of the following subsidies<sup>7</sup> 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 for fishing<sup>8</sup> that negatively affect<sup>9</sup> fish stocks that are in an overfished<sup>10</sup> condition;
  - (b) subsidies for the transfer of fishing vessels<sup>11</sup> from the United Kingdom or New Zealand to other States, including through the creation of joint enterprises;
  - (c) subsidies for operations that increase the fishing capacity of a fishing vessel, or for equipment that increases the ability of a fishing vessel

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<sup>6</sup> These instruments include, as they may apply, the *United Nations Convention on the Law of the Sea* done at Montego Bay on 10 December 1982 (“UNCLOS”), the *United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks* done at New York on 4 December 1995 (“UN Fish Stocks Agreement”), the *FAO Code of Conduct for Responsible Fisheries* adopted on 31 October 1995, the 1993 *FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas* done at Rome on 24 November 1993 (“Compliance Agreement”), and the 2001 IUU Fishing Plan of Action.

<sup>7</sup> For the purposes of this Article, a subsidy shall be attributable to the Party conferring it, regardless of the flag of the vessel involved or the application of rules of origin to the fish involved.

<sup>8</sup> For the purposes of this paragraph, “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.

<sup>9</sup> The negative effect of those subsidies shall be determined based on the best scientific evidence available.

<sup>10</sup> For the purposes of this Article, a fish stock is overfished if the stock 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 recognised as overfished by the national jurisdiction where the fishing is taking place or by a relevant Regional Fisheries Management Organisation shall also be considered overfished for the purposes of this paragraph.

<sup>11</sup> The term “fishing vessel” refers to any vessel, ship or other type of boat used for, equipped to be used for, or intended to be used for fishing or fishing-related activities.

- to find fish, except where they meet legitimate public policy goals such as improved safety or sustainability;
- (d) subsidies provided to fishing for fish stocks managed by a Regional Fisheries Management Organisation or Arrangement where the subsidising Party or vessel flag State is not a member or cooperating non-member of the Organisation or Arrangement;
  - (e) subsidies provided to fishing or fishing-related activities<sup>12</sup> conducted without the permission of the flag State where required and, if operating in another State's waters, without permission of that State;
  - (f) subsidies provided to any fishing vessel or operator while listed by the flag State, the subsidising Party, the FAO or a relevant Regional Fisheries Management Organisation, or Arrangement for IUU fishing in accordance with the rules and procedures of that State, Party, organisation, or arrangement and in conformity with international law; or
  - (g) subsidies provided to any vessel or operator that has been found to have committed a serious violation of conservation or management measures within the preceding 12 months.
7. Subsidy programmes that are established by a Party before the date of entry into force of this Agreement for that Party and which are inconsistent with subparagraphs 6(a) to subparagraph 6(c) shall be brought into conformity with that paragraph as soon as possible and no later than three years after the date of entry into force of this Agreement for that Party.
8. In relation to subsidies that are not prohibited by subparagraphs 6(a) to subparagraph 6(g) and taking into consideration a Party's social and developmental priorities, each Party shall make best efforts to refrain from introducing new, or extending or enhancing 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, overcapacity, or IUU fishing.
9. With a view to achieving the objective of eliminating subsidies that contribute to overfishing and overcapacity, the Parties shall review the disciplines in paragraph 5 within the Environment and Climate Change Sub-Committee, including their implementation, two years after the date of entry into force of this Agreement and thereafter at intervals not exceeding five years unless the Parties agree otherwise.

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<sup>12</sup> The term "fishing-related activities" means any operation in support of, or in preparation for, fishing, including the landing, packaging, processing, trans-shipping, or transporting of fish that have not been previously landed at port, as well as the provisioning of personnel, fuel, gear, and other supplies at sea.

10. 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.
11. 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 the following information:<sup>13</sup>
  - (a) programme name;
  - (b) legal basis and granting authority for the programme;and, to the extent possible,
  - (c) catch data by species in the fishery for which the subsidy is provided;
  - (d) status of the fish stocks in the fishery for which the subsidy is provided (for example, overfished, fully fished, and underfished);
  - (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.
12. Each Party shall also provide, to the extent possible, information in relation to other fisheries subsidies that the Party grants or maintains that are not covered by paragraph 6, for example, fuel subsidies.
13. A Party may request additional information from the notifying Party regarding the notifications under paragraphs 10 and 11. The notifying Party shall respond to that request in writing as quickly as possible and in a comprehensive manner. In the event that any requested information is not provided by the notifying Party, that Party shall explain the absence of such information in its response.
14. A Party shall meet the notification requirements of the preceding paragraphs through:
  - (a) notification under Article 25 of the SCM Agreement; or

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<sup>13</sup> Sharing information and data on existing fisheries subsidy programmes does not prejudice their legal status, effects, or nature under the GATT 1994 or the SCM Agreement and is intended to complement WTO data reporting requirements.

- (b) publication, by the Party or on its behalf, on a publicly accessible website. The website address on which this publication is made shall be communicated to the other Party in each instance.
15. The Parties recognise the importance of concerted international action to address IUU fishing as reflected in regional and international instruments.<sup>14</sup> In support of efforts to combat IUU fishing practices and to help prevent, deter, and eliminate trade in products from species harvested from those practices, each Party shall:
- (a) implement monitoring, control, surveillance, compliance, and enforcement systems, including by adopting, reviewing, or revising, as appropriate, effective measures to:
    - (i) deter vessels that are flying its flag<sup>15</sup> and its nationals from engaging in IUU fishing activities and take effective action in response to IUU fishing where it occurs; and
    - (ii) deter exporters, importers, trans-shippers, buyers, consumers, equipment suppliers, bankers, insurers, and other services suppliers and the public from doing business with vessels or operators engaging in IUU fishing, such as through measures prohibiting such business;
  - (b) cooperate with regard to electronic traceability and certification, and exchange of information and assistance with a particular focus on the New Zealand/United Kingdom IUU exchange of letters;<sup>16</sup>
  - (c) implement port State measures including through actions consistent with the Port State Measures Agreement;<sup>17</sup> and
  - (d) act consistently with conservation and management measures, including catch documentation schemes, of Regional Fisheries Management Organisations where that Party is not a member, so as not to undermine them.

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<sup>14</sup> Regional and international instruments include, as they may apply, the 2001 IUU Fishing Plan of Action, the *2005 Rome Declaration on Illegal, Unreported and Unregulated Fishing* done at Rome on 12 March 2005 (“Declaration on IUU”), the *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing* done at Rome on 22 November 2009 (“PSMA”), as well as instruments establishing and adopted by Regional Fisheries Management Organisations, which are defined as intergovernmental fisheries organisations or arrangements, as appropriate, that have the competence to establish conservation and management measures.

<sup>15</sup> For the purposes of this paragraph, for the United Kingdom, “vessels that are flying its flag” is to be understood to mean vessels that are both flying the United Kingdom flag and registered on the United Kingdom register of British ships.

<sup>16</sup> The exchange of letters recording understandings reached between New Zealand and the United Kingdom on *Catch Certification for Fisheries Products Imported into the United Kingdom* of 9 December 2020 and 18 December 2020, respectively.

<sup>17</sup> PSMA.

16. The Parties shall cooperate bilaterally, regionally, and in international fora to further the objective of sustainable development on international fisheries and related trade issues, including bycatch reduction, combatting IUU fishing and the trade in IUU products, and strengthening international rules on and transparency of fisheries subsidies.
17. The Parties agree to coordinate and collaborate on compliance activities and research with regard to fisheries under the jurisdiction of Regional Fisheries Management Organisations and Arrangements in which both Parties operate.
18. The Parties shall afford appropriate recognition of the sustainability and fisheries compliance performance of each other's vessels and operators in the consideration of their applications for foreign fishing licences.

#### **Article 22.10 Sustainable Agriculture**

1. The Parties recognise the increasing impact that global challenges to kaitiakitanga of mauri such as land degradation, drought, the emergence of new pests and diseases, climate change, and loss of biodiversity, have on the development of productive sectors such as agriculture.
2. Recalling Sustainable Development Goal 2 of the 2030 Agenda, the Parties also recognise the importance of strengthening and implementing policies that contribute to the development of more productive, sustainable, inclusive, and resilient agricultural systems.
3. Accordingly, each Party shall:
  - (a) take measures to, and promote efforts to, reduce greenhouse gas emissions from agricultural production; and
  - (b) promote sustainable agriculture and associated trade.
4. Consistent with Article 22.19 (Cooperation), the Parties shall cooperate on the development and the implementation of integrated policies that promote sustainable agriculture consistent with Sustainable Development Goal 2 and the Parties' specific circumstances. Areas of cooperation may include:
  - (a) encouraging sustainable methods of improving agricultural productivity;
  - (b) integrating the protection and sustainable use of ecosystems and natural resources in agricultural systems;
  - (c) adaptation and resilience to climate change in relation to agriculture; and

- (d) research and collaboration on methods to measure and reduce emissions from agriculture.

**Article 22.11**  
**Sustainable Forest Management**

1. The Parties recognise the importance of:
  - (a) kaitiakitanga in the conservation of the mauri, and the conservation and sustainable management, of forests and the sustainable production of forest products in providing environmental and ecosystem services; economic and social benefits and opportunities for present and future generations including by addressing climate change and reducing biodiversity loss; and the role of trade in pursuing this objective; and
  - (b) combatting illegal logging, illegal deforestation and forest degradation, and associated trade, including with respect to non-parties.
2. The Parties acknowledge their role as consumers, producers, and traders of forest products, and the importance of sustainable supply chains for forest products and commodities that can generally be associated with deforestation in addressing greenhouse gas emissions and biodiversity loss and achieving sustainable forest management.
3. Accordingly, each Party shall:
  - (a) promote the conservation and sustainable management of forests;
  - (b) contribute to combatting illegal logging, illegal deforestation, and associated trade, including with respect to non-parties;
  - (c) promote trade in forest products harvested in accordance with the law of the country of harvest and from sustainably managed forests;
  - (d) promote trade in legally and sustainably produced commodities which could otherwise be associated with deforestation; and
  - (e) endeavour to reduce deforestation and forest degradation, including from land use and land use change.
4. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate on ways to promote sustainable forest management and land use practices in support of the Sustainable Development Goals of the 2030 Agenda. Such cooperation may include:

- (a) initiatives designed to combat illegal logging, illegal deforestation and forest degradation, and associated trade, including assurance schemes;
- (b) the encouragement of sustainable supply chains for forest products and commodities that can generally be associated with deforestation;
- (c) methodologies for the assessment and monitoring of supply chains for forest products and commodities that can generally be associated with deforestation; and
- (d) policies on sustainable supply chains.

### **Article 22.12** **Conservation of Biological Diversity**

1. The Parties recognise the role that terrestrial and marine biological diversity plays in achieving sustainable development, including through the provision of ecosystem services and genetic resources, and the importance of conservation and sustainable use of biological diversity. The Parties recognise that climate change can contribute to biodiversity loss, and that biologically diverse ecosystems including marine ecosystems can adapt better to the impacts of climate change and help to mitigate climate change through the natural sequestration and storage of carbon.
2. The Parties also recognise the importance of respecting, protecting, preserving, and maintaining knowledge, innovations, and practices of Māori in the case of New Zealand, embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity.
3. The Parties acknowledge that threats to terrestrial and marine biological diversity include climate change, illegal take of and illegal trade in wild flora and fauna, the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways, habitat degradation and destruction, pollution, and unsustainable use.
4. The Parties further recognise the particular harms caused to conservation from the illegal trade in ivory, and the importance of appropriate regulation of domestic markets worldwide for ivory and goods containing ivory as a means of supporting international conservation efforts.
5. The Parties affirm their commitment to implement CITES<sup>18</sup> and shall endeavour to implement, as appropriate, CITES resolutions that aim to

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<sup>18</sup> For the purposes of this Article, CITES includes existing and future amendments, as well as any existing and future reservations, exemptions, and exceptions, that are applicable to a Party.



protect and conserve species whose survival is threatened by international trade.

6. Accordingly, each Party shall:
  - (a) take measures to combat the illegal trade in wildlife, including with respect to non-parties as appropriate;
  - (b) take appropriate measures to protect and conserve native wild fauna and flora that it has identified to be at risk including from trade-related activities within its territory, including by taking measures to conserve the ecological integrity of specially protected natural areas;
  - (c) continue efforts to combat the illegal trade in ivory, including through appropriate domestic restrictions on commercial activities concerning ivory and goods containing ivory;
  - (d) promote and encourage the conservation and sustainable use of biodiversity including in trade-related activities, in accordance with its law or policy; and
  - (e) promote the conservation of marine ecosystems and species, including those in the areas beyond national jurisdiction.
  
7. In accordance with Article 22.19 (Cooperation) the Parties may cooperate on matters of mutual interest such as:
  - (a) protection of terrestrial and marine ecosystems and ecosystem services, including marine ecosystems and species in areas beyond national jurisdiction from trade-related impacts;
  - (b) combatting illegal take of and illegal trade in or unsustainable use of wild flora and fauna, including through consultation with interested non-government entities;
  - (c) opportunities to encourage non-party efforts to close their domestic ivory markets;
  - (d) sharing information and management experiences on the movement, prevention, detection, control, and eradication of invasive alien species, with a view to enhancing efforts to assess and address the risks and adverse impacts of invasive alien species;
  - (e) access to genetic resources and the fair and equitable sharing of benefits from their utilisation consistent with the objectives of the *Convention on Biological Diversity* done at Rio de Janeiro on 5 June 1992; and

- (f) identifying opportunities, consistent with their respective law and in accordance with applicable international agreements, to enhance law enforcement cooperation and information sharing.

**Article 22.13**  
**Resource Efficient and Circular Economy**

1. The Parties recognise that the transition towards a circular economy and greater resource efficiency can reduce adverse environmental and climate impacts of products and production processes, improve resource security, and contribute to their respective efforts to achieve their international commitments, including Sustainable Development Goal 12 of the 2030 Agenda. The Parties further recognise the role that trade can play in achieving this transition through trade in second-hand goods, end-of-life products, secondary materials or waste, as well as trade in related services.
2. The Parties also recognise that policy objectives to facilitate the transition to a resource efficient and circular economy include: extending product lifetimes; increasing the proportion of materials and products that are reused and recycled; and reducing waste throughout supply chains.
3. Accordingly, each Party shall:
  - (a) encourage resource efficient product design, including the designing of products to be easier to reuse, dismantle, or recycle at end of life;
  - (b) encourage environmental labelling, including eco-labelling, to make it easier for consumers to make more sustainable choices;
  - (c) endeavour to avoid the generation of waste, including electronic waste, by encouraging reuse, repair, and remanufacture as well as the recycling of waste where it does occur, and strive to reduce the amount of waste sent to landfill; and
  - (d) encourage relevant public entities to consider the policy objectives in paragraph 2 in their purchasing decisions in accordance with Article 16.10 (Environmental, Social, and Labour Considerations – Government Procurement).
4. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate on ways to encourage a transition towards a resource efficient and circular economy, which may include:
  - (a) policies and practices to encourage the shift to a resource efficient and circular economy;

- (b) promoting and facilitating trade that contributes to a resource efficient and circular economy, including trade in secondary materials and used goods, and goods for repair, reuse, and remanufacture; and
- (c) resource efficient product design and related product information and quality standards for secondary materials and goods.

#### **Article 22.14**

### **Ozone Depleting Substances and Hydrofluorocarbons**

1. The Parties recognise that emissions of ozone depleting 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 further recognise that the continued consumption and emission of ozone depleting substances and hydrofluorocarbons can undermine efforts to address global environmental challenges including climate change.
2. Accordingly, each Party shall: take measures to control the production and consumption of, and trade in, substances controlled by the Montreal Protocol;<sup>19, 20, 21</sup> pursue a more ambitious phase-down of hydrofluorocarbons; and endeavour to reduce the use of pre-charged equipment containing hydrofluorocarbons.
3. Consistent with Article 22.19 (Cooperation) the Parties shall cooperate to address matters of mutual interest related to ozone-depleting substances and hydrofluorocarbons which may include:
  - (a) environmentally friendly alternatives to ozone-depleting substances and hydrofluorocarbons and barriers to their uptake;

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<sup>19</sup> For greater certainty, this provision pertains to substances controlled by the Montreal Protocol and any existing amendments or adjustments to the Montreal Protocol, including the *Kigali Amendment* done at Kigali on 15 October 2016 (“Kigali Amendment”), and any future amendments or adjustments to which the Parties are party.

<sup>20</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures implementing its obligations under the Montreal Protocol (for New Zealand, the *Ozone Layer Protection Act 1996*; for the United Kingdom, *Regulation (EC) 1005/2009* as it applies in Great Britain as retained EU law and as it applies in Northern Ireland directly, and *Regulation (EU) 517/2014* as it applies in Great Britain as retained EU law, and as it applies in Northern Ireland directly, as amended by *The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment Act) (EU Exit) Regulations 2019* and *The Ozone-Depleting Substances and Fluorinated Greenhouse Gases (Amendment Act) (EU Exit) Regulations 2020*), or any subsequent measure or measures, including any amendments to the measure or measures listed, that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>21</sup> If compliance with this provision is not established pursuant to footnote 20, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to control the production and consumption of, and trade in, substances controlled by the Montreal Protocol in a manner that is likely to result in adverse effects on human health and the environment, in a manner affecting trade or investment between the Parties.

- (b) refrigerant management practices, policies, and programmes, including lifecycle management of coolants and refrigerants;
- (c) methodologies for stratospheric ozone measurements;
- (d) combating illegal trade in ozone-depleting substances and hydrofluorocarbons; and
- (e) emerging technologies for sustainable heat pumps, cooling, and refrigeration that use environmentally friendly refrigerants.

**Article 22.15**  
**Air Quality**

1. The Parties recognise that air pollution is a serious threat to public health and ecosystem integrity, and note that reducing air pollution can help reduce emissions of greenhouse gases and contribute to addressing climate change and other environmental problems. Accordingly, the Parties recognise the value of an integrated approach in addressing air pollution and climate change.
2. Noting that some production, consumption, and transport activities can cause air pollution and that air pollution can travel long distances, the Parties recognise the importance of reducing domestic and transboundary air pollution, and that cooperation can be beneficial in achieving these objectives. To that end, each Party shall endeavour to reduce air pollution.
3. In accordance with Article 22.19 (Cooperation) the Parties shall cooperate to address matters of mutual interest with respect to air quality, which may include:
  - (a) ambient air quality planning;
  - (b) modelling 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 22.16**  
**Protection of the Marine Environment from Ship Pollution and Marine Litter**

1. The Parties recognise the importance of:

- (a) protecting and preserving the marine environment and the impact of pollution from ships on climate change; and
  - (b) taking action to prevent and reduce marine litter, including plastics and microplastics, in order to preserve marine and coastal ecosystems, prevent the loss of biodiversity, and mitigate marine litter's costs and impacts, including impacts on human health.
2. Accordingly, each Party shall:
- (a) take measures to prevent the pollution of the marine environment from ships,<sup>22, 23, 24</sup> and
  - (b) take measures to prevent and reduce marine litter, recognising the global nature of the challenge of marine litter.
3. Recognising that the Parties are taking action to address marine litter in other fora, in accordance with Article 22.19 (Cooperation) the Parties shall cooperate to address matters of mutual interest with respect to combatting pollution of the marine environment from marine litter and ships, which may include:
- (a) addressing land and sea based pollution, including accidental and deliberate pollution from ships, and pollution from routine operations of ships;
  - (b) promoting waste management infrastructure, including the development of technologies to minimise ship-generated waste;
  - (c) adequacy of port waste reception facilities;
  - (d) advancing efforts related to abandoned, lost, or otherwise discarded fishing gear;

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<sup>22</sup> For greater certainty, this provision pertains to pollution regulated by the *International Convention for the Prevention of Pollution from Ships* done at London on 2 November 1973, as modified by the *Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ship* done at London on 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 on 26 September 1997 (“MARPOL Convention”), and any existing and future amendments to the MARPOL Convention to which the Parties are party.

<sup>23</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures implementing its obligations under the MARPOL Convention (for New Zealand, the *Maritime Transport Act 1994*; for the UK, the *Merchant Shipping Act 1995* and regulations made under the Act) or any subsequent measure or measures, including any amendments to the measure or measures listed, that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>24</sup> If compliance with this provision is not established pursuant to footnote 23, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to prevent the pollution of the marine environment from ships, in a manner affecting trade or investment between the Parties.

- (e) circular economy measures relevant to addressing marine litter;
- (f) increased protection in special areas; and
- (g) enforcement measures including notifications to flag states and as appropriate by port states.

#### **Article 22.17**

#### **Voluntary Mechanisms to Enhance Environmental Performance**

1. The Parties recognise that flexible, voluntary mechanisms, for example, voluntary auditing and reporting, market-based incentives, 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 domestic regulatory measures. The Parties acknowledge that those mechanisms should be designed in a manner that maximises their environmental benefits and avoids the creation of unnecessary barriers to trade.
2. With respect to paragraph 1, each Party shall, in accordance with its laws, regulations, or policies, and to the extent it considers appropriate, encourage:
  - (a) the use of flexible and voluntary mechanisms to protect natural resources and the environment in its territory; and
  - (b) its relevant authorities, businesses and business organisations, non-governmental organisations, and other interested persons involved in the development of criteria used to evaluate environmental performance, with respect to these voluntary mechanisms, to continue to develop and improve those criteria.
3. Further, if private sector entities or non-governmental organisations develop voluntary mechanisms for the promotion of products based on their environmental qualities, each Party shall endeavour to encourage those entities and organisations to develop voluntary mechanisms that, among other things:
  - (a) are truthful, are not misleading, and take into account scientific and technical information;
  - (b) if applicable and available, are based on relevant international standards, recommendations, guidelines, and best practices;
  - (c) promote competition and innovation; and
  - (d) do not treat a product less favourably on the basis of origin.

**Article 22.18**  
**Responsible Business Conduct and Corporate Social Responsibility**

1. The Parties recognise the importance of responsible business conduct and corporate social responsibility practices including responsible supply chain management and the role of trade in pursuing this objective.
2. Accordingly, each Party shall:
  - (a) encourage enterprises operating in its territory or jurisdiction to adopt principles of responsible business conduct and corporate social responsibility that are related to the environment, consistent with internationally recognised standards and guidelines that have been endorsed or are supported by that Party; and
  - (b) provide supportive policy frameworks that encourage businesses to behave in a manner that takes into account those principles of responsible business conduct and corporate social responsibility related to the environment.
3. In accordance with Article 22.19 (Cooperation) the Parties may cooperate on responsible business conduct and corporate social responsibility bilaterally and in international fora as appropriate.

**Article 22.19**  
**Cooperation**

1. The Parties recognise the importance of cooperation as a mechanism to implement this Chapter, to enhance its benefits, and to strengthen the Parties' joint and individual capacities to protect the environment and to promote sustainable development and clean growth as they strengthen their trade and investment relations.
2. Accordingly, the Parties shall cooperate as appropriate on the matters identified in this Chapter, and may cooperate on other matters where there is mutual benefit from that cooperation. Such cooperation may take place bilaterally and in international fora, including the WTO, the OECD, under the UN Environment Programme, and under multilateral environmental agreements.
3. Each Party shall, through the contact points designated in accordance with Article 22.20 (Institutional Arrangements):
  - (a) share its priorities for cooperation with the other Party, including the objectives of that cooperation;

- (b) propose cooperation activities related to the implementation of this Chapter; and
  - (c) develop and participate in cooperation activities and programmes in accordance with the priorities identified by the Environment and Climate Change Sub-Committee.
- 4. Cooperation may be undertaken through various means including: dialogues; workshops; seminars; conferences; collaborative programmes and projects; internships; graduate trainee programmes; technical assistance to promote and facilitate training; the sharing of information, data, and best practices on policies and procedures; joint analysis; and the exchange of experts. Cooperation may include non-governmental bodies or organisations and non-parties to this Agreement, where mutually agreed.
- 5. All cooperative activities under this Chapter are subject to the availability of funds and of human and other resources, and to the applicable laws and regulations of the Parties. The Parties shall decide, on a case-by-case basis, the funding of cooperative activities.
- 6. Each Party shall promote public participation in the development and implementation of cooperative activities, as appropriate, and make publicly available information related to cooperative activities developed under this Chapter.

#### **Article 22.20 Institutional Arrangements**

- 1. Each Party shall designate a contact point within 90 days of the date of entry into force of this Agreement. Each Party shall notify the other Party promptly in the event of any change to its contact point.
- 2. The contact points shall:
  - (a) facilitate regular communication between the Parties;
  - (b) act as a channel for communication with the public in their respective territories;
  - (c) coordinate cooperative activities; and
  - (d) receive and respond to requests for information in accordance with this Chapter.
- 3. The Environment and Climate Change Sub-Committee shall be composed of official level representatives from the relevant trade, environment, and



climate national authorities of each Party responsible for the implementation of this Chapter.

4. The Environment and Climate Change Sub-Committee shall meet within one year of the date of entry into force of this Agreement and thereafter as mutually agreed. The Environment and Climate Change Sub-Committee shall be chaired alternately and may take place physically or virtually as mutually agreed.
5. The purpose of the Environment and Climate Change Sub-Committee is to oversee the implementation of this Chapter and its functions include to:
  - (a) monitor and review the implementation of this Chapter;
  - (b) provide periodic reports to the Joint Committee regarding the implementation of this Chapter;
  - (c) establish priorities for cooperation and review cooperative activities undertaken pursuant to this Chapter;
  - (d) coordinate with other committees established under this Agreement as appropriate; and
  - (e) perform any other functions as the Parties may decide.
6. All Environment and Climate Change Sub-Committee decisions and reports shall be made publicly available, unless the Environment and Climate Change Sub-Committee decides otherwise.
7. The Environment and Climate Change Sub-Committee shall seek public input on matters relevant to the Environment and Climate Change Sub-Committee's work, as appropriate, and at each meeting shall hold a public session which may be virtual.
8. The Environment and Climate Change Sub-Committee shall agree on a joint summary report on its work at the end of each Environment and Climate Change Sub-Committee meeting.

#### **Article 22.21** **Public Submissions**

1. Each Party shall provide for the receipt and consideration of written submissions from persons of that Party regarding its implementation of this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures for the receipt and consideration of written submissions.

2. A Party may provide in its procedures that a submission should:
  - (a) raise an issue directly relevant to this Chapter;
  - (b) clearly identify the person or organisation making the submission; and
  - (c) explain, to the degree possible, how and to what extent the issue raised affects trade or investment between the Parties.
3. Each Party shall consider matters raised by the submission and provide a timely response to the submitter, including in writing as appropriate.

#### **Article 22.22 Independent Advisory Groups**

1. Each Party shall make use of existing, or establish new, independent advisory groups of appropriate persons, seeking a balanced representation of relevant interests, including business organisations, environmental organisations, and academics, and shall engage those groups as appropriate in relation to the operation and implementation of this Chapter.
2. Each Party shall inform its independent advisory group as to the outcome of any dispute relating to this Chapter, together with any follow-up actions or measures.

#### **Article 22.23 Environment Consultations**

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every effort through cooperation, dialogue, consultations, and exchange of information to address any matter arising under 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 written request to the Responding Party's contact point. The Requesting Party shall set out the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal basis for the complaint.
3. Without prejudice to Article 31.18 (Choice of Forum – Dispute Settlement), where the matter arising under this Chapter regards compliance with obligations under a multilateral environmental agreement to which the Parties are party, the Requesting Party shall endeavour, where appropriate, to

address the matter through the consultative or other procedures under that multilateral environmental agreement.

4. The Responding Party shall, unless agreed otherwise with the complaining Party, respond to the request in writing no later than 10 days after the date of receipt of the request.
5. Unless the Parties agree otherwise, they shall enter into consultations promptly, and no later than 30 days after the date of receipt by the Responding Party of the request.
6. The Parties shall make every effort to arrive at a mutually agreed solution to the matter, which may include appropriate cooperative activities. The Parties may seek advice or assistance from any person or body they deem appropriate in order to examine the matter.
7. Consultations pursuant to this Article, Article 22.24 (Joint Committee Consultations), and Article 22.25 (Ministerial Consultations), and in particular, positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of a Party in any further proceedings.

#### **Article 22.24 Joint Committee Consultations**

1. If the Parties have failed to resolve the matter under Article 22.23 (Environment Consultations), a Party may request that the Joint Committee convene to consider the matter by delivering a written request to the contact point of the other Party.
2. The Joint Committee shall promptly convene following the delivery of the request, and shall seek to resolve the matter including, if appropriate, by gathering relevant scientific and technical information from governmental or non-governmental experts.

#### **Article 22.25 Ministerial Consultations**

If the Parties have failed to resolve the matter under Article 22.24 (Joint Committee Consultations), a Party may refer the matter to the relevant Ministers of the Parties by delivering a written request to the contact point of the other Party. The relevant Ministers shall seek to resolve the matter.

**Article 22.26**  
**Dispute Resolution**

1. Articles 22.23 (Environment Consultations) to Article 22.25 (Ministerial Consultations) apply by way of derogation from Article 31.5 (Consultations – Dispute Settlement).
2. If the matter at issue falls within the scope of Article 31.4 (Scope – Dispute Settlement), and if the Parties have failed to resolve the matter under Articles 22.23 (Environment Consultations) to Article 22.25 (Ministerial Consultations) within 120 days of the date of receipt of a request under Article 22.23 (Environment Consultations), or any other period as the Parties may agree, the Requesting Party may request the establishment of a panel under Article 31.6 (Establishment of a Panel – Dispute Settlement) and, as provided in Chapter 31 (Dispute Settlement), thereafter have recourse to the other provisions of that Chapter.
3. Before a Party initiates dispute settlement under this Agreement for a matter arising under paragraphs 2 or 4 of Article 22.4 (General Commitments), that Party shall consider whether it maintains environmental laws that are substantially equivalent in scope to the environmental laws that would be the subject of the dispute.
4. If a Party requests consultations with another Party for a matter arising under paragraphs 2 or 4 of Article 22.4 (General Commitments), and the Responding Party considers that the Requesting Party does not maintain environmental laws that are substantially equivalent in scope to the environmental laws that would be the subject of the dispute, the Parties shall discuss the issue during the consultations.
5. In addition to the requirements under Article 31.8 (Qualifications of Arbitrators – Dispute Settlement), the Parties shall ensure that the Panel appointed in accordance with Article 31.7 (Composition of Panel – Dispute Settlement) has sufficient expertise or experience in environmental law for the purposes of a dispute arising under this Chapter. In a dispute arising under this Chapter, the Panel shall seek information or technical advice from any expert that it deems appropriate, which may include experts in multilateral environmental agreements.