

CHAPTER 21 ENVIRONMENT

Article 21.1 Definitions

For the purposes of this Chapter:

“**environmental law**” means a law or regulation of a Party, the primary purpose of which is the protection of the environment, including the prevention of 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 gases¹; or
- (b) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas^{2,3}

but does not include laws and regulations directly related to worker safety or health; and

for India, “**law or regulation**” means an Act of the Parliament of India or delegated legislation framed pursuant to an Act of the Parliament of India, which is enforceable at the central level of Government.

Article 21.2 Objectives

1. The Parties recall 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, the *Rio Declaration on Environment and Development, Agenda 21* adopted by the UN Conference on Environment and Development in 1992, the *Johannesburg Declaration on Sustainable Development* and its Plan of Implementation adopted in 2002, and the Rio+20 Outcome Document *The Future We Want* endorsed by the UN General Assembly Resolution 66/288 adopted on 27 July 2012.
2. The objectives of this Chapter are to promote sustainable development, mutually supportive trade and environmental policies, high levels of

¹ This is without prejudice to whether the Parties consider greenhouse gases to be pollutants.

² For the purposes of this Chapter, the term “specially protected natural areas” means those areas as defined by the Party in its laws or regulations.

³ The Parties recognise that such protection or conservation may include the protection or conservation of biological diversity.

environmental protection, and to enhance the capacities of the Parties to address environmental issues, including through cooperation.

3. The Parties recognise that enhanced cooperation to protect and conserve the environment and sustainably manage their natural resources brings benefits that can contribute to sustainable development and complement the objectives of this Agreement.
4. This Chapter embodies a cooperative approach, based on common values and interests, taking into account the differences in the Parties' respective levels of development, priorities and circumstances.

Article 21.3

General Commitments, Right to Regulate and Levels of Environmental Protection

1. The Parties recognise the sovereign right of each Party to establish its own levels of environmental protection and priorities, and to establish, maintain or modify its environmental laws and policies accordingly.
2. Each Party shall strive to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection, and to continue to improve its respective levels of environmental protection.
3. The Parties recognise that this Chapter does not oblige the Parties to harmonise their environmental standards to achieve the objectives of this Chapter.
4. 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 those laws, in order to encourage trade or investment between the Parties.
5. The Parties recognise that it is inappropriate to apply their environmental laws, policies or measures in a manner that would constitute an arbitrary or unjustifiable discrimination or a disguised restriction on trade or investment between the Parties.
6. 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.
7. The Parties recognise that each Party retains the right to exercise discretion and to make decisions regarding investigations, prosecutions and regulatory or compliance matters, and 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 6 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.

Article 21.4

Multilateral Environmental Agreements

1. The Parties recognise the important role that multilateral environmental agreements play in protecting the environment.
2. Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.
3. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, with respect to environmental issues of mutual interest related to multilateral environmental agreements, subject to national circumstances.

Article 21.5

Climate Change

1. The Parties recognise:
 - (a) the importance of achieving the ultimate objective of the *United Nations Framework Convention on Climate Change* done at New York on 9 May 1992⁴ (“UNFCCC”) and the *Paris Agreement* done at Paris on 12 December 2015⁵ (“Paris Agreement”) in order to address the urgent threat of climate change, on the basis of the best available scientific knowledge, reflecting the principles of the UNFCCC and the Paris Agreement including equity and common but differentiated responsibilities and respective capabilities in the light of different national circumstances;
 - (b) the immediate need for enhanced action to reach respective net-zero targets, and climate resilient development;
 - (c) that the impacts of climate change will be much lower at the temperature increase of 1.5°C compared with 2°C;
 - (d) that reducing air pollution may help reduce emissions of greenhouse gases and contribute to addressing climate change;
 - (e) the importance of protecting, conserving and restoring nature and ecosystems to achieve the ultimate objective of the UNFCCC and the objective of the Paris Agreement, including through forests and other terrestrial and marine ecosystems acting as sinks and reservoirs of

⁴ Including any existing and future amendments to which the Parties are party.

⁵ Including any existing and future amendments to which the Parties are party.

greenhouse gases and by protecting biodiversity, while ensuring social and environmental safeguards; and

- (f) the call for parties to the UNFCCC and the Paris Agreement to accelerate efforts towards the phase-down of unabated coal power, in accordance with the *Glasgow Climate Pact 2021*⁶.

2. Accordingly, the Parties:

- (a) affirm their commitment to implement the Paris Agreement 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 commit to working together to take actions to address climate change; and
- (b) shall endeavour to encourage the transition to clean energy.

3. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, to address matters of mutual interest related to climate change, subject to national circumstances, which may include the exchange of best practices on the reduction of greenhouse gas emissions and climate adaptation and resilience.

Article 21.6 Environmental Goods and Services

- 1. The Parties recognise the importance of facilitating trade and investment in environmental goods and services, and the role of transfer of technology and exchange of expertise, as a means of improving environmental and economic performance, and encouraging sustainable development.
- 2. The Parties shall endeavour to facilitate and promote trade and investment in environmental goods and services, including by working through the Sustainability Subcommittee and in conjunction with other relevant committees established under this Agreement, as appropriate.
- 3. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, to address matters of mutual interest on ways to enhance trade in environmental goods and services, subject to national circumstances.

Article 21.7 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

⁶ Decision 1/CP.26 of the Conference of the Parties serving as the meeting of the Parties to the UNFCCC and Decision 1/CMA.3 of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.

likely to result in adverse effects on human health and the environment. The Parties further recognise the importance of reducing the use of ozone depleting substances and hydrofluorocarbons.

2. Accordingly, each Party affirms its commitment to implement the *Montreal Protocol on Substances that Deplete the Ozone Layer* done at Montreal on 16 September 1987⁷ (“Montreal Protocol”) including the *Kigali Amendment on the phase-down of hydrofluorocarbons* done at Kigali on 15 October 2016.
3. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, to address matters of mutual interest related to ozone-depleting substances, and hydrofluorocarbons, subject to national circumstances, which may include:
 - (a) environmentally friendly alternatives to ozone-depleting substances and hydrofluorocarbons and barriers to their uptake;
 - (b) refrigerant management practices, policies and programmes including lifecycle management of refrigerants;
 - (c) combating illegal trade in ozone-depleting substances and hydrofluorocarbons; and
 - (d) research, design, development and demonstration of emerging technologies with low global warming potential, including sustainable cooling, as applicable based on national circumstances.

Article 21.8

Air Quality

1. The Parties recognise that air pollution is a serious threat to public health and ecosystem integrity. The Parties recognise the importance of reducing domestic air pollution and that cooperation can be beneficial in achieving these objectives, taking into account national circumstances.
2. To that end, each Party shall endeavour to reduce air pollution.
3. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, to address matters of mutual interest with respect to air quality, subject to national circumstances, which may include:
 - (a) ambient air quality planning;
 - (b) reduction, control, and prevention technologies and practices; and

⁷ 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 the Montreal Protocol to which the Parties are party.

- (c) modelling and monitoring, including spatial distribution of main sources of air pollution and their associated emissions.

Article 21.9
Protection of the Marine Environment from Ship Pollution

1. The Parties recognise the importance of protecting and preserving the marine environment and the impact of pollution from ships. To that end, each Party affirms its commitment to implement the *International Convention for the Prevention of Pollution from Ships* done at London on 2 November 1973⁸ to prevent the pollution of the marine environment from ships.
2. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, to address matters of mutual interest with respect to pollution of the marine environment from ships, subject to national circumstances, which may include:
 - (a) accidental and deliberate pollution and emissions from ships;
 - (b) development of technologies to minimise ship-generated waste and the encouragement of adequate port waste reception facilities;
 - (c) increased protection in special areas; and
 - (d) enforcement measures, including notifications to flag states, and as appropriate by port states.

Article 21.10
Marine Litter

1. The Parties recognise the importance of taking action to prevent and reduce marine litter, including, plastics and microplastics, in order to preserve marine ecosystems, prevent the loss of biodiversity, and mitigate marine litter's costs and impacts, including impacts on human health.
2. Recognising that the Parties are taking action to address marine litter in other fora, in accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, to address matters of mutual interest with respect to combatting marine litter, subject to national circumstances, which may include:
 - (a) addressing land and sea-based pollution;

⁸ 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 Ships* 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.

- (b) promoting waste management infrastructure; and
- (c) advancing efforts related to abandoned, lost or otherwise discarded fishing gear.

Article 21.11 **Marine Wild Capture Fisheries⁹**

1. The Parties acknowledge the importance of the marine fisheries sector to their development and to the livelihoods of their fishing communities, including artisanal or small-scale fisheries. The Parties also acknowledge that the fate of marine capture fisheries is an urgent resource problem in many parts of the world. Accordingly, the Parties recognise the importance of taking measures aimed at the conservation and sustainable management of fisheries and marine ecosystems.
2. In this regard, the Parties acknowledge that inadequate fisheries management and illegal, unreported and unregulated (“IUU”) fishing¹⁰ can have significant negative impacts on the environment.
3. The Parties also recognise the importance of promoting good fisheries governance, and the conservation and sustainable use of marine living resources in the pursuit of the objectives of the *UNCLOS*¹¹, the *United Nations Fish Stocks Agreement*, done at New York on 4 December 1995¹² and Regional Fisheries Management Organisations and Arrangements.
4. Each Party affirms its commitment to implement the relevant international agreements to which it is a party.¹³
5. The Parties recognise the importance of promoting the long-term conservation of sharks, marine turtles, seabirds, and marine mammals through the implementation of conservation and management measures.
6. The Parties recall the provisions of the World Trade Organization Ministerial Decision of 17 June 2022¹⁴ adopting the Protocol amending the *Marrakesh*

⁹ For greater certainty, this Article shall not apply with respect to aquaculture or inland fishing.

¹⁰ 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”), adopted at Rome in 2001.

¹¹ Including any existing and future amendments to which the Parties are party.

¹² Including any existing and future amendments to which the Parties are party.

¹³ For greater certainty, the international agreements are: *UNCLOS*; the *United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*, done at New York on 4 August 1995; the *Agreement for the Establishment of the Indian Ocean Tuna Commission*, done at Rome on 25 November 1993; the *Convention on the Conservation of Migratory Species of Wild Animals*, done at Bonn on 23 June 1979; the *International Convention for the Regulation of Whaling*, done at Washington on 2 December 1946, and any existing and future amendments to these international agreements to which the Parties are party.

¹⁴ Ministerial Decisions on 17 June 2022 on “Agreement on Fisheries Subsidies”, WT/MIN(22)/33 and WT/L/1144.

Agreement Establishing the World Trade Organization of 15 April 1994 to introduce the *Agreement on Fisheries Subsidies* and the *Agreement on Fisheries Subsidies* thereby adopted and submitted to members for acceptance.

7. The Parties recognise the importance of concerted international action to address issues of IUU fishing as reflected in regional and international instruments.¹⁵
8. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, bilaterally and in international fora, to address matters of mutual interest related to marine wild capture fisheries, subject to national circumstances.

Article 21.12 Sustainable Forest Management

1. The Parties recognise the importance of forests for providing:
 - (a) livelihoods and job opportunities, including for local communities, and forest dwelling and forest dependent communities¹⁶;
 - (b) environmental, economic and social benefits for present and future generations; and
 - (c) numerous ecosystem services, including carbon storage, maintaining water quantity and quality, stabilising soils, and providing habitat for wild fauna and flora.
2. The Parties further recognise the need to protect, restore, and sustainably manage forests.
3. Accordingly, each Party shall endeavour to:
 - (a) support the conservation and sustainable management of forests;
 - (b) combat illegal logging, and associated trade; and
 - (c) reduce deforestation and forest degradation.
4. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, on matters of mutual interest with respect to the conservation and sustainable management of forests, subject to national circumstances, which may include:
 - (a) combatting illegal logging, and associated trade;
 - (b) promoting the conservation and sustainable management of forests;

¹⁵ For greater certainty, this does not include international agreements to which a Party is not party.

¹⁶ For greater certainty, forest dwelling and forest dependent communities refers to communities within India.

- (c) reducing deforestation and forest degradation; and
- (d) sustainable supply chains and production.

Article 21.13

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.
2. The Parties recognise that threats to terrestrial and marine biological diversity include, poaching and illegal trade, in wild flora and fauna, habitat degradation and destruction, and pollution.
3. The Parties recognise 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 plant, animal, and human health. The Parties also recognise that the prevention, control, and, when possible, eradication, of invasive alien species are critical strategies for managing those adverse impacts.
4. Each Party affirms its commitment to implement the *Convention on Biological Diversity* done at Rio de Janeiro on 5 June 1992¹⁷ (“CBD”) and its protocols, and the *Convention on Trade in Endangered Species of Wild Fauna and Flora* done at Washington D.C. on 3 March 1973.¹⁸
5. The Parties, recognising that patents and other intellectual property rights may have an influence on the implementation of the CBD, shall cooperate in this regard, subject to national legislation and international law, in order to ensure that those rights are supportive of and do not run counter to its objectives.
6. The Parties recognise the importance of prior informed consent or approval to access genetic resources and traditional knowledge associated with genetic resources, in accordance with their respective laws and regulations, and the fair and equitable sharing, between users and providers, of benefits arising from the utilisation of genetic resources and traditional knowledge associated with genetic resources, as well as subsequent application and commercialisation. Accordingly, the Parties affirm their commitment to implement the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity* done at Nagoya on 29 October 2010.¹⁹
7. The Parties further recognise the particular losses caused to conservation from the illegal trade in ivory, and the importance of appropriate regulation of domestic markets worldwide for ivory as a means of supporting international

¹⁷ Including any existing and future amendments to which the Parties are party.

¹⁸ Including any existing and future amendments to which the Parties are party.

¹⁹ Including any existing and future amendments to which the Parties are party.

conservation efforts. Accordingly, each Party shall endeavour to combat the illegal trade in ivory.

8. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, on matters of mutual interest with respect to the conservation of biological diversity, subject to national circumstances, which may include:
 - (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 poaching and illegal trade in or unsustainable use of wild flora and fauna, including through consultation with interested entities;
 - (c) supporting efforts, to close domestic ivory markets;
 - (d) sharing information and management experiences, including on industry-led schemes, on the movement, prevention, detection, control, and effective management 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 CBD; 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 21.14 **Resource Efficient and Circular Economy**

1. The Parties recognise that the transition towards a resource efficient and circular economy can reduce adverse environmental impacts of products and production processes and improve resource security. The Parties further recognise the role that trade can play in achieving this transition and that cooperation can be beneficial in achieving this objective, taking into account national circumstances.
2. The Parties also recognise that policy objectives to facilitate the transition to a resource efficient and circular economy include: extending product life cycles, sustainable product design, increasing re-use and recycling, and reducing waste.
3. Accordingly, each Party shall endeavour to avoid the generation of waste, including electronic waste, and reduce the amount of waste sent to landfill.
4. In accordance with Article 21.15 (Cooperation), the Parties shall cooperate, as appropriate, to address matters of mutual interest related to a transition towards a resource-efficient and circular economy, subject to national circumstances, 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;
- (c) resource efficient product design and related product information; and
- (d) addressing marine plastic litter.

Article 21.15 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 provided in this Chapter. Such cooperation may take place bilaterally and in such international fora, as the Parties consider appropriate.
3. Each Party shall, as appropriate:
 - (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 and agreed by the Parties.
4. Cooperation may be undertaken through various means including: dialogues, workshops, seminars, conferences, collaborative programmes and projects; technical assistance to promote and facilitate cooperation and training; joint analysis; the sharing of information, data and best practices on policies and procedures; and exchange of experts.
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.

Article 21.16
Contact Points

Each Party shall designate a contact point within 90 days of the date of entry into force of this Agreement in order to facilitate communication between the Parties. Each Party shall notify the other Party promptly in the event of any change to its contact point.

Article 21.17
Opportunities for Public Participation

1. The Parties recognise the importance of public access to environmental information and public participation and consultation in environmental decision making in accordance with the domestic procedures of the respective Parties.
2. Accordingly, the Parties shall endeavour to make environmental information, including data, publicly available, as appropriate.
3. Each Party shall endeavour to promote public participation with respect to the cooperative activities under this Chapter, as appropriate.
4. Each Party shall endeavour to consider and respond, as appropriate, to submissions made by persons of that Party on matters related to this Chapter, in accordance with its domestic laws and procedures.

Article 21.18
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. Subject to paragraph 3, a Party may request consultations with the other 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.
3. 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, where appropriate, address the matter through the consultative or other procedures under that multilateral environmental agreement.
4. The responding Party shall, unless the Parties agree otherwise, respond to the request in writing no later than 90 days after the date of receipt of the request. The period for responding to the request may be extended by 30 days upon the request of the responding Party.

5. Unless the Parties agree otherwise, they shall enter into consultations promptly and no later than 150 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. Without prejudice to Article 21.20 (Ministerial Consultations), consultations pursuant to this Article, Article 21.19 (Joint Committee Consultations) and Article 21.20 (Ministerial Consultations), and in particular, the outcomes of the consultations and positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of either Party in any other proceedings.

Article 21.19 Joint Committee Consultations

1. If the Parties fail to resolve the matter under Article 21.18 (Environment Consultations), either 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 agencies or sources, or other mutually agreed agencies or sources.

Article 21.20 Ministerial Consultations

If the Parties fail to resolve the matter under Article 21.19 (Joint Committee Consultations), either 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. The outcome of these consultations shall be made public unless the Parties agree otherwise. Where the outcome of consultations is published, this shall be through a jointly agreed report.

Article 21.21 Non-Application of Dispute Settlement

Neither Party shall have recourse to dispute settlement under Chapter 29 (Dispute Settlement) for any matter arising under this Chapter.