

## CHAPTER 12

### TRADE AND SUSTAINABLE DEVELOPMENT

#### Article 12.1

#### Scope, Context and Objectives

1. Recalling the *Rio Declaration on Environment and Development and the Agenda 21* adopted by the United Nations Conference on Environment and Development in Rio de Janeiro on 14 June 1992, the *Johannesburg Declaration on Sustainable Development and its Plan of Implementation* adopted in Johannesburg on 4 September 2002, the *International Labour Organization (“ILO”) Declaration on Fundamental Principles and Rights at Work* adopted by the International Labour Conference at its 86th Session in Geneva on 18 June 1998, as amended in 2022 (“ILO Declaration on Fundamental Principles and Rights at Work”), the *ILO Declaration on Social Justice for a Fair Globalization* adopted by the International Labour Conference at its 97th Session in Geneva on 10 June 2008, as amended in 2022 (“ILO Declaration on Social Justice for a Fair Globalization”), the *Outcome Document of the UN Conference on Sustainable Development of 2012 entitled “The Future We Want” endorsed by the UN General Assembly Resolution 66/288* adopted on 27 July 2012 (“the RIO+20 Outcome Document “The Future We Want”), the *UN 2030 Agenda for Sustainable Development*, adopted by the UN General Assembly Resolution 70/1 on 25 September 2015 and its Sustainable Development Goals, and the multilateral environmental agreements to which the Parties are party, the Parties affirm their commitment to pursue the objective of sustainable development, whose pillars, economic development, social development and environmental protection are mutually supportive, interdependent and essential requirements of sustainable development.
2. The Parties agree to promote international trade in such a way as to contribute towards sustainable development for eradicating poverty and hunger, including towards broad-based, sustained and inclusive economic growth, social development, high levels of environmental protection and progress towards long-term strategies for transition, and to work to integrate and reflect this objective in their trade relationship.
3. For greater certainty, the Parties emphasise that it is their aim to strengthen their trade relations and cooperation in ways that promote sustainable development, and that this Chapter does not oblige the Parties to harmonise their environmental and social standards of protection.

4. This Chapter embodies a cooperative approach based on common values and interests, taking into account the differences in the Parties' respective levels of development, priorities and circumstances.
5. For the purposes of this Chapter, "**laws and regulations**" means:
  - (a) for India, an Act of the Parliament of India or delegated legislation framed pursuant to an Act of the Parliament of India, which is enforceable by action of the Central or Union level of Government; and
  - (b) for New Zealand, an Act of the Parliament of New Zealand or a regulation made under an Act of the Parliament of New Zealand by the Governor-General in Council, which is enforceable by action of the central level of government.

## **Article 12.2**

### **Right to Regulate and Upholding Levels of Protection**

1. Recognising the right of each Party, in a manner consistent with the provisions of this Chapter, to set its domestic sustainable development policies and priorities, to establish its own levels of environmental, and labour protection, and to adopt or modify accordingly its relevant laws and policies, each Party shall seek to ensure that its laws, policies and practices provide for and encourage achieving sustainable development as referred to in Article 12.1 (Scope, Context and Objectives).
2. The Parties are committed not to encourage trade by derogating from or, through a sustained or recurring course of action or inaction, failing to effectively enforce their respective environmental and labour laws in a manner affecting trade between the Parties.
3. The Parties stress that environmental and labour measures shall not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade.
4. The Parties recognise the value of international agreements on the environment and on labour as means to address global and regional environmental and social challenges. The Parties recall that the ILO Declaration on Social Justice for a Fair Globalization states that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes. In this context, the Parties note that their comparative advantage should in no way be called into question. The Parties also stress that neither environmental issues nor labour standards shall be used for protectionist trade purposes.

### **Article 12.3 Trade and Labour**

1. The Parties, in accordance with their obligations as members of the ILO and the ILO Declaration on Fundamental Principles and Rights at Work, commit to respect, promote and realise, in good faith, the fundamental principles and rights at work which are the subject of the fundamental ILO Conventions.
2. Each Party affirms their commitment to effectively implement in their laws and practices the ILO Conventions which that Party has ratified. Each Party will make efforts towards ratifying the fundamental ILO Conventions in a promotional and flexible manner without time limits and consistent with the ILO Declaration on Social Justice for a Fair Globalization.
3. In view of the objectives set out in Article 12.1 (Scope, Context and Objectives), the Parties agree to enhance their cooperation by exchanging information, discussing best practices and sharing implementation experiences in areas of mutual interest, such as:
  - (a) best practices relating to corporate social responsibility including encouraging businesses to adopt responsible business conduct policies;
  - (b) relevant aspects of the ILO Decent Work Agenda, such as labour statistics and labour market developments;
  - (c) sharing expertise, information and best practices in respect of identifying and addressing skill shortages and gaps;
  - (d) human capital development and the enhancement of employability, including through apprenticeship programmes, lifelong learning, continuous education, training and the development and upgrading of skills;
  - (e) exploring opportunities for skilling, upskilling and re-skilling to facilitate a just transition and decent work in accordance with the *ILO Guidelines for a Just Transition Towards Environmentally Sustainable Economies and Societies for All*, published by the ILO at Geneva on 2 February 2016 (“ILO Guidelines for a Just Transition”) and the Decent Work Agenda; and
  - (f) promotion of productive, quality employment and green entrepreneurship linked to sustainable growth, support for workers as part of a just transition in line with the ILO Guidelines for a Just Transition, and skill development for jobs in emerging industries, including environmental industries.

#### **Article 12.4** **Trade and Gender Equality**

1. The Parties recognise the importance of gender equality and the empowerment of all women in advancing sustainable and inclusive economic growth and development, including through women's participation in international trade.
2. The Parties also recognise that gender-responsive policies and practices are important to advancing gender equality and the empowerment of all women. The Parties recognise the importance of adopting, maintaining and implementing women's economic empowerment and equality laws, regulations, policies and best practices, in line with the Sustainable Development Goal 5 of the UN 2030 Agenda on Sustainable Development. The Parties also recognise the importance of the *Convention on the Elimination of all Forms of Discrimination Against Women* done at New York City on 18 December 1979 and the *Beijing Declaration and Platform for Action, Fourth World Conference on Women* done at Beijing on 15 September 1995.
3. Accordingly, each Party shall endeavour to:
  - (a) foster women's entrepreneurship and leadership, including promoting women's access to the benefits and opportunities of this Agreement;
  - (b) promote the exchange of information and best practice related to the design, implementation, monitoring, evaluation and strengthening of policies and programmes, aimed at enhancing women's participation in economic activity, including international trade; and
  - (c) cooperate to identify and address the barriers faced by women in trade and investment including safety and access to information, networks and finance.
4. The Parties agree to implement the Agreement and the cooperation activities established under this Article in a manner that advances the full, equal and meaningful participation of women in the economy and in a manner that protects and promotes their human rights and economic wellbeing.

#### **Article 12.5** **Multilateral Environmental Agreements**

1. The Parties recognise the important role multilateral environmental agreements play in protecting the environment, including reducing biodiversity loss and addressing climate change, and the need for

mutual supportiveness between trade and environmental laws and policies.

2. The Parties affirm their adherence to the principles reflected in the international environmental instruments referred to in Article 12.1 (Scope, Context and Objectives).
3. The Parties affirm their commitment to implement the multilateral environmental agreements to which the Parties are a party.

### **Article 12.6 Trade and Environment**

1. The Parties recognise that in accordance with the objective of sustainable development, the Parties shall allow for the optimal use of the world's resources, and will seek to protect and preserve the environment, and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development. The Parties further recognise the importance, and positive role, that the multilateral trading system and the WTO may play in encouraging sustainable use of resources, sustainable ecosystems, sustainability of services and sustainable long-term growth.
2. The Parties also recognise the importance of strengthening policies and defining programmes that encourage sustainable and inclusive growth. The Parties recall that the Rio+20 Outcome Document "The Future We Want" provides sufficient flexibility and policy space for the Parties to make their own choices out of a broad menu of options and define their paths towards sustainable development based on each Party's stage of development, national circumstances and priorities.
3. The Parties also recognise that policy objectives to facilitate the transition to a resource efficient and circular economy includes extending product lifetimes, increasing the proportion of materials and products that are reused and recycled, and reducing waste throughout supply chains.
4. The Parties recognise the importance of conserving, and sustainably using, biological diversity consistent with relevant multilateral environmental agreements to which the Parties are a party, including the *Convention on Biological Diversity*, done at Rio de Janeiro on 5 June 1992 and its Protocols, the *Convention on the Conservation of Migratory Species of Wild Animals*, done at Bonn on 23 June 1979, the *Ramsar Convention on Wetlands*, done at Ramsar on 02 February 1971, and the *Convention on International Trade in Endangered Species of Wild Fauna and Flora*, done at Washington D.C. on 3 March 1973, and the decisions adopted thereunder.

5. The Parties recognise the importance of the conservation and sustainable management of forests for providing environmental functions and economic and social opportunities for present and future generations.
6. Accordingly, the Parties shall endeavour to cooperate in areas of mutual interest, including:
  - (a) sharing best practices in promoting integrated and sustainable management of natural resources and ecosystems, including conservation and sustainable use of biodiversity;
  - (b) taking appropriate action to conserve biological diversity, including to prevent the spread of invasive alien species;
  - (c) supporting cooperation between enterprises in relation to goods, services and technologies that contribute to sustainable development;
  - (d) sharing policy frameworks conducive to the deployment of best available technologies for sustainable development, including with regard to the promotion of eco-innovation, research activities, dissemination of results, and efforts to ensure that such technologies are available in the public domain and are accessible at affordable prices;
  - (e) promoting the conservation and sustainable management of forests;
  - (f) encouraging trade in forest products from sustainable supply chains; and
  - (g) contributing to combatting illegal logging, illegal deforestation, and associated trade, including with respect to communities dependent on forests.
7. Recognising the importance of cooperation and supportive measures, the Parties affirm their commitment to implement their respective commitments regarding cooperation and supportive measures, such as financial, technological, technical or capacity building support, as relevant, under the international agreements referred to in this Chapter.

### **Article 12.7 Marine Fisheries**

1. The Parties recognise the importance of conserving and sustainably managing marine fisheries. The Parties also underline the importance of the marine fisheries sector to their development and to the livelihoods of their fishing communities, including artisanal or small-scale fisheries.

2. Accordingly, the Parties agree to:
  - (a) support national, regional and international goals to address illegal, unreported and unregulated fishing in accordance with national and international instruments, and by using relevant international frameworks; and
  - (b) cooperate on aspects of fishery policies and measures bilaterally, regionally, and in international fora as appropriate, which are important to promoting sustainable fishing practices.

### **Article 12.8 Climate Change**

1. The Parties recognise the importance of achieving, the objectives of the *United Nations Framework Convention on Climate Change*, done at New York on 09 May 1992 (hereinafter referred to as “UNFCCC”) and the goals of the *Paris Agreement*, done at Paris on 12 December 2015, reflecting the principles of the UNFCCC and the Paris Agreement including equity and the principle of common but differentiated responsibilities and respective capabilities, in light of different national circumstances and based on best available science, in order to address the urgent threat of climate change.
2. The Parties reaffirm their commitment to implement their respective obligations and commitments under the UNFCCC and the Paris Agreement.
3. The Parties underline the importance of climate actions, to be implemented in accordance with each Party’s national circumstances, capabilities and equity.
4. Pursuant to paragraph 1, the Parties shall endeavour to cooperate bilaterally, and in other fora, as appropriate, in areas of mutual interest related to mitigation of and adaptation to climate change, including but not limited to the following:
  - (a) mobilising investment and sustainable finance;
  - (b) sharing knowledge and evidence-based innovations, including traditional, local and Indigenous knowledge, especially technological innovations, to support solutions to climate change, including climate-smart and resilient agriculture production;
  - (c) exploring cooperation under Article 6 of the Paris Agreement;
  - (d) exploring opportunities for climate and energy solutions; and

- (e) sharing information on innovation, research and development which promotes clean energy, and climate-friendly technologies.

### **Article 12.9 Cooperation**

1. The Parties recognise cooperation as a means to implement this Chapter, to enhance its benefits and to strengthen the Parties' joint and individual capacities to promote sustainable development as they strengthen their trade relations. The Parties recognise that cooperation activities undertaken pursuant to this Agreement seek to complement and build upon existing agreements or arrangements between the Parties.
2. The Parties shall endeavour to strengthen their cooperation on environment, climate and other issues of mutual interest in relevant bilateral, regional, and multilateral fora in which the Parties participate. Cooperative activities agreed under this Chapter shall align with the Parties' respective national circumstances, environmental commitments, climate commitments and other commitments outlined in the Chapter.
3. Cooperation under this Chapter may include the following:
  - (a) technical assistance and capacity building;
  - (b) mobilising financial resources and instruments;
  - (c) sharing of know-how and facilitating technology development and transfer in furtherance of the Parties' respective commitments under multilateral environmental agreements;
  - (d) sharing of information, data and best practices on policies and procedures, including through joint analysis and the exchange of experts;
  - (e) dialogues, workshops, seminars, conferences, collaborative programmes and projects, including joint research projects on environmental technologies; and
  - (f) other means, as the parties may decide.
4. Each Party shall, as appropriate:
  - (a) share its priorities for cooperation with the other Party, including the objectives of that cooperation;
  - (b) propose cooperation activities related to the implementation of this Chapter; and

- (c) develop and participate in mutually agreed cooperation activities and programmes in accordance with the priorities identified and agreed by the Parties.
5. In implementing the cooperation activities under this Chapter, the Parties may invite the views and participation of relevant stakeholders.

**Article 12.10**  
**Trade and Sustainable Development Committee**

1. The Parties hereby establish the Committee on Trade and Sustainable Development (“Committee”) composed of government representatives of each Party.
2. The Committee shall be jointly co-chaired by the Parties. It shall meet within one year of the date of entry into force of this Agreement and thereafter as agreed by the Parties. Meetings may occur in person, or by any other means of communication as agreed by the representatives of the Parties.
3. All decisions of the Committee shall be made by agreement of the Parties.
4. The Committee shall, with respect to this Chapter, have the following functions:
  - (a) review and monitor the implementation and operation of this Chapter;
  - (b) discuss technical issues arising from the implementation of this Chapter;
  - (c) foster understanding and facilitate consultations and dialogue regarding matters arising under this Chapter;
  - (d) consider priorities and proposals referred to the Committee by the Parties and, where appropriate, agree cooperation activities in accordance with Article 12.9 (Cooperation); and
  - (e) consider any other matter related to this Chapter, as agreed between the Parties.
5. The Committee may:
  - (a) exchange information, discuss best practices and share implementation experiences on issues of mutual interest relating to this Chapter; and

- (b) seek advice from, or invite, representatives of relevant business, non-government or other civil society organisations, as agreed by the Parties.
6. The Committee shall:
- (a) report to the Joint Commission on the results and conclusions from each of their meetings; and
  - (b) carry out any task assigned and any responsibility delegated to it by the Joint Commission.

#### **Article 12.11 Contact Points**

1. Each Party shall designate a contact point to receive and facilitate official communications between the Parties on any matter relating to this Chapter.
2. Each Party shall promptly notify the other Party, in writing, of any changes to its contact point.

#### **Article 12.12 Consultations and Dialogue**

1. The Parties recognise the importance of cooperation and consultation, based on the principle of mutual respect, and shall endeavour to resolve any matter arising under this Chapter.
2. After a request for information about a matter arising under this Chapter is made, the requesting Party may request in writing consultations with the other Party on the matter.
3. If a request for consultations is received in accordance with paragraph 2, the Parties shall enter into consultations in good faith no later than 150 days after the receipt of the request, unless agreed otherwise.
4. The Parties shall endeavour to achieve a mutually satisfactory resolution of the matter through consultations initiated in accordance with paragraph 3. The Parties may agree to seek advice from an independent expert or experts chosen by them to assist. The Parties shall document any outcome.
5. Consultations shall take place in the Committee on Trade and Sustainable Development.
6. Consultations may be held in person or by other technological means available.

7. Consultations under this Article, and the positions taken by the Parties during such consultations shall be confidential. Each Party shall treat any information exchanged in the consultations as confidential unless stated otherwise by the Party sharing the information.
8. The outcomes of consultations under this Article shall be made public, unless the Parties agree otherwise. If the outcome of consultations is published, it shall be published in a jointly agreed report.
9. For greater certainty, where the matter arising under this Chapter regards compliance with obligations under a multilateral environmental agreement to which the Parties are a party, the requesting Party shall, where appropriate, address the matter through the consultative procedure or other procedures under that multilateral environmental agreement.

#### **Article 12.13 Review**

The Parties shall review this Chapter in accordance with Article 20.4 (General Review), inviting, as appropriate, the views and participation of relevant stakeholders.

#### **Article 12.14 Non-application of Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 19 (Dispute Settlement) for any matter arising under this Chapter.