

CHAPTER 18 : ENVIRONMENT**ARTICLE 18.1 : LEVELS OF PROTECTION**

Recognizing the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws, each Party shall ensure that its laws provide for high levels of environmental protection and shall strive to continue to improve those laws.

ARTICLE 18.2 : APPLICATION AND ENFORCEMENT OF ENVIRONMENTAL LAWS

1.
 - (a) A Party shall not fail to effectively enforce its environmental laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties, after the date of entry into force of this Agreement.
 - (b) The Parties recognize that each Party retains the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other environmental matters determined to have higher priorities. Accordingly, the Parties understand that a Party is in compliance with subparagraph (a) where a course of action or inaction reflects a reasonable exercise of such discretion, or results from a *bona fide* decision regarding the allocation of resources.
2. The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in domestic environmental laws. Accordingly, each Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws in a manner that weakens or reduces the protections afforded in those laws as an encouragement for trade with the other Party, or as an encouragement for the establishment, acquisition, expansion, or retention of an investment in its territory.

ARTICLE 18.3 : PROCEDURAL MATTERS

1. Each Party shall ensure that judicial, quasi-judicial, or administrative proceedings are available under its law to sanction or remedy violations of its environmental laws.
 - (a) Such proceedings shall be fair, open, and equitable, and to this end shall comply with the due process of law, and be open to the public (except where the administration of justice otherwise requires).
 - (b) Each Party shall provide appropriate and effective remedies or sanctions for a violation of its environmental laws that:
 - (i) take into consideration the nature and gravity of the violation, any economic benefit the violator has derived from the violation, the economic condition of the violator, and other relevant factors; and

- (ii) may include remedies or sanctions such as: compliance agreements, penalties, fines, imprisonment, injunctions, the closure of facilities, and the cost of containing or cleaning up pollution.

2. Each Party shall ensure that interested persons may request the Party's competent authorities to investigate alleged violations of its environmental laws and that the competent authorities give such requests due consideration in accordance with its law.
3. Each Party shall ensure that persons with a legally recognized interest under its law in a particular matter have appropriate access to judicial, quasi-judicial, or administrative proceedings for the enforcement of the Party's environmental laws.
4. Each Party shall provide persons appropriate and effective rights of access to remedies, in accordance with its laws, which may include rights such as:
 - (a) to sue another person under that Party's jurisdiction for damages;
 - (b) to seek sanctions or remedies such as monetary penalties, emergency closures, or orders to mitigate the consequences of violations of its environmental laws;
 - (c) to request the competent authorities to take appropriate action to enforce that Party's environmental laws in order to protect the environment or to avoid environmental harm; or
 - (d) to seek injunctions where a person suffers, or may suffer, loss, damage or injury as a result of conduct by another person subject to that Party's jurisdiction contrary to that Party's environmental laws, or from tortious conduct that harms human health or the environment.

ARTICLE 18.4 : INSTITUTIONAL ARRANGEMENTS

1. In addition to discussions of issues or activities related to the operation of this Chapter that may take place in the Joint Committee established under Article 20.1 (Joint Committee), the Parties shall, at the request of either Party, form a subcommittee consisting of government officials to meet at other times, as they deem appropriate, to discuss matters related to the operation of this Chapter. These meetings shall normally include a session where members of the subcommittee have an opportunity to meet with the public to discuss matters related to the operation of this Chapter. The Parties, when they consider appropriate, shall jointly prepare reports on matters related to the implementation of this Chapter, and shall make such reports public, except as otherwise provided in this Agreement.
2. Each formal decision of the Parties concerning implementation of this Chapter shall be made public, unless the Parties decide otherwise.

ARTICLE 18.5 : OPPORTUNITIES FOR PUBLIC PARTICIPATION

1. To ensure the availability of opportunities for public participation in the discussion of matters related to the operation of this Chapter, and to facilitate the sharing of best practices and the development of innovative approaches to issues of interest to the public with regard to such matters, each Party shall develop or maintain procedures for dialogue with its public concerning the implementation of this Chapter, including:

- (a) the identification of matters to discuss at the meetings of the Joint Committee or the subcommittee described in Article 18.4; and
- (b) opportunities for its public to provide, on an on-going basis, views, recommendations, or advice on matters related to the provisions of this Chapter. Such views, recommendations, or advice shall be made available to the other Party and the public.

2. Each Party may convene, or consult with an existing, national advisory committee, composed of representatives of its environmental and business organizations and other members of its public, to advise it on the implementation of this Chapter, as appropriate.

3. Each Party shall make best efforts to respond favorably to requests for consultations by persons or organizations of its territory regarding that Party's implementation of this Chapter.

ARTICLE 18.6 : ENVIRONMENTAL COOPERATION

1. The Parties recognize the importance of strengthening capacity to protect the environment and to promote sustainable development in concert with the strengthening of trade and investment relations between them. The Parties shall, as appropriate, pursue cooperative environmental activities, including those pertinent to trade and investment and to strengthening environmental performance, such as information reporting, enforcement capacity, and environmental management systems, under a Memorandum of Intent on Cooperation in Environmental Matters to be entered into between the Government of Singapore and the United States and in other fora. The Parties also recognize the ongoing importance of environmental cooperation that may be undertaken outside this Agreement.

2. The Parties shall take into account public comment and recommendations regarding cooperative environmental activities undertaken pursuant to this Chapter. Each Party shall also seek opportunities for its citizens to participate in the development and implementation of cooperative environmental activities, such as through the use of public-private partnerships.

3. In addition to the environmental cooperation activities outlined in Paragraph 1 of this Article, the Parties shall, as they deem appropriate, share information on their experiences in assessing and taking into account positive or negative environmental effects of trade agreements and policies.

1. A Party may request consultations with the other Party regarding any matter arising under this Chapter. Unless the Parties otherwise agree, consultations shall commence within 30 days of a Party's delivery of a request for consultations to the contact point designated by the other Party for this purpose.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter and may seek advice or assistance from any person or body they deem appropriate.

3. If the consultations fail to resolve the matter, either Party may request that the subcommittee described in Article 18.4 be convened. The subcommittee shall convene within 30 days of a Party's delivery of a written request to convene the subcommittee to the other Party's contact point designated pursuant to paragraph 1,¹⁸⁻¹ unless the Parties otherwise agree, and shall endeavor to resolve the matter expeditiously, including, where appropriate, by consulting governmental or outside experts and having recourse to such procedures as good offices, conciliation, or mediation.

4. If a Party considers that the other Party has failed to carry out its obligations under Article 18.2.1(a), the Party may request consultations pursuant to Article 20.4.2(a) (Additional Dispute Settlement Procedures) or under paragraph 1 of this Article.

(a) If a Party requests consultations pursuant to Article 20.4.2(a) at a time when the Parties are engaged in consultations on the same matter under paragraph 1 of this Article or the subcommittee is endeavoring to resolve the matter under paragraph 3, the Parties shall discontinue their efforts to resolve the matter under this Article. Once consultations have begun under Article 20.4.2(a), no consultations on the same matter may be entered into under this Article.

(a) If a Party requests consultations pursuant to Article 20.4.2(a) more than 60 days after the commencement of consultations under paragraph 1, the Parties may at any time agree to refer the matter to the Joint Committee pursuant to Article 20.4.2(a).

5. Articles 20.3 (Consultations) and 20.4 (Additional Dispute Settlement Procedures) shall not apply to a matter arising under any provision of this Chapter other than Article 18.2.1(a).

ARTICLE 18.8 : RELATIONSHIP TO ENVIRONMENTAL AGREEMENTS

The Parties recognize the critical role of multilateral environmental agreements in addressing some environmental challenges, including through the use of carefully tailored trade measures to achieve specific environmental goals and objectives. Recognizing that WTO Members have agreed in paragraph 31 of the Ministerial Declaration adopted on 14 November 2001 in Doha to

¹⁸⁻¹ If, on the date a Party delivers a request, the Parties have not established the subcommittee, they shall do so during the 30-day period described in this paragraph.

negotiations on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements, the Parties shall consult on the extent to which the outcome of those negotiations applies to this Agreement.

ARTICLE 18.9 : PRINCIPLES OF CORPORATE STEWARDSHIP

Recognizing the substantial benefits brought by international trade and investment as well as the opportunity for enterprises to implement policies for sustainable development that seek to ensure coherence between social, economic and environmental objectives, each Party should encourage enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate sound principles of corporate stewardship in their internal policies, such as those principles or agreements that have been endorsed by both Parties.

ARTICLE 18.10 : DEFINITIONS

For purposes of this Chapter:

1. **environmental laws** means any statutes or regulations of a Party, or provisions thereof, the primary purpose of which is the protection of the environment, or the prevention of a danger to human, animal, or plant 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, and wastes, and the dissemination of information related thereto; or
- (c) the protection or conservation of wild flora or fauna, including endangered species, their habitat, and specially protected natural areas,

in areas with respect to which a Party exercises sovereignty, sovereign rights, or jurisdiction, but does not include any statute or regulation, or provision thereof, directly related to worker safety or health; and

- 2. (a) for the United States, **statutes or regulations** means an act of the U.S. Congress or regulations promulgated pursuant to an act of the U.S. Congress that is enforceable, in the first instance, by action of the federal government; and
- (b) for Singapore, **statutes or regulations** means an Act of the Parliament of Singapore and any subsidiary legislation made thereunder. Subsidiary legislation includes proclamations, rules, regulations, orders, notifications, by-laws, or other instruments made under any Act or other lawful authority and having legislative effect.