

## 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</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.
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

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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.

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**

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.

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.

## 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 health and the environment. Accordingly, each Party shall take measures to control the production and consumption of, and trade in, such substances.<sup>5,6,7</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 ozone-depleting substances. Cooperation may include, exchanging information and experiences in areas related to:

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

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<sup>5</sup> For greater certainty, this provision pertains to ozone- depleting 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>6</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>7</sup> If compliance with this provision is not established pursuant to footnote 6, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to control the production and consumption of, and trade in, certain substances that can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment, 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.

## **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>8, 9, 10</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;
- (f) adequacy of port waste reception facilities;

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<sup>8</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>9</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>10</sup> If compliance with this provision is not established pursuant to footnote 9, to establish a violation of this provision, a Party must demonstrate that the other Party has failed to take measures to prevent the pollution of the marine environment from ships in a manner affecting trade or investment between the Parties. 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.

- (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>11</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>12</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>11</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>12</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>13</sup>

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<sup>13</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>14</sup> for commercial purposes unless authorized in a multilateral treaty to which the Party is a party.<sup>15</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>14</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>15</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>16</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>17</sup> or operator<sup>18</sup> while listed for IUU fishing<sup>19</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>20</sup> that negatively affect<sup>21</sup> fish stocks that are in an overfished<sup>22</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>16</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>17</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>18</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>19</sup> “Illegal, unreported, and unregulated fishing” is to be understood to have the same meaning as paragraph 3 of the IUU IPOA.

<sup>20</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>21</sup> The negative effect of such subsidies shall be determined based on the best scientific evidence available.

<sup>22</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>23</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>23</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>24</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>25</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>24</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>25</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>26</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. Accordingly, each Party shall adopt, maintain, and implement laws, regulations and any other measures to fulfil its obligations under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) done at Washington, D.C., March 3, 1973.<sup>27, 28, 29</sup>

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<sup>26</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.

<sup>27</sup> For the purposes of this Article, a Party’s CITES obligations include existing and future amendments to which the Parties are parties and any existing and future reservations or exemptions applicable to the Party. This paragraph only applies if all the Parties are parties to CITES.

<sup>28</sup> To establish a violation of this paragraph, a Party must demonstrate that the other Party has failed to adopt, maintain, or implement laws, regulations, or other measures to fulfil its obligations under CITES in a manner affecting trade or investment between the Parties. For greater certainty, a failure is “in a manner affecting trade or

3. 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;
- (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.

4. 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.

5. 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>30</sup> were taken or traded

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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>29</sup> If a Party considers that another Party is failing to comply with its obligations under this paragraph, it shall endeavor, in the first instance, to address the matter through a consultative or other procedure under CITES.

<sup>30</sup> For greater certainty, for the purposes of this paragraph, each Party retains the right to determine what constitutes “credible evidence”.

in violation of that Party's law or another applicable law,<sup>31</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.

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

7. 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>32</sup> as a serious crime as defined in the *United Nations Convention on Transnational Organized Crime*.<sup>33</sup>

8. 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.

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<sup>31</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.

<sup>32</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>33</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.

### **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
  - (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>34</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.

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<sup>34</sup> The Parties established the Commission for Environmental Cooperation (CEC) under Part Three of the North American Agreement on Environmental Cooperation (NAAEC).

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);
- (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 a meeting of the Commission pursuant to Article 31.5 (Commission, Good Offices, Conciliation, and Mediation) and thereafter 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 24.22 (Conservation and Trade) 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 CITES 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.