

## **CHAPTER 24**

### **ENVIRONMENT**

#### **Article 24.1: Definitions**

For the purposes of this Chapter:

**environmental law** means a statute or regulation of a Party, or provision thereof, including any that implements the Party's obligations under a multilateral environmental agreement, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

- (a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;
- (b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; or
- (c) the protection or conservation of wild flora or fauna,<sup>1</sup> including endangered species, their habitat, and specially protected natural areas,<sup>2</sup>

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

**statute or regulation** means:

- (a) for Canada, an Act of the Parliament of Canada or regulation made under an Act of the Parliament of Canada that is enforceable by action of the central level of government;
- (b) for Mexico, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the federal level of government; and
- (c) for the United States, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the central level of government.

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<sup>1</sup> The Parties recognize that "protection or conservation" may include the protection or conservation of biological diversity.

<sup>2</sup> For the purposes of this Chapter, the term "specially protected natural areas" means those areas as defined by the Party in its law.

## **Article 24.2: Scope and Objectives**

1. The Parties recognize that a healthy environment is an integral element of sustainable development and recognize the contribution that trade makes to sustainable development.
2. The objectives of this Chapter are to promote mutually supportive trade and environmental policies and practices; promote high levels of environmental protection and effective enforcement of environmental laws; and enhance the capacities of the Parties to address trade-related environmental issues, including through cooperation, in the furtherance of sustainable development.
3. Taking account of their respective national priorities and circumstances, the Parties recognize that enhanced cooperation to protect and conserve the environment and the sustainable use and management of their natural resources brings benefits that can contribute to sustainable development, strengthen their environmental governance, support implementation of international environmental agreements to which they are a party, and complement the objectives of this Agreement.
4. The Parties recognize that the environment plays an important role in the economic, social, and cultural well-being of indigenous peoples and local communities, and acknowledge the importance of engaging with these groups in the long-term conservation of the environment.
5. The Parties further recognize that it is inappropriate to establish or use their environmental laws or other measures in a manner which would constitute a disguised restriction on trade or investment between the Parties.

## **Article 24.3: Levels of Protection**

1. The Parties recognize the sovereign right of each Party to establish its own levels of domestic environmental protection and its own environmental priorities, and to establish, adopt, or modify its environmental laws and policies accordingly.
2. Each Party shall strive to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection, and shall strive to continue to improve its respective levels of environmental protection.

#### **Article 24.4: Enforcement of Environmental Laws**

1. No Party shall fail to effectively enforce its environmental laws through a sustained or recurring course of action or inaction<sup>3</sup> in a manner affecting trade or investment between the Parties,<sup>4, 5</sup> after the date of entry into force of this Agreement.
2. The Parties recognize that each Party retains the right to exercise discretion and to make decisions regarding: (a) investigatory, prosecutorial, regulatory, and compliance matters; and (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priorities. Accordingly, the Parties understand that with respect to the enforcement of environmental laws a Party is in compliance with paragraph 1 if a course of action or inaction reflects a reasonable exercise of that discretion, or results from a *bona fide* decision regarding the allocation of those resources in accordance with priorities for enforcement of its environmental laws.
3. Without prejudice to Article 24.3.1 (Levels of Protection), the Parties recognize 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.
4. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of another Party.

#### **Article 24.5: Public Information and Participation**

1. Each Party shall promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.

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<sup>3</sup> For greater certainty, a “sustained or recurring course of action or inaction” is “sustained” if the course of action or inaction is consistent or ongoing, and is “recurring” if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

<sup>4</sup> For greater certainty, a “course of action or inaction” is “in a manner affecting trade or investment between the Parties” if the course involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

<sup>5</sup> For purposes of dispute settlement, a panel shall presume that a failure is in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.

2. Each Party shall provide for the receipt and consideration of written questions or comments from persons of that Party regarding its implementation of this Chapter. Each Party shall respond in a timely manner to these questions or comments in writing and in accordance with domestic procedures, and make the questions or comments and the responses available to the public, for example by posting on an appropriate public website.

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

#### **Article 24.6: Procedural Matters**

1. Each Party shall ensure that an interested person may request that the Party's competent authorities investigate alleged violations of its environmental laws, and that the competent authorities give those requests due consideration, in accordance with its law.

2. Each Party shall ensure that persons with a recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental laws, and the right to seek appropriate remedies or sanctions for violations of those laws.

3. Each Party shall ensure that administrative, quasi-judicial, or judicial proceedings for the enforcement of the Party's environmental laws are available under its law and that those proceedings are fair, equitable, transparent, and comply with due process of law, including the opportunity for parties to the proceedings to support or defend their respective positions. The Parties recognize that these proceedings should not be unnecessarily complicated nor entail unreasonable fees or time limits.

4. Each Party shall provide that any hearings in these proceedings are conducted by impartial and independent persons who do not have an interest in the outcome of the matter. Hearings in these proceedings shall be open to the public, except when the administration of justice otherwise requires, and in accordance with its applicable law.

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

- (a) in writing and if appropriate state the reasons on which the decisions are based;
- (b) made available without undue delay to the parties to the proceedings and, in accordance with its law, to the public; and

- (c) based on information or evidence presented by the parties or other sources, in accordance with its law.

6. Each Party shall also provide, as appropriate, that parties to these proceedings have the right, in accordance with its law, to seek review and, if warranted, correction or redetermination, of final decisions in such proceedings.

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

#### **Article 24.7: Environmental Impact Assessment**

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

2. Each Party shall ensure that such procedures provide for the disclosure of information to the public and, in accordance with its law, allow for public participation.

#### **Article 24.8: Multilateral Environmental Agreements<sup>6, 7</sup>**

1. The Parties recognize the important role that multilateral environmental agreements can play in protecting the environment and as a response of the international community to global or regional environmental problems.

2. Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.

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<sup>6</sup> A violation of Article 24.8.4 must be in a manner affecting trade or investment between the Parties. For greater certainty, a failure is "in a manner affecting trade or investment between the Parties" if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party. For greater certainty, a Party's compliance with its respective obligations under a covered agreement shall only be subject to Article 24.29 (Environment Consultations) or Article 24.32 (Dispute Settlement) under this Agreement if the complaining Party is a party to the relevant covered agreement.

<sup>7</sup> For purposes of dispute settlement, a panel shall presume that a failure is in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.

3. The Parties commit to consult and cooperate as appropriate with respect to environmental issues of mutual interest, in particular trade-related issues, pertaining to relevant multilateral environmental agreements. This includes exchanging information on the implementation of multilateral environmental agreements to which a Party is party; ongoing negotiations of new multilateral environmental agreements; and, each Party's respective views on becoming a party to additional multilateral environmental agreements.

4. Each Party shall adopt, maintain, and implement laws, regulations, and all other measures necessary to fulfill its respective obligations under the following multilateral environmental agreements (“covered agreements”):<sup>8</sup>

- (a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended;
- (b) the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as adjusted and amended;
- (c) the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London, February 17, 1978, as amended;
- (d) the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar, February 2, 1971, as amended;
- (e) the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, May 20, 1980;
- (f) the International Convention for the Regulation of Whaling, done at Washington, December 2, 1946; and
- (g) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington, May 31, 1949.

5. Pursuant to Article 34.3 (Amendments), the Parties may agree in writing to modify paragraph 4 to include any amendment to an agreement referred to therein, and any other environmental or conservation agreement.

#### **Article 24.9: Protection of the Ozone Layer**

1. The Parties recognize that emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human

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<sup>8</sup> For purposes of this paragraph: (1) “covered agreements” shall encompass the multilateral environmental agreements provided herein and those existing or future protocols, amendments, annexes, and adjustments under the relevant agreement to which the Party is party; and (2) a Party’s “obligations” shall be interpreted to reflect, *inter alia*, existing and future reservations, exemptions, and exceptions applicable to it under the relevant agreement.

health and the environment. Accordingly, each Party shall take measures to control the production and consumption of, and trade in, substances controlled by the Montreal Protocol.<sup>9, 10, 11, 12</sup>

2. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures concerning the protection of the ozone layer. Each Party shall make publicly available appropriate information about its programs and activities, including cooperative programs that are related to ozone layer protection.

3. Consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest related to such substances. Cooperation may include, exchanging information and experiences in areas related to:

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

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<sup>9</sup> For greater certainty, this provision pertains to substances controlled by the *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal, September 16, 1987 (Montreal Protocol), and any existing and future amendments to the Montreal Protocol to which the Parties are parties.

<sup>10</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex 24-A implementing its obligations under the Montreal Protocol or adopts any subsequent measure or measures that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>11</sup> If compliance with this provision is not established pursuant to footnote 10, a violation of this provision must be in a manner affecting trade or investment between the Parties. For greater certainty, a failure is “in a manner affecting trade or investment between the Parties” if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

<sup>12</sup> For purposes of dispute settlement, a panel shall presume that a failure is in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.

## Article 24.10: Protection of the Marine Environment from Ship Pollution

1. The Parties recognize the importance of protecting and preserving the marine environment. To that end, each Party shall take measures to prevent the pollution of the marine environment from ships.<sup>13, 14, 15, 16</sup>
2. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures to prevent the pollution of the marine environment from ships. Each Party shall make publicly available appropriate information about its programs and activities, including cooperative programs, that are related to the prevention of pollution of the marine environment from ships.
3. Consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to pollution of the marine environment from ships. Areas of cooperation may include:
  - (a) accidental pollution from ships;
  - (b) pollution from routine operations of ships;
  - (c) deliberate pollution from ships;
  - (d) development of technologies to minimise ship-generated waste;
  - (e) emissions from ships;

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<sup>13</sup> For greater certainty, this provision pertains to pollution regulated by the *International Convention for the Prevention of Pollution from Ships*, done at London, November 2, 1973, as modified by the *Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships*, done at London, February 17, 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, September 26, 1997 (MARPOL Convention), and any existing and future amendments to the MARPOL Convention, to which the Parties are parties.

<sup>14</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex 24-B implementing its obligations under MARPOL Convention, or adopts any subsequent measure or measures that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>15</sup> If compliance with this provision is not established pursuant to footnote 14, a violation of this provision must be in a manner affecting trade or investment between the Parties. For greater certainty, a failure is “in a manner affecting trade or investment between the Parties” if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

<sup>16</sup> For purposes of dispute settlement, a panel shall presume that a failure is in a manner affecting trade or investment between the Parties, unless the responding Party demonstrates otherwise.



- (f) adequacy of port waste reception facilities;
- (g) increased protection in special geographic areas; and
- (h) enforcement measures including notifications to flag States and, as appropriate, by port States.

#### **Article 24.11: Air Quality**

1. The Parties recognize that air pollution is a serious threat to public health, ecosystem integrity, and sustainable development and contributes to other environmental problems; and note that reducing certain air pollutants can provide multiple benefits.

2. Noting that air pollution can travel long distances and impact each Party's ability to achieve its air quality objectives, the Parties recognize the importance of reducing both domestic and transboundary air pollution, and that cooperation can be beneficial in achieving these objectives.

3. The Parties further recognize the importance of public participation and transparency in the development and implementation of measures to prevent air pollution and in ensuring access to air quality data. Accordingly, each Party shall make air quality data and information about its associated programs and activities publicly available in accordance with Article 32.7 (Disclosure of Information), and shall seek to ensure these data and information are easily accessible and understandable to the public.

4. The Parties recognize the value of harmonizing air quality monitoring methodologies.

5. The Parties recognize the importance of international agreements and other efforts to improve air quality and control air pollutants, including those that have the potential for long-range transport.

6. Recognizing that the Parties have made significant progress to address air pollution in other fora, and consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to air quality. Cooperation may include exchanging information and experiences in areas related to:

- (a) ambient air quality planning;
- (b) modeling 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 24.12: Marine Litter**

1. The Parties recognize the importance of taking action to prevent and reduce marine litter, including plastic litter and microplastics, in order to preserve human health and marine and coastal ecosystems, prevent the loss of biodiversity, and mitigate marine litter's costs and impacts.
2. Recognizing the global nature of the challenge of marine litter, each Party shall take measures to prevent and reduce marine litter.
3. Recognizing that the Parties are taking action to address marine litter in other fora, consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest with respect to combatting marine litter, such as addressing land and sea-based pollution, promoting waste management infrastructure, and advancing efforts related to abandoned, lost, or otherwise discarded fishing gear.

#### **Article 24.13: Corporate Social Responsibility and Responsible Business Conduct**

1. The Parties recognize the importance of promoting corporate social responsibility and responsible business conduct.
2. Each Party shall encourage enterprises organized or constituted under its laws, or operating in its territory, to adopt and implement voluntary best practices of corporate social responsibility that are related to the environment, such as those in internationally recognized standards and guidelines that have been endorsed or are supported by that Party, to strengthen coherence between economic and environmental objectives.

#### **Article 24.14: Voluntary Mechanisms to Enhance Environmental Performance**

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

2. Therefore, in accordance with its laws, regulations, or policies and to the extent it considers appropriate, each Party shall encourage:

- (a) the use of flexible, voluntary mechanisms to protect the environment and natural resources, such as through the conservation and sustainable use of those resources, in its territory; and
- (b) its relevant authorities, private sector, non-governmental organizations, 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 such criteria.

3. Further, if private sector entities or non-governmental organizations develop voluntary mechanisms for the promotion of products based on their environmental qualities, each Party should encourage those entities and organizations to develop voluntary mechanisms that, among other things:

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

#### **Article 24.15: Trade and Biodiversity**

1. The Parties recognize the importance of conservation and sustainable use of biological diversity, as well as the ecosystem services it provides, and their key role in achieving sustainable development.

2. Accordingly, each Party shall promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy.

3. The Parties recognize the importance of respecting, preserving, and maintaining knowledge and practices of indigenous peoples and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity.

4. The Parties recognize the importance of facilitating access to genetic resources within their respective national jurisdictions, consistent with each Party's international obligations. The Parties further recognize that some Parties may require, through national measures, prior

informed consent to access such genetic resources in accordance with national measures and, if access is granted, the establishment of mutually agreed terms, including with respect to sharing of benefits from the use of such genetic resources, between users and providers.

5. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures concerning the conservation and sustainable use of biological diversity. Each Party shall make publicly available information about its programs and activities, including cooperative programs, related to the conservation and sustainable use of biological diversity.

6. Consistent with Article 24.25 (Environmental Cooperation), the Parties shall cooperate to address matters of mutual interest. Cooperation may include exchanging information and experiences in areas related to:

- (a) the conservation and sustainable use of biological diversity;
- (b) mainstreaming conservation and sustainable use of biological diversity across relevant sectors;
- (c) the protection and maintenance of ecosystems and ecosystem services; and
- (d) access to genetic resources and the sharing of benefits arising from their utilization.

#### **Article 24.16: Invasive Alien Species**

1. The Parties recognize that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health. The Parties also recognize that the prevention, detection, control and, when possible, eradication, of invasive alien species are critical strategies for managing those adverse impacts.

2. Accordingly, the Environment Committee established under Article 24.26.2 (Environment Committee and Contact Points) shall coordinate with the Committee on Sanitary and Phytosanitary Measures established under Article 9.17 (Committee on Sanitary and Phytosanitary Measures) to identify cooperative opportunities to share 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.

## **Article 24.17: Marine Wild Capture Fisheries<sup>17</sup>**

1. The Parties acknowledge their role as major consumers, producers, and traders of fisheries products and the importance of the marine fisheries sectors to their development and to the livelihoods of fishing communities, including those engaged in artisanal, small scale, and indigenous fisheries. The Parties also recognize the need for individual and collective action within international fora to address the urgent resource problems resulting from overfishing and unsustainable utilization of fisheries resources.

2. Accordingly, the Parties recognize the importance of taking measures aimed at the conservation and the sustainable management of fisheries and the contribution of those measures to providing environmental, economic and social opportunities for present and future generations. The Parties also recognize the importance of promoting and facilitating trade in sustainably managed and legally harvested fish and fish products, while ensuring that trade in these products is not subject to unnecessary or unjustifiable barriers to trade, given the negative effect that such barriers can have on the well-being of their communities who depend upon the fishing industry for their livelihood.

3. If an importing Party is considering adopting trade restrictive measures for fish or fish products in order to protect or conserve fish or other marine species, the Parties recognize the importance that these measures be:<sup>18</sup>

- (a) based on the best scientific evidence available, as applicable, that establish a connection between the products affected by the measure and the species being protected or conserved;
- (b) tailored to the conservation objective; and
- (c) implemented after the importing Party has:
  - (i) consulted with the exporting Party, in an effort to resolve the issue cooperatively; and
  - (ii) provided a reasonable opportunity for the exporting Party to take appropriate measures to address the issue.

4. The Parties shall cooperate with, and, if appropriate, in, Regional Fisheries Management Organizations (RFMOs) and Regional Fisheries Management Arrangements (RFMAs), in which

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<sup>17</sup> For greater certainty, Article 24.17 (Marine Wild Capture Fisheries), Article 24.18 (Sustainable Fisheries Management), Article 24.19 (Conservation of Marine Species), Article 24.20 (Fisheries Subsidies), and Article 24.21 (Illegal, Unreported, and Unregulated (IUU) Fishing) do not apply with respect to aquaculture.

<sup>18</sup> For greater certainty, this paragraph is without prejudice to any rights or obligations of the Parties relating to the adoption or application of trade restrictive measures for fish and fish products.

the Parties are members, observers, or cooperating non-contracting parties, with the aim of achieving good governance, including by advocating for science-based decisions and compliance with those decisions in these organizations and arrangements.

#### **Article 24.18: Sustainable Fisheries Management**

1. In furtherance of the objectives of conservation and sustainable management, each Party shall seek to operate a fisheries management system that regulates marine wild capture fishing and that is designed to:

- (a) prevent overfishing and overcapacity through appropriate measures, such as limited entry, time, area, and other restrictions, and the setting and enforcement of catch or effort limits;
- (b) reduce bycatch of non-target species and juveniles, including through the regulation of, and implementation of measures associated with, fishing gear and methods that result in bycatch and the regulation of fishing in areas where bycatch is likely to occur;
- (c) promote the recovery of overfished stocks for all marine fisheries in which that Party's persons conduct fishing activities; and
- (d) protect marine habitat by cooperating, as appropriate, to prevent or mitigate significant adverse impacts from fishing.

2. Further, each Party shall adopt or maintain measures:

- (a) to prevent the use of poisons and explosives for the purpose of commercial fish harvesting; and
- (b) designed to prohibit the practice of shark finning.

3. Each Party shall base its fisheries management system on the best scientific evidence available and on internationally recognized best practices for fisheries management and conservation as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species.<sup>19</sup>

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<sup>19</sup> These instruments include, as they may apply, the *United Nations Convention on Law of the Sea* (UNCLOS), done at Montego Bay, December 10, 1982; 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, December 4, 1995 (UN Fish Stocks Agreement); the *FAO Code of Conduct for Responsible Fisheries*; the *1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas* (Compliance Agreement), done at Rome, November 24, 1993; the *2001 FAO International Plan of Action to*

## Article 24.19: Conservation of Marine Species

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

- (a) studies and assessments of the impact of fisheries operations on non-target species and their marine habitats, including through collection of species-specific data for non-target species and estimates of their bycatch, as appropriate;
- (b) gear-specific studies and data collection on impacts on non-target species and on the efficacy of management measures to reduce those adverse impacts, as appropriate;
- (c) measures to avoid, mitigate, or reduce bycatch of non-target species in fisheries, including appropriate measures pertaining to the use of bycatch mitigation devices, modified gear, or other techniques to reduce the impact of fishing operations on these species; and
- (d) cooperation on national and regional bycatch reduction measures, such as measures applicable to commercial fisheries pertaining to transboundary stocks of non-target species.

2. Each Party shall prohibit the killing of great whales<sup>20</sup> for commercial purposes unless authorized in a multilateral treaty to which the Party is a party.<sup>21</sup>

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*Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing* (IUU IPOA), adopted at Rome, February 23, 2001; and the *2009 Agreement on Port State Measures to Prevent, Deter, and Eliminate IUU Fishing* (Port State Measures Agreement), done at Rome, November 22, 2009.

<sup>20</sup> Great whales are the following 16 species: *Balaena mysticetus*, *Eubalaena glacialis*, *Eubalaena japonica*, *Eubalaena australis*, *Eschrichtius robustus*, *Balaenoptera musculus*, *Balaenoptera physalus*, *Balaenoptera borealis*, *Balaenoptera edeni*, *Balaenoptera acutorostrata*, *Balaenoptera bonaerensis*, *Balaenoptera omurai*, *Megaptera novaeangliae*, *Caperea marginata*, *Physeter macrocephalus*, and *Hyperoodon ampullatus*.

<sup>21</sup> For greater certainty, the Parties understand that paragraph 2 does not apply to whaling by indigenous peoples in accordance with a Party's law, including for Canada the legal obligations recognized and affirmed by section 35 of the *Constitution Act, 1982* or those set out in self-government agreements between a central or regional level of government and indigenous peoples.

## Article 24.20: Fisheries Subsidies

1. The Parties recognize 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. To that end, no Party shall grant or maintain any of the following subsidies<sup>22</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 provided to a fishing vessel<sup>23</sup> or operator<sup>24</sup> while listed for IUU fishing<sup>25</sup> by the flag State, the subsidizing Party, or a relevant RFMO or RFMA in accordance with the rules and procedures of that organization or arrangement and in conformity with international law; and
- (b) subsidies for fishing<sup>26</sup> that negatively affect<sup>27</sup> fish stocks that are in an overfished<sup>28</sup> condition.

2. Subsidy programs that are established by a Party before the date of entry into force of this Agreement and are subsidies referred to in paragraph 1(b) shall be brought into conformity with paragraph 1 as soon as possible and no later than three years after the date of entry into force of this Agreement.

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<sup>22</sup> For the purposes of this Article, a subsidy shall be attributable to the Party granting or maintaining it, regardless of the flag of the vessel involved or the application of rules of origin to the fish involved.

<sup>23</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.

<sup>24</sup> The term “operator” means the owner of the vessel, or any person onboard, who is in charge of or directs or controls the vessel at the time of the IUU infraction. For greater certainty, the prohibition on the provision of subsidies to operators engaged in IUU fishing applies only to subsidies for fishing or fishing related activities.

<sup>25</sup> “Illegal, unreported, and unregulated fishing” is to be understood to have the same meaning as paragraph 3 of the IUU IPOA.

<sup>26</sup> For the purposes of this Article, “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>27</sup> The negative effect of such subsidies shall be determined based on the best scientific evidence available.

<sup>28</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 recognized as overfished by the national jurisdiction where the fishing is taking place or by a relevant RFMO or RFMA shall also be considered overfished for the purposes of this Article.



3. In relation to subsidies that are not prohibited by paragraph 1, 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 or overcapacity.

4. With a view to achieving the objective of eliminating subsidies that contribute to overfishing and overcapacity, the Parties shall review the disciplines in paragraph 1 at regular meetings of the Environment Committee.

5. Each Party shall notify the other Parties, 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.

6. 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, to the extent possible, the following information:<sup>29</sup>

- (a) program name;
- (b) legal authority for the program;
- (c) catch data by species in the fishery for which the subsidy is provided;
- (d) status, whether overfished, fully fished, or underfished, of the fish stocks in the fishery for which the subsidy is provided;
- (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.

7. Each Party shall also provide, to the extent possible, information in relation to other subsidies that the Party grants or maintains to persons engaged in fishing or fishing related activities that are not covered by paragraph 1, in particular fuel subsidies.

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<sup>29</sup> Sharing information and data on existing fisheries subsidy programs 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.

8. A Party may request additional information from the notifying Party regarding the notifications provided under paragraphs 5 and 6. The notifying Party shall respond to that request as quickly as possible and in a comprehensive manner.

9. Each Party shall notify the other Parties on an annual basis of any list of vessels and operators identified as having engaged in IUU fishing.

10. The Parties shall work in the WTO towards strengthening international rules on the provision of subsidies to the fisheries sector and enhancing transparency of fisheries subsidies.

#### **Article 24.21: Illegal, Unreported, and Unregulated (IUU) Fishing**

1. The Parties recognize the importance of concerted international action to address IUU fishing as reflected in regional and international instruments<sup>30</sup> and shall endeavor to improve cooperation internationally in this regard, including with and through competent international organizations.

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

- (a) implement port state measures, including through actions consistent with the Port State Measures Agreement;<sup>31</sup>
- (b) support monitoring, control, surveillance, compliance, and enforcement schemes, including by adopting, maintaining, reviewing, or revising, as appropriate, measures to:
  - (i) deter vessels flying its flag and, to the extent provided for in each Party's law, its nationals, from engaging in IUU fishing; and
  - (ii) address the transshipment at sea of fish caught through IUU fishing or fish products derived from IUU fishing.
- (c) maintain a vessel documentation scheme and promote the use of International Maritime Organization numbers, or comparable unique vessel identifiers, as

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<sup>30</sup> Regional and international instruments include, among others, and as they may apply, the IUU IPOA, the *2005 Rome Declaration on IUU Fishing*, adopted at Rome, March 12, 2005, the Port State Measures Agreement, as well as instruments established and adopted by RFMOs and RFMAs, as appropriate, that have the competence to establish conservation and management measures.

<sup>31</sup> For greater certainty, this paragraph is without prejudice to a Party's status under the 2009 Port State Measures Agreement.

appropriate, for vessels operating outside of its national jurisdiction, in order to enhance transparency of fleets and traceability of fishing vessels;

- (d) strive to act consistently with relevant conservation and management measures adopted by RFMOs or RFMAs of which it is not a party so as not to undermine those measures;
- (e) endeavor not to undermine catch or trade documentation schemes operated by RFMOs or RFMAs;
- (f) develop and maintain publicly available and easily accessible registry data of fishing vessels flying its flag; promote efforts by non-Parties to develop and maintain publicly available and easily accessible registry data of such vessels flying its flag; and support efforts to complete a Global Record of Fishing Vessels, Refrigerated Transport Vessels, and Supply Vessels; and
- (g) cooperate with other Parties through the exchange of information and best practices to combat trade in products derived from IUU fishing.

3. Consistent with Article 28.9 (Transparent Development of Regulations), a Party shall, to the extent possible, provide the other Parties the opportunity to comment on proposed measures that are designed to prevent trade in fisheries products derived from IUU fishing.

#### **Article 24.22: Conservation and Trade**

1. The Parties affirm the importance of combatting the illegal take<sup>32</sup> of, and illegal trade in, wild fauna and flora, and acknowledge that this trade undermines efforts to conserve and sustainably manage those natural resources, has social consequences, distorts legal trade in wild fauna and flora, and reduces the economic and environmental value of these natural resources.

2. The Parties commit to promote conservation and to combat the illegal take of, and illegal trade in, wild fauna and flora. To that end, the Parties shall:

- (a) exchange information and experiences on issues of mutual interest related to combatting the illegal take of, and illegal trade in, wild fauna and flora, including combatting illegal logging and associated illegal trade, and promoting the legal trade in associated products;

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<sup>32</sup> For the purposes of this Article, the term “take” means captured, killed, or collected and with respect to a plant, also means harvested, cut, logged or removed.

- (b) undertake, as appropriate, joint activities on conservation issues of mutual interest, including through relevant regional and international fora; and
- (c) endeavor to implement, as appropriate, CITES resolutions that aim to protect and conserve species whose survival is threatened by international trade.

3. Each Party further commits to:

- (a) take appropriate measures to protect and conserve wild fauna and flora that it has identified to be at risk within its territory, including measures to conserve the ecological integrity of specially protected natural areas, for example grasslands and wetlands;
- (b) maintain or strengthen government capacity and institutional frameworks to promote the conservation of wild fauna and flora, and endeavor to enhance public participation and transparency in these institutional frameworks; and
- (c) endeavor to develop and strengthen cooperation and consultation with interested non-governmental entities and other stakeholders in order to enhance implementation of measures to combat the illegal take of, and illegal trade in, wild fauna and flora.

4. In a further effort to address the illegal take of, and illegal trade in, wild fauna and flora, including parts and products thereof, each Party shall take measures to combat, and cooperate to prevent, the trade of wild fauna and flora that, based on credible evidence,<sup>33</sup> were taken or traded in violation of that Party's law or another applicable law,<sup>34</sup> the primary purpose of which is to conserve, protect, or manage wild fauna or flora. These measures shall include sanctions, penalties, or other effective measures, including administrative measures, that can act as a deterrent to such trade. In addition, each Party shall endeavor to take measures to combat the trade of wild fauna and flora transhipped through its territory that, based on credible evidence, were illegally taken or traded.

5. The Parties recognize that each Party retains the right to exercise administrative, investigatory, and enforcement discretion in its implementation of paragraph 5, including by taking into account in relation to each situation the strength of the available evidence and the seriousness of the suspected violation. In addition, the Parties recognize that in implementing

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<sup>33</sup> For greater certainty, for the purposes of this paragraph, each Party retains the right to determine what constitutes "credible evidence".

<sup>34</sup> For greater certainty, "another applicable law" means a law of the jurisdiction where the take or trade occurred and is only relevant to the question of whether the wild fauna and flora has been taken or traded in violation of that law.

paragraph 5, each Party retains the right to make decisions regarding the allocation of administrative, investigatory, and enforcement resources.

6. Further, each Party shall:

- (a) take measures to enhance the effectiveness of inspections of shipments containing wild fauna and flora, including parts and products thereof, at ports of entry, such as improving targeting; and
- (b) treat intentional transnational trafficking of wildlife protected under its laws,<sup>35</sup> as a serious crime as defined in the *United Nations Convention on Transnational Organized Crime*.<sup>36</sup>

7. In order to promote the widest measure of law enforcement cooperation and information sharing between the Parties to combat the illegal take of, and illegal trade in, wild fauna and flora, the Parties shall endeavor to identify opportunities, consistent with their respective law and in accordance with applicable international agreements, to enhance law enforcement cooperation and information sharing, for example by enhancing participation in law enforcement networks, and, as appropriate, establishing new networks with the objective of developing a strong and effective worldwide network.

#### **Article 24.23: Sustainable Forest Management and Trade**

1. The Parties acknowledge their role as major consumers, producers, and traders of forest products and the importance of a healthy forest sector to provide livelihoods and job opportunities, including for indigenous peoples.

2. The Parties acknowledge the importance of:

- (a) the conservation and sustainable management of forests for providing environmental economic, and social benefits for present and future generations;
- (b) the critical role of forests in providing numerous ecosystem services, including carbon storage, maintaining water quantity and quality, stabilizing soils, and providing habitat for wild fauna and flora; and

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<sup>35</sup> For greater certainty, the term “wildlife” is understood to include all species of wild fauna and flora, including animals, timber, and marine species, and their related parts and products. Further, for purposes of this Article, the term “protected” means a CITES-listed species or a species that is listed under a Party’s law as endangered, as threatened, or as being at risk within its territory.

<sup>36</sup> The term “serious crime” is to be understood to have the same meaning as paragraph 2(b) of the *United Nations Convention on Transnational Organized Crime*, done at New York, on November 15, 2000.

- (a) (c) combatting illegal logging and associated trade.

3. The Parties recognize that forest products, when sourced from sustainably managed forests, contribute to fulfilling global environmental objectives, including sustainable development, conservation and sustainable use of resources, and green growth.

4. Accordingly, each Party commits to:

- (a) maintain or strengthen government capacity and institutional frameworks to promote sustainable forest management; and
- (b) promote trade in legally harvested forest products.

5. The Parties shall exchange information and cooperate, as appropriate, on initiatives to promote sustainable forest management, including initiatives designed to combat illegal logging and associated trade.

#### **Article 24.24: Environmental Goods and Services**

1. The Parties recognize the importance of trade and investment in environmental goods and services, including clean technologies, as a means of improving environmental and economic performance, contributing to green growth and jobs, and encouraging sustainable development, while addressing global environmental challenges.

2. Accordingly, the Parties shall strive to facilitate and promote trade and investment in environmental goods and services.

3. The Environment Committee shall consider issues identified by a Party related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade. The Parties shall endeavor to address any potential barriers to trade in environmental goods and services that may be identified by a Party, including by working through the Environment Committee and in conjunction with other relevant committees established under this Agreement, as appropriate.

4. The Parties shall cooperate in international fora on ways to further facilitate and liberalize global trade in environmental goods and services, and may develop cooperative projects on environmental goods and services to address current and future global environmental challenges.

#### **Article 24.25: Environmental Cooperation**

1. The Parties recognize 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 as they strengthen their trade and investment relations.

2. The Parties are committed to expanding their cooperative relationship on environmental matters, recognizing it will help them achieve their shared environmental goals and objectives, including the development and improvement of environmental protection, practices, and technologies.

3. The Parties are committed to undertaking cooperative environmental activities pursuant to the Agreement on Environmental Cooperation among the Governments of Canada, the United Mexican States, and the United States of America (ECA) signed by the Parties, including activities related to implementation of this Chapter. Activities that the Parties undertake pursuant to the Environmental Cooperation Agreement will be coordinated and reviewed by the Commission for Environmental Cooperation as provided for in the ECA.<sup>37</sup>

#### **Article 24.26: Environment Committee and Contact Points**

1. Each Party shall designate and notify a contact point from its relevant authorities within 90 days of the date of entry into force of this Agreement, in order to facilitate communication between the Parties in the implementation of this Chapter. Each Party shall promptly notify, in writing, the other Parties in the event of any change of its contact point.

2. The Parties establish an Environment Committee composed of senior government representatives, or their designees, of the relevant trade and environment central level of government authorities of each Party responsible for the implementation of this Chapter.

3. The purpose of the Environment Committee is to oversee the implementation of this Chapter, and its functions are to:

- (a) provide a forum to discuss and review the implementation of this Chapter;
- (b) periodically inform the Commission and the Council for the Commission for Environmental Cooperation (Council) established under Article 3 (Council Structures and Procedures) of the Environmental Cooperation Agreement regarding the implementation of this Chapter;
- (c) consider and endeavor to resolve matters referred to it under Article 24.30 (Senior Representative Consultations);

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<sup>37</sup> The Parties established the Commission for Environmental Cooperation (CEC) under Part Three of the North American Agreement on Environmental Cooperation (NAAEC).

- (d) provide input, as appropriate, for consideration by the Council, relating to submissions on enforcement matters under this Chapter.
- (e) coordinate with other committees established under this Agreement as appropriate; and
- (f) perform any other functions as the Parties may decide.

4. The Environment Committee shall meet within one year of the date of entry into force of this Agreement. Thereafter, the Environment Committee shall meet every two years unless the Environment Committee agrees otherwise. The Chair of the Environment Committee and the venue of its meetings shall rotate among each of the Parties in English alphabetical order, unless the Environment Committee decides otherwise.

5. All decisions and reports of the Environment Committee shall be made by consensus, unless the Committee decides otherwise or unless otherwise provided in this Chapter.

6. All decisions and reports of the Environment Committee shall be made available to the public, unless the Environment Committee decides otherwise.

7. During the fifth year after the date of entry into force of this Agreement, the Environment Committee shall:

- (a) review the implementation and operation of this Chapter;
- (b) report its findings, which may include recommendations, to the Council and the Commission; and
- (c) undertake subsequent reviews at intervals to be decided by the Committee.

8. The Environment Committee shall provide for public input on matters relevant to the Committee's work, as appropriate, and shall hold a public session at each meeting.

9. The Parties recognize the importance of resource efficiency in the implementation of this Chapter and the desirability of using new technologies to facilitate communication and interaction between the Parties and with the public.

#### **Article 24.27: Submissions on Enforcement Matters**

1. Any person of a Party may file a submission asserting that a Party is failing to effectively enforce its environmental laws. Such submissions shall be filed with the Secretariat of the Commission for Environmental Cooperation (CEC Secretariat).



2. The CEC Secretariat may consider a submission under this Article if it finds that the submission:

- (a) is in writing in English, French, or Spanish;
- (b) clearly identifies the person making the submission;
- (c) provides sufficient information to allow for the review of the submission including any documentary evidence on which the submission may be based and identification of the environmental law of which the failure to enforce is asserted;
- (d) appears to be aimed at promoting enforcement rather than at harassing industry; and
- (e) indicates whether the matter has been communicated in writing to the relevant authorities of the Party and the Party's response, if any.

3. If the CEC Secretariat determines that a submission meets the criteria set out in paragraph 2, it shall determine within 30 days of receipt of the submission whether the submission merits requesting a response from the Party. In deciding whether to request a response, the CEC Secretariat shall be guided by whether:

- (a) the submission alleges harm to the person making the submission;
- (b) the submission, alone or in combination with other submissions, raises matters about which further study would advance the goals of this Chapter;
- (c) private remedies available under the Party's law have been pursued; and
- (d) the submission is not drawn exclusively from mass media reports.

If the CEC Secretariat makes such a request, it shall forward to the Party a copy of the submission and any supporting information provided with the submission.

4. The Party shall inform the CEC Secretariat within 60 days of delivery of the request:

- (a) whether the matter at issue is the subject of a pending judicial or administrative proceeding, in which case the CEC Secretariat shall proceed no further; and
- (b) of any other information the Party wishes to provide, such as:
  - (i) information regarding the enforcement of the environmental law at issue, including any actions taken in connection with the matter in question;

- (ii) whether the matter was previously the subject of a judicial or administrative proceeding; and
- (iii) whether private remedies in connection with the matter are available to the person making the submission and whether they have been pursued.

#### **Article 24.28: Factual Records and Related Cooperation**

1. If the CEC Secretariat considers that the submission, in light of any response provided by the Party, warrants developing a factual record, it shall so inform the Council and the Environment Committee within 60 days of receiving the Party's response and provide its reasons.

2. The CEC Secretariat shall prepare a factual record if at least two members of the Council instruct it to do so.

3. The preparation of a factual record by the CEC Secretariat pursuant to this Article shall be without prejudice to any further steps that may be taken with respect to any submission.

4. In preparing a factual record, the CEC Secretariat shall consider any information provided by a Party and may consider any relevant technical, scientific, or other information:

- (a) that is publicly available;
- (b) submitted by interested persons;
- (c) submitted by national advisory or consultative committees referred to in Article 24.5 (Public Information and Participation);
- (d) submitted by the Joint Public Advisory Committee (JPAC) referred to in Article 2.2 (Commission for Environmental Cooperation) of the ECA;
- (e) developed by independent experts; or
- (f) developed under the ECA.

5. The CEC Secretariat shall submit a draft factual record to the Council within 120 days of the Council's instruction to prepare a factual record under paragraph 2. Any Party may provide comments to the CEC Secretariat on the accuracy of the draft within 30 days of the submission of the draft factual record. The CEC Secretariat shall incorporate those comments in the final factual record and promptly submit it to the Council.

6. The CEC Secretariat shall make the final factual record publicly available, normally within 30 days following its submission, unless at least two members of the Council instruct it not to do so.

7. The Environment Committee shall consider the final factual record in light of the objectives of this Chapter and the ECA and may provide recommendations to the Council on whether the matter raised in the factual record could benefit from cooperative activities.

8. The Parties shall provide updates to the Council and the Environment Committee on final factual records, as appropriate.

#### **Article 24.29: Environment Consultations**

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

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

3. A third Party that considers it has a substantial interest in the matter, may participate in the consultations by notifying the contact points of the requesting and responding Parties in writing no later than seven days after the date of delivery of the request for consultations. The third Party shall include in its notice an explanation of its substantial interest in the matter.

4. Unless the requesting and the responding Parties (the consulting Parties) agree otherwise, the consulting Parties shall enter into consultations promptly, and no later than 30 days after the date of receipt by the responding Party of the request.

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

### **Article 24.30: Senior Representative Consultations**

1. If the consulting Parties fail to resolve the matter under Article 24.29 (Environment Consultations), a consulting Party may request that the Environment Committee representatives from the consulting Parties convene to consider the matter by notifying the contact point of the other consulting Party or Parties in writing. At the same time, the consulting Party making the request shall deliver the request to the contact points of any other Party.

2. The Environment Committee representatives from the consulting Parties 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. Environment Committee representatives from any other Party that considers it has a substantial interest in the matter may participate in the consultations.

### **Article 24.31: Ministerial Consultations**

1. If the consulting Parties fail to resolve the matter under Article 24.30 (Senior Representative Consultations), a consulting Party may refer the matter to the relevant Ministers of the consulting Parties who shall seek to resolve the matter.

2. Consultations pursuant to Article 24.29 (Environment Consultations), Article 24.30 (Senior Representative Consultations), and this Article may be held in person or by any technological means available as agreed by the consulting Parties. If in person, consultations shall be held in the capital of the responding Party, unless the consulting Parties agree otherwise.

3. Consultations shall be confidential and without prejudice to the rights of any Party in any future proceedings.

### **Article 24.32: Dispute Resolution**

1. If the consulting Parties fail to resolve the matter under Article 24.29 (Environment Consultations), Article 24.30 (Senior Representative Consultations), and Article 24.31 (Ministerial Consultations) within 30 days after the date of receipt of a request under Article 24.29.2 (Environment Consultations), or any other period as the consulting Parties may decide, the requesting Party may request the establishment of a panel under Article 31.6 (Establishment of a Panel).

2. Notwithstanding Article 31.15 (Role of Experts), in a dispute arising under Article 24.8 (Multilateral Environmental Agreements) a panel convened under Article 31.6 (Establishment of a Panel) shall:

- (a) seek technical advice or assistance, if appropriate, from an entity authorised under the relevant multilateral environmental agreement to address the particular matter, and provide the consulting Parties with an opportunity to comment on any such technical advice or assistance received; and
- (b) provide due consideration to any interpretive guidance received pursuant to subparagraph (a) on the matter to the extent appropriate in light of its nature and status in making its findings and determinations under Article 31.17 (Panel Report).

## ANNEX 24-A

For Canada, the *Ozone-depleting Substances and Halocarbon Alternatives Regulations, of the Canadian Environmental Protection Act, 1999* (CEPA).

For Mexico, the General Law on Ecological Equilibrium and Environmental Protection (*Ley General del Equilibrio Ecológico y la Protección al Ambiente – LGEEPA*), under Title IV Environmental Protection, Chapter I and II regarding federal enforcement of atmospheric provisions.

For the United States, 42 U.S.C. §§ 7671-7671q (*Stratospheric Ozone Protection*).

## **ANNEX 24-B**

For Canada, the *Canada Shipping Act, 2001* and its related regulations.

For Mexico, Article 132 of the *General Law on Ecological Equilibrium and Environmental Protection (Ley General del Equilibrio Ecológico y la Protección al Ambiente – LGEEPA)*.

For the United States, the *Act to Prevent Pollution from Ships*, 33 U.S.C. §§ 1901-1915.

## CHAPTER 1

### INITIAL PROVISIONS AND GENERAL DEFINITIONS

#### Section A: Initial Provisions

##### Article 1.1: Establishment of a Free Trade Area

The Parties, consistent with Article XXIV of the GATT 1994 and Article V of the GATS, hereby establish a free trade area.

##### Article 1.2: Relation to Other Agreements

Each Party affirms its existing rights and obligations with respect to each other under the WTO Agreement and other agreements to which it and another Party are party.

##### Article 1.3: Relation to Environmental and Conservation Agreements

1. In the event of any inconsistency between a Party's obligations under this Agreement and its respective obligations under the following multilateral environmental agreements ("covered agreements"):<sup>1</sup>

- (a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended;
- (b) the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as adjusted and amended;
- (c) the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London, February 17, 1978, as amended;
- (d) the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar, February 2, 1971, as amended;
- (e) the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, May 20, 1980;

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<sup>1</sup> For the purposes of this paragraph, (1) "covered agreements" shall encompass the multilateral environmental agreements provided herein and those existing or future protocols, amendments, annexes, and adjustments under the relevant agreement to which the Party is party; and (2) a Party's "obligations" shall be interpreted to reflect, *inter alia*, existing and future reservations, exemptions, and exceptions applicable to it under the relevant agreement.



- (f) the International Convention for the Regulation of Whaling, done at Washington, December 2, 1946; and
- (g) the Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington, May 31, 1949,

a Party's obligations under this Agreement shall not preclude the Party from taking a particular measure to comply with its obligations under the covered agreement, provided that the primary purpose of the measure is not to impose a disguised restriction on trade.

2. Pursuant to Article 34.3 (Amendments), the Parties may agree in writing to modify paragraph 1 to include any amendment to an agreement referred to therein, and any other environmental or conservation agreement.

#### **Article 1.4: Persons Exercising Delegated Governmental Authority**

Each Party shall ensure that a person that has been delegated regulatory, administrative, or other governmental authority by a Party acts in accordance with the Party's obligations as set out under this Agreement in the exercise of that authority.

## Section B: General Definitions

### Article 1.5: General Definitions

For the purposes of this Agreement, unless otherwise provided:

**AD Agreement** means the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

**central level of government** means:

- (a) for Canada, the Government of Canada;
- (b) for Mexico, the federal level of government; and
- (c) for the United States, the federal level of government;

**Commission** means the Free Trade Commission established under Article 30.1 (Establishment of the Free Trade Commission);

**covered investment** means, with respect to a Party, an investment in its territory of an investor of another Party in existence as of the date of entry into force of this Agreement or established, acquired, or expanded thereafter;

**customs administration** means the competent authority that is responsible under the law of a Party for the administration of customs laws and regulations or any successor of such customs administration;

**customs duty** includes a duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed in connection with such importation, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994;
- (b) fee or other charge in connection with the importation commensurate with the cost of services rendered;
- (c) antidumping or countervailing duty; and
- (d) premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas, or tariff preference levels;

**customs offense** means any act committed for the purpose of, or having the effect of, avoiding a Party's laws or regulations pertaining to the provisions of this Agreement governing importations or exportations of goods between, or transit of goods through, the territories of the Parties, specifically those that violate a customs law or regulation for restrictions or prohibitions on imports or exports, duty evasion, transshipment, falsification of documents relating to the importation or exportation of goods, fraud, or smuggling of goods;

**Customs Valuation Agreement** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade*, set out in Annex 1A to the WTO Agreement;

**days** means calendar days, including weekends and holidays;

**Dispute Settlement Understanding (DSU)** means the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, set out in Annex 2 to the WTO Agreement;

**duty deferral program** includes measures such as those governing foreign trade zones, temporary importations under bond, bonded warehouses, "maquiladoras", and inward processing programs;

**enterprise** means an entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization;

**enterprise of a Party** means an enterprise constituted or organized under the law of a Party;

**existing** means in effect on the date of entry into force of this Agreement;

**GATS** means the *General Agreement on Trade in Services*, set out in Annex 1B to the WTO Agreement;

**GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

**goods** means a merchandise, product, article, or material;

**goods of a Party** means domestic products as these are understood in the GATT 1994 or such goods as the Parties may agree, and includes originating goods of a Party;

**government procurement** means the process by which a government obtains the use of or acquires goods or services, or any combination thereof, for governmental purposes and not with a view to commercial sale or resale or use in the production or supply of goods or services for commercial sale or resale;

**Harmonized System (HS)** means the *Harmonized Commodity Description and Coding Systems*, including its General Rules of Interpretation, Section Notes, Chapter Notes, and Subheading Notes as adopted and implemented by the Parties in their respective laws;

**heading** means the first four digits in the tariff classification number under the Harmonized System;

**IMF Articles of Agreement** means the *Articles of Agreement of the International Monetary Fund*, done at Bretton Woods, United States on July 22, 1944;

**individual** means a natural person;

**measure** includes any law, regulation, procedure, requirement, or practice;

**NAFTA 1994** means the *North American Free Trade Agreement* that entered into force on January 1, 1994;

**national** means a “natural person who has the nationality of a Party” as set out below for each Party or a permanent resident of a Party:

- (a) for Canada, a citizen of Canada;
- (b) for Mexico, a person who has the nationality of Mexico in accordance with its applicable laws; and
- (c) for the United States, a “national of the United States” as defined in the *Immigration and Nationality Act*;

**originating** means qualifying as originating under the rules of origin set out in Chapter 4 (Rules of Origin) or Chapter 6 (Textile and Apparel Goods);

**person** means a natural person or an enterprise;

**person of a Party** means a national of a Party or an enterprise of a Party;

**preferential tariff treatment** means the duty rate applicable to an originating good;

**publish** means to disseminate information through paper or electronic means that is distributed widely and is readily accessible to the general public;

**recovered material** means a material in the form of one or more individual parts that results from:

- (a) the disassembly of a used good into individual parts; and

- (b) the cleaning, inspecting, testing or other processing of those parts as necessary for improvement to sound working condition;

**remanufactured good** means a good classified in HS Chapters 84 through 90 or under heading 94.02 except goods classified under HS headings 84.18, 85.09, 85.10, and 85.16, 87.03 or subheadings 8414.51, 8450.11, 8450.12, 8508.11, and 8517.11, that is entirely or partially composed of recovered materials and:

- (a) has a similar life expectancy and performs the same as or similar to such a good when new; and
- (b) has a factory warranty similar to that applicable to such a good when new;

**regional level of government** means:

- (a) for Canada, a province or territory of Canada;
- (b) for Mexico, a state of the United Mexican States; and
- (b) for the United States, a state of the United States, the District of Columbia, or Puerto Rico;

**Safeguards Agreement** means the *Agreement on Safeguards*, set out in Annex 1A to the WTO Agreement;

**sanitary or phytosanitary measure** means a measure referred to in paragraph 1 of Annex A to the SPS Agreement;

**SCM Agreement** means the *Agreement on Subsidies and Countervailing Measures* set out in Annex 1A to the WTO Agreement;

**Secretariat** means the Secretariat established under Article 30.6 (The Secretariat);

**SME** means a small and medium-sized enterprise, including a micro-sized enterprise;

**SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, set out in Annex 1A to the WTO Agreement;

**state enterprise** means an enterprise that is owned, or controlled through ownership interests, by a Party;

**subheading** means the first six digits in the tariff classification number under the Harmonized System;

**territory** has for each Party the meaning set out in Section C (Country-Specific Definitions);

**textile or apparel good** means a textile or apparel good classified in HS subheading 4202.12, 4202.22, 4202.32, or 4202.92 (luggage, handbags and similar articles with an outer surface of textile materials), heading 50.04 through 50.07, 51.04 through 51.13, 52.04 through 52.12, 53.03 through 53.11, Chapter 54 through 63, heading 66.01 (umbrellas) or heading 70.19 (yarns and fabrics of glass fiber), subheading 9404.90 (articles of bedding and similar furnishing), or heading 96.19 (babies diapers and other sanitary textile articles);

**TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property Rights*, set out in Annex 1C to the WTO Agreement;<sup>2</sup>

**Uniform Regulations** means the regulations described in Article 5.16 (Uniform Regulations);

**WTO** means the World Trade Organization; and

**WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on April 15, 1994.

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<sup>2</sup> For greater certainty, TRIPS Agreement includes any waiver in force between the Parties of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement.

## Section C: Country-Specific Definitions

For the purposes of this Agreement, unless otherwise provided:

**territory** means:

- (a) for Canada,
  - (i) the land territory, air space, internal waters, and territorial sea of Canada,
  - (ii) the exclusive economic zone of Canada, and
  - (iii) the continental shelf of Canada,as determined by its domestic law and consistent with international law.
- (b) for Mexico,
  - (i) the land territory, including the states of the Federation and Mexico City,
  - (ii) the air space, and
  - (iii) the internal waters, territorial sea, and any areas beyond the territorial seas of Mexico within which Mexico may exercise sovereign rights and jurisdiction, as determined by its domestic law, consistent with the *United Nations Convention on the Law of the Sea*, done at Montego Bay on December 10, 1982; and
- (c) for the United States,
  - (i) the customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico,
  - (ii) the foreign trade zones located in the United States and Puerto Rico, and
  - (iii) the territorial sea and air space of the United States and any area beyond the territorial sea within which, in accordance with customary international law as reflected in the *United Nations Convention on the Law of the Sea*, the United States may exercise sovereign rights or jurisdiction.

## **Agreement on Environmental Cooperation among the Governments of the United States of America, the United Mexican States, and Canada**

The Government of the United States of America, the Government of the United Mexican States, and the Government of Canada (collectively the “Parties”);

CONVINCED of the importance of the conservation, protection and enhancement of the environment in their territories, together with the sustainable management and use of natural resources, in achieving sustainable development;

RECOGNIZING the unique environmental, economic, and social links among them, including under the *Agreement between the United States of America, the United Mexican States, and Canada* (the USMCA) and its environmental goals and objectives;

EMPHASIZING the importance of green growth, including its economic, health and environmental benefits, in achieving a competitive and sustainable North American economy;

RECALLING the importance of public participation that is inclusive and diverse;

AFFIRMING the long history of environmental cooperation between the Parties under the *North American Agreement on Environmental Cooperation*, signed at Mexico City, Washington, D.C., and Ottawa, September 8, 9, 12, and 14, 1993, (the NAAEC) and expressing their desire to build on this engagement; and

CONVINCED of the importance of the Commission for Environmental Cooperation (Commission) and of the benefits of a continued framework to facilitate environmental cooperation;

Have agreed as follows:

### **PART ONE: OBJECTIVES**

#### **Article 1: Objectives**

The objectives of this Agreement are to:

- (a) seek ways to modernize and enhance the effectiveness of environmental cooperation between the Parties, building upon their long history of environmental cooperation;
- (b) use environmental cooperation as a means to promote mutually supportive trade and environment policies, including by supporting implementation of the environmental goals and objectives of the USMCA;
- (c) strengthen cooperation between the Parties to conserve, protect, and enhance the environment and address environmental challenges and priorities;
- (d) promote cooperation on and public participation in the development of environmental laws, regulations, procedures, policies, and practices; and
- (e) strengthen cooperation related to compliance with, and enforcement of, environmental laws and regulations.



## **PART TWO: COMMISSION FOR ENVIRONMENTAL COOPERATION**

### **Article 2: The Commission for Environmental Cooperation**

1. The Parties shall continue to participate in the Commission, originally established under the NAAEC. The Parties hereby agree to continue the operation of the Commission in accordance with this Agreement.
2. The Commission shall comprise a Council, a Secretariat, and a Joint Public Advisory Committee.
3. The Commission will continue to operate under the modalities in place as of entry into force of this Agreement, including its rules, policies, guidelines, procedures, and resolutions, to the extent these modalities are consistent with this Agreement. The Council shall adjust, as required, these modalities to reflect and implement the provisions of this Agreement. If there is an inconsistency between these modalities and the provisions of this Agreement, the provisions of this Agreement shall prevail.
4. Any submission made pursuant to Article 14 of the NAAEC and not concluded as of entry into force of this Agreement shall continue in accordance with the procedures established under Articles 14 and 15 of the NAAEC, unless the Council decides otherwise.

### **Article 3: Council Structures and Procedures**

1. The Council shall comprise cabinet-level or equivalent representatives responsible for environmental affairs of the Parties, or their designees. Each Party shall designate an office or offices to carry out the work of the Council.
2. The Council shall convene:
  - (a) in regular session, held at least once a year, unless the Council decides otherwise; and
  - (b) in a special session at the request of any Party.
3. Regular sessions of the Council shall be chaired successively by each Party, rotating annually, and shall meet in the country of the representative that is chairing the Council, unless the Council decides otherwise.
4. The Council shall hold public meetings in the course of all regular sessions. Other meetings held in the course of regular or special sessions shall be public where the Council so decides.
5. The Council may also conduct its official work through other means, such as video conferences, conference calls, and electronically.
6. The Council may:
  - (a) establish and assign responsibilities to *ad hoc* or standing committees, working groups or expert groups;
  - (b) seek the advice of non-governmental organizations or persons, including independent experts; and
  - (c) take other action in the exercise of its functions as the Parties may decide.
7. The Council shall take all decisions and recommendations by consensus, except as the Council may otherwise decide or as otherwise provided for in this Agreement.

8. All decisions and recommendations of the Council shall be made publicly available, except as the Council may otherwise decide or as otherwise provided for in this Agreement.

#### **Article 4: Council Functions**

1. The Council shall be the governing body of the Commission and shall:
  - (a) serve as a forum for the discussion of, and collaboration on, environmental matters within the scope of this Agreement;
  - (b) oversee the implementation of this Agreement and develop recommendations on the further elaboration of this Agreement;
  - (c) oversee the Secretariat and direct and approve its activities;
  - (d) address questions and differences that may arise between the Parties regarding the interpretation or application of this Agreement;
  - (e) approve the annual budget of the Commission;
  - (f) promote, facilitate, and provide guidance on how to enhance cooperation amongst the Parties with respect to environmental matters;
  - (g) establish strategic priorities for cooperative activities;
  - (h) develop and approve a Work Program, as described in Article 10, in accordance with strategic priorities established under sub-paragraph (g);
  - (i) examine and evaluate cooperative activities;
  - (j) consider and develop recommendations regarding transboundary and border environmental issues;
  - (k) consider and develop recommendations on any other environmental topic as the Council may decide;
  - (l) provide instruction to the Secretariat with respect to the preparation and publication of factual records in accordance with Article 24.28 (Factual Records and Related Cooperation) of the Environment Chapter of the USMCA;
  - (m) consider cooperation relevant to the topics addressed in factual records resulting from submissions on enforcement matters under the Environment Chapter of the USMCA; and
  - (n) promote the visibility of the Commission.
2. The Council shall undertake a review of the implementation of this Agreement with a view to improving its operation and effectiveness within five years of the entry into force of this Agreement, and thereafter as decided by the Council.
3. The Council may instruct the Secretariat to prepare a report on the state of the environment in North America. The Council may also develop recommendations on approaches and common indicators for such a report.
4. In discharging its functions, the Council may periodically exchange information with the Environment Committee established under Article 24.26.2 (Environment

Committee and Contact Points) of the Environment Chapter of the USMCA. The Council may consider the input it receives from the Environment Committee regarding the implementation of that Chapter under Article 24.26.3(b).

5. The Parties recognize the importance of resource efficiency in the implementation of the Agreement and the desirability of using new technologies to facilitate the work of the Commission, including cooperative activities.

#### **Article 5: Secretariat Structure and Procedures**

1. The Secretariat shall be headed by an Executive Director, chosen by the Council for a three-year term, which may be renewed by the Council.
2. The Executive Director shall appoint and supervise the staff of the Secretariat, regulate their powers and duties, and fix their remuneration in accordance with rules of employment established by the Council. The rules of employment shall provide that:
  - (a) staff shall be appointed and retained, and their conditions of employment shall be determined, strictly on the basis of efficiency, competence, and integrity;
  - (b) due regard shall be paid to the importance of recruiting a diverse pool of applicants, including with respect to gender balance, and an equitable proportion of the professional staff from among the nationals of each Party; and
  - (c) the Executive Director shall inform the Council of all appointments.
3. The Council may decide, by a two-thirds vote, to reject any appointment that does not meet the rules of employment. Any such decision shall be made and held in confidence.
4. The Secretariat shall provide technical, administrative, and operational support to the Council and to committees and groups established by the Council, and other support as the Council may direct.
5. The Secretariat shall carry out the functions prescribed for it under Articles 24.27 (Submissions on Enforcement Matters) and 24.28 (Factual Records and Related Cooperation) of the Environment Chapter of the USMCA.
6. The Executive Director shall submit for the approval of the Council the annual budget of the Commission, including provision for proposed cooperative activities and for the Secretariat to respond to contingencies.
7. The Secretariat shall coordinate and facilitate environmental cooperation between and among the Parties as directed by the Council.

#### **Article 6: The Joint Public Advisory Committee**

1. The Joint Public Advisory Committee shall comprise nine members, unless the Council decides otherwise, with an equal number of nationals appointed by each Party. The Joint Public Advisory Committee shall choose its own chair. Each member shall have a four-year term with the possibility of an additional term decided by the Party appointing the member.
2. Each Party shall seek to promote membership from a diverse pool of candidates, including with respect to gender balance, and considering representatives from all segments of each Party's society, including non-governmental organizations, academia, the private sector, indigenous peoples, private citizens, and youth.

3. The Joint Public Advisory Committee shall convene in person or by technological means as appropriate at the time of the regular session of the Council and at such other times as the Council, or the Committee's chair with the consent of a majority of its members, may decide.
4. The Joint Public Advisory Committee may provide advice to the Council on matters within the scope of this Agreement, and may perform such other functions as the Council may direct.
5. The Joint Public Advisory Committee, in coordination with the Secretariat, shall help promote and enhance public participation in the implementation of this Agreement.
6. The Joint Public Advisory Committee shall, in consultation with the Council, develop an annual plan of activities.

#### **Article 7: Official Languages**

English, French, and Spanish shall be the official languages of the Commission.

#### **Article 8: Annual Report of the Commission**

1. The Secretariat shall prepare an annual executive report to the Council on the activities of the Commission in accordance with instructions from the Council. This report shall be made publicly available.
2. The report shall cover:
  - (a) outcomes of cooperative activities during the previous year;
  - (b) expenses of the Commission;
  - (c) outcomes of Joint Public Advisory Committee activities; and
  - (d) any other matter that the Council instructs the Secretariat to include.

### **PART THREE: COOPERATION**

#### **Article 9: Modalities and Forms of Cooperation**

Cooperation developed under this Agreement may occur through activities such as:

- (a) the exchange of delegations, professionals, technicians, and specialists from the academic sector, nongovernmental organizations, private sector, and governments, including through study visits to strengthen the development, implementation, and assessment of environmental and natural resource policies, practices, and standards;
- (b) the organization of conferences, seminars, workshops, meetings, training sessions, and outreach and education programs;
- (c) the development of programs, projects, and activities, including technological and practical demonstrations, applied research projects, studies, and reports;
- (d) the facilitation of partnerships, linkages, or other new channels, for the development and transfer of knowledge and technologies among representatives from academia, private sector, indigenous peoples and local communities, intergovernmental and nongovernmental organizations, and national and subnational governments to promote the development and exchange of best practices, and environmental information and data likely to be of interest to the Parties, and capacity building;

- (e) the collection, publication and exchange of information on environmental policies, laws, standards, regulations, indicators, national environmental programs and compliance and enforcement mechanisms; and
- (f) any other form of environmental cooperation as the Parties may decide.

**Article 10: Work Program**

1. The Council shall develop and approve strategic priorities of the Commission. The Council shall take into account, as appropriate, commitments under the Environment Chapter of the USMCA, the results of any regional state of the environment reporting, public input; and international, regional, and national environmental efforts.
2. The Council shall define the Work Program, establishing specific goals, objectives, and areas for cooperation. The Work Program may include short-, medium- and long-term cooperative activities in areas such as:

**Strengthening environmental governance**

- (a) enhancing environmental compliance and effective enforcement of environmental laws;
- (b) addressing issues of mutual interest related to multilateral environmental agreements;
- (c) promoting public participation in environmental and natural resources observation, decision-making, protection, and enforcement of laws, including through public access to information;
- (d) strengthening capacity to respond to natural disasters, environmental emergencies, and extreme weather events;
- (e) promoting pollution prevention techniques and strategies, and, where appropriate, the internalization of environmental costs and accountability for environmental harms;
- (f) promoting the development and implementation of laws and policies that provide for high levels of environmental protection, including consideration of regional approaches to state of the environment indicators;
- (g) strengthening cooperation on environmental impact assessments of proposed transboundary projects;

**Reducing pollution and supporting strong, low emissions, resilient economies**

- (h) reducing pollution in the marine environment, including ship-related pollution and marine litter;
- (i) protecting the ozone layer, including by controlling the production and consumption of, and trade in, ozone depleting substances;
- (j) addressing transboundary environmental issues and promoting clean air, clean water, and clean soil;
- (k) the restoration and conservation of soils;
- (l) the sound management of chemicals and waste, including transboundary movements of hazardous waste, and the lifecycle management of, and trade in, reusable, recoverable, and recyclable materials;

- (m) promoting energy efficiency; development of cost-effective, low emissions technologies; all clean, efficient energy sources that enhance energy security; market mechanisms; sustainable transport and sustainable urban infrastructure development; addressing deforestation and forest degradation; emissions monitoring; low emissions, resilient development; and sharing of information and experiences in addressing these issues;

#### **Conserving and protecting biodiversity and habitats**

- (n) the conservation, protection and sustainable management of wild flora and fauna and their habitats, and specially protected marine, coastal, and terrestrial natural areas, as well as buffer zones and corridors;
- (o) exchanging information and experiences related to the mainstreaming of biodiversity across relevant sectors of the economy;
- (p) the conservation and protection of shared species, including migratory birds and their habitat;
- (q) combating wildlife trafficking, including cooperation to prevent the illegal take of, and trade in, wild fauna and flora through the exchange of experiences in the implementation of Article 24.22.5 and 24.22.6 (Conservation and Trade) of the Environment Chapter of the USMCA;
- (r) preventing, controlling, and eradicating invasive alien species, including aquatic invasive species, and addressing their adverse impacts;

#### **Promoting the sustainable management and use of natural resources**

- (s) the conservation and sustainable management of forests, including addressing deforestation and forest degradation;
- (t) sustainable fisheries management and the long-term conservation of marine species, including addressing vessel noise and its impact on marine mammals;
- (u) addressing land degradation and desertification;
- (v) combating illegal logging and illegal, unreported, and unregulated fishing;
- (w) the environmental, economic, and social dimensions of sustainable aquaculture and agriculture;

#### **Supporting green growth and sustainable development**

- (x) developing and promoting incentives to improve environmental protection, including market mechanisms and other flexible and voluntary mechanisms;
- (y) promoting cleaner production and facilitating actions to remove barriers to trade or investment in environmental goods and services to address global environmental challenges;
- (z) promoting resource and energy efficiency, including sustainable materials management, alternative and renewable energy sources, clean innovation and entrepreneurship; and
- (aa) promoting sustainable production and consumption, including reducing food loss and food waste.

3. In developing and submitting cooperative activities for Council approval, the Secretariat should develop and include appropriate performance measures and indicators to assist in examining and evaluating the progress of specific cooperative activities.

4. The Council may instruct the Secretariat to develop recommendations on how best to consider gender and diversity effects and opportunities in the implementation of the Work Program.
5. In order to avoid duplication and to complement ongoing and future environmental cooperation undertaken outside the context of this Agreement, the Council shall endeavor to develop the Work Program in a manner compatible with existing mechanisms among the Parties and the environmental work of other organizations and initiatives in which the Parties have an interest.

#### **Article 11: Opportunities for Public Participation**

1. In defining the Work Program, the Council shall, as appropriate, provide for and promote outreach and public participation in the development, implementation, and monitoring of the activities and projects contemplated in the Work Program, including consideration of indigenous perspectives.
2. Each Party shall solicit and take into account, as appropriate, the views of its public with respect to the Work Program and should review and respond to such communications, in accordance with its laws, regulations, and procedures. Each Party shall make these communications available to the other Parties and to the public in accordance with its laws, regulations, and procedures.
3. Each Party shall make use of existing, or establish new, consultative mechanisms, for example national advisory committees, to seek views on matters related to the implementation of this Agreement. These mechanisms may provide for the participation of persons with relevant experience, as appropriate, including experience in business, natural resource conservation and management, or other environmental matters.
4. The Council shall encourage and facilitate, as appropriate, direct contacts and cooperation among government agencies, multilateral organizations, foundations, universities, research centers, nongovernmental organizations, private sector firms and other entities, including the conclusion of arrangements among them for the conduct of cooperative activities under this Agreement.

### **PART FOUR: GENERAL PROVISIONS**

#### **Article 12: Resources**

Each Party shall contribute an equal share of the annual budget of the Commission subject to the availability of appropriated funds in accordance with its legal procedures. Unless the Council otherwise decides, the annual budget may be supplemented through funding or in-kind contributions from the Parties, and the Commission may receive funding or in-kind contributions from external sources in excess of the annual budget.

#### **Article 13: Equipment and Personnel**

Each Party shall endeavor to facilitate the entry of equipment, materials, and personnel related to this Agreement into its territory, subject to its laws and regulations.

#### **Article 14: Provision of Information for Factual Records**

Each Party shall cooperate with the Secretariat to provide information relevant for the preparation of a factual record. Requests by the Secretariat for this information shall be in accordance with guidelines established by the Council.

## **Article 15: Technical and Confidential Information and Intellectual Property**

1. Except as provided below, all technical information obtained through the implementation of this Agreement shall be made available to the Parties.
2. If intellectual property is created under this Agreement, the Parties shall consult with each other to determine the allocation of the rights to that intellectual property.
3. If a Party deems information to be confidential or proprietary under its laws, or identifies, in a timely fashion, information provided or created under this Agreement as business-confidential, each Party shall protect such information in accordance with its applicable laws, regulations and administrative practices.

## **Article 16. Protection of Information**

1. The Secretariat shall protect from disclosure:
  - (a) any information it receives that could identify a person making a submission (the submitter) under Article 24.27 (Submissions on Enforcement Matters) of the Environment Chapter of the USMCA if that person so requests or the Secretariat otherwise considers it appropriate;
  - (b) any information that the submitter has identified as confidential;
  - (c) any information it receives from any person where the information is designated by that person as confidential or proprietary;
  - (d) any information it receives from a Party, including in connection with the submission for enforcement matters process under the Environment Chapter of the USMCA, if the Party has determined that disclosure of the information would impede its law enforcement, compromise personal privacy, or reveal confidential business or proprietary information or the confidentiality of governmental decision-making; and
  - (e) any other information that should be safeguarded in accordance with applicable Council procedures.
2. Nothing in this Agreement shall be construed to require a Party to disclose or allow access to information:
  - (a) the disclosure of which would impede its environmental law enforcement; or
  - (b) that is protected from disclosure under its applicable laws.
3. If a Party provides confidential or proprietary information to another Party, to the Council, to the Secretariat, or to the Joint Public Advisory Committee, the recipient shall treat the information with the same level of protection that the Party providing the information accords to that information.

## **Article 17: Entry into Force, Withdrawal, Amendments, Accession**

1. This Agreement shall enter into force on the date of entry into force of the USMCA. Upon entry into force, this Agreement shall supersede the NAAEC.



2. Any Party may withdraw from the Agreement providing six months' written notice to the other Parties. If a Party withdraws, the Agreement shall remain in force for the remaining Parties. Unless decided otherwise by the Parties, such withdrawal shall not affect the continuation of ongoing activities not completed at the time of withdrawal.
3. This Agreement may be amended by written mutual consent of the Parties. An amendment shall enter into force on the date of the last note in an exchange of notes in which the Parties notify each other of the completion of their respective internal procedures necessary for the entry into force of the amendments.
4. The Parties may, by consensus, decide to invite, in writing, any State to accede to this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

**DONE** in three originals in the English, French and Spanish languages, each version being equally authentic.

**For the Government of the United States of America:**

\_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

**For the Government of the United Mexican States:**

\_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

**For the Government of Canada:**

\_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

*[Signed by the Governments of Canada,  
Mexico, and the United States.]*

*Mexico: 30 November 2018  
US: 11 December 2018  
Canada: 18 December 2018]*