



Legal analysis of MERCOSUR NDCs Climate Commitments

*Identification of Possible New Climate Provisions for
the EU-MERCOSUR FTA*

Dr Alessandra Lehmen and Dr Fabiano De Andrade



Legal analysis of MERCOSUR NDCs Climate Commitments: Identification of Possible New climate Provisions for the EU-MERCOSUR FTA

Draft Analysis for the European Climate Foundation

By Dr Alessandra Lehmen and Dr Fabiano De Andrade

Introduction

The relevance of the MERCOSUR-EU agreement for climate change hinges not only on its content, but on its role in leveraging action around the Paris Agreement, as trade is an important lever to shape policy action. Against this backdrop, the scope of this substantive legal review is to assess climate commitments in the most current iteration of NDCs from the four MERCOSUR countries, identifying highest priority climate change challenges and goals, and compare them to climate commitments contained in the EU-MERCOSUR FTA, with a view of identifying new provisions that could be proposed in the FTA to support current and future negotiations, in view of climate priorities on both sides.

For the purposes of this analysis, it is important to bear in mind that, generally speaking, the bloc's main exports are commodities, and GHG emissions chiefly derive from agriculture and livestock and LULUCF. Conversely, developed countries tend to concentrate emissions on energy, IPPU, and transportation.

1. Trade and GHG emissions profiles, by country

In order to assess whether MERCOSUR countries climate priorities and sectoral policies drawn out in NDCs bear implications on trade, we deem necessary to consider each country's trade profile, as well as their GHG emissions profile. Understanding these characteristics is important to assess whether sectoral climate policies drawn out in NDCs adequately cover each country's most prominent exports, and what measures should be prioritized in future negotiations. Impacts of the FTA on MERCOSUR country imports also entail climate consequences, but this analysis does not cover them, as they would be more adequately analyzed from the perspective of the EU exporter country.

1.1 Argentina

The top exports of Argentina are oil-cake and other solid residues (\$7.89B), maize (corn) (\$6.46B), soybean oil (\$3.9B), soybeans (\$2.31B), and vehicles for the transportation of goods (\$2.3B),¹ exporting mostly to Brazil, the EU, China, the United States (\$3.47B), and Chile.² Argentina's exports of goods and services as a percentage of GDP amount to 17.44%, and imports of goods and services as a percentage of GDP to 15.19%.³

As of 2018, Argentina's GHG top four emissions by sector were agriculture (129.94 million t), electricity (64.08 million t), transportation (47.79 million t), and LULUCF (29.85 million t).⁴

1.2 Brazil

The top exports of Brazil are soybeans (\$28.6B), iron ores and concentrates (\$26.5B), petroleum oils (\$19.8B), cane sugar (\$8.95B), and meat of bovine animals (\$6.69B),⁵ exporting mostly to China, the EU, the United States, Argentina, and Canada.⁶ Brazil's exports of goods and services as a percentage of GDP amount to 14.11%, and imports of goods and services as a percentage of GDP to 14.35%.⁷

As of 2020, Brazil's GHG emissions by sector were distributed as follows: 46% LULUCF, 27% agriculture and livestock, 18% energy, 5% IPPU, and 4% waste.⁸ If individually considered, transportation is the third highest-emitting sector, at 191.66 million t in 2018.⁹

1.3 Paraguay

The top exports of Paraguay are soybeans (\$2.15B), electricity (\$1.73B), oil-cake and other solid residues (\$684M), frozen meat of bovine animals (\$592M), and fresh meat of bovine animals (\$527M),¹⁰ exporting mostly to Brazil, Argentina, Chile, Russia, and the EU.¹¹ Paraguay's exports of goods and services as a percentage of GDP amount to 36.20%, and imports of goods and services as a percentage of GDP to 35.16%.¹²

As of 2018, Uruguay's GHG emissions were largely concentrated in LULUCF (46.12 million t) and in the agricultural sector (30.03 million t).¹³

¹ <https://oec.world/en/profile/country/arg>

² https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/ar_e.pdf

³ <https://wits.worldbank.org/CountryProfile/en/ARG>

⁴ <https://ourworldindata.org/grapher/ghg-emissions-by-sector?time=latest&country=~ARG>

⁵ <https://oec.world/en/profile/country/bra>

⁶ https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/br_e.pdf

⁷ <https://wits.worldbank.org/CountryProfile/en/BRA>

⁸ <https://seeg-br.s3.amazonaws.com/Infograficos/SEEG-infografico-brasil-1-BR-2020-rev.jpg>

⁹ <https://ourworldindata.org/grapher/ghg-emissions-by-sector?time=latest&country=~BRA>

¹⁰ <https://oec.world/en/profile/country/pry>

¹¹ https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/py_e.pdf

¹² <https://wits.worldbank.org/CountryProfile/en/PRY>

¹³ <https://ourworldindata.org/grapher/ghg-emissions-by-sector?time=latest&country=~PRY>

1.4 Uruguay

The top exports of Uruguay are meat of bovine animals (\$1.26B), chemical wood pulp (\$1.18B), rice (\$475M), milk and cream (\$470M), and soya beans (\$363M)¹⁴, exporting mostly to China, Brazil, the EU, the United States, and Argentina.¹⁵ Uruguay's exports of goods and services as a percentage of GDP amount to 27.75%, and imports of goods and services as a percentage of GDP to 21.86%.¹⁶

As of 2018, Uruguay's GHG emissions were largely concentrated in the agricultural sector (26.34 million t).¹⁷

2. Climate commitments in NDCs, by country

For context, it is important to mention that the UNFCCC has acknowledged¹⁸ that, given the current iteration of available NDCs of all 192 Parties taken together, an increase of about 16% in global GHG emissions in 2030 compared to 2010 is anticipated, and may lead to a temperature rise of about 2.7°C by the end of the century.

MERCOSUR countries' NDCs state their low historical contribution to climate change, by comparison to developed countries.

2.1 Argentina

Argentina submitted its second NDC on November 2, 2021.¹⁹ It was deemed by Climate Tracker to show progressive ambition (a 2% increase beyond what was submitted in the country's Second NDC, in December 2020), but still rated as highly insufficient.²⁰ Argentina's National Climate Change Law was passed in 2019, in between NDCs.

The 2021 NDC update states that it deals with key variables that account for major changes in the level of GHG emissions in the different sectors of the country, expressly mentioning population, GDP, demand and supply of energy, cattle, agricultural production, and changes in land use.

As for the energy sector, the NDC mentions the promotion of renewable energy and distributed generation, and a greater production of natural gas in absolute terms and relative to oil production. In the transport subsector, the NDC mentions active policies tending to increase the efficiency and the use of natural gas and electricity. For the IPPU sector, the NDC projects a slight increase in emissions, tied to a growth in GDP, and mentions compliance with the Kigali Amendment. With regard to waste, a growth in the percentage of solid urban waste disposed in toilets is projected, as well as the capture of the methane that they originate.

¹⁴ <https://oec.world/en/profile/country/ury>

¹⁵ https://www.wto.org/english/res_e/statis_e/daily_update_e/trade_profiles/UY_e.pdf

¹⁶ <https://wits.worldbank.org/CountryProfile/en/URY>

¹⁷ <https://ourworldindata.org/grapher/ghg-emissions-by-sector?time=latest&country=~URY>

¹⁸ <https://unfccc.int/news/updated-ndc-synthesis-report-worrying-trends-confirmed>

¹⁹ [https://unfccc.int/sites/default/files/NDC/2022-05/Actualización meta de emisiones 2030.pdf](https://unfccc.int/sites/default/files/NDC/2022-05/Actualización%20meta%20de%20emisiones%202030.pdf)

²⁰ <https://climateactiontracker.org/climate-target-update-tracker/argentina/>

Argentina's NDC mentions a decline in emissions from the LULUCF subsector, attributed to a strong impulse to reforestation and a drastic reduction in deforestation. In the livestock subsector, there was a slight increase in emissions drawn mainly by a larger bovine, poultry, and swine production. In the case of cattle ranching, an increase in production efficiency was envisaged. For agriculture, an increase in emissions is also expected, due to the increase in production as a result of the use of fertilizers and the improvement of crop yields.

2.2 Brazil

Brazil submitted a First Updated NDC on November 1, 2021, which prompted a lawsuit²¹ challenging a change in base year emissions that would lead to increased emissions of 480 million tons in 2030 by comparison with the country's 2015 NDC (iNDC). A second update of the First NDC was presented on April 7, 2022,²² which was still considered by Climate Action Tracker to be "highly insufficient" and not to have increased Brazil's ambition relative to the original First NDC.²³

Brazil's NDC is the most laconic of the bloc, totaling 11 pages. The NDC sets economy-wide, unconditional, and absolute targets, consistent with the sectors present in the National Inventory of Greenhouse Gas Emissions for 2025 and 2030 - namely energy, IPPU, agriculture, forestry, and other land use, LULUCF, and waste, in accordance with the IPCC 2006 Guidelines for National Greenhouse Gas Inventories²⁴ -, in comparison with 2005.

The 2022 NDC update mentions that the targets will be translated into policies and measures to be detailed and implemented by the Brazilian Federal government, but does not further elaborate or specify sectoral policies. Conversely, quantitative sectoral targets and measures were presented in the country's 2015 NDC. Many of these targets and objectives were related to LULUCF, the main contributor to Brazil's emissions.

The NDC acknowledges that the agricultural sector plays a key role in the Brazilian economy, but excludes the original mention of the 2016 NDC to implementation of sectoral mitigation actions, such as the end of illegal deforestation in 2030 and recovery of 15 million hectares of degraded pastures. Brazil, however, signed the Glasgow Declaration on Forests at COP 26; as such, the country committed to zero deforestation by the end of this decade. The NDC states the importance of adaptation measures concerning the agricultural sector (as it does with regard to hydropower generation), but does not mention mitigation measures. Indeed, the NDC mentions mitigation measures executed under the Low Carbon Agriculture Plan (ABC Plan) - e.g. restoration of degraded lands, nitrogen fixation, increased accumulation carbon in soils, no-till farming, integration of forest, crops and cattle breeding, agroforestry, and reforestation -, but mentions that the plan will be continued, from 2020 to 2030, as a sectoral adaptation plan (ABC+ Plan).

²¹<http://climatecasechart.com/non-us-case/laboratorio-do-observatorio-do-clima-v-environmental-ministry-and-brazil/>

²² [https://unfccc.int/sites/default/files/NDC/2022-05/Actualización meta de emisiones 2030.pdf](https://unfccc.int/sites/default/files/NDC/2022-05/Actualización%20meta%20de%20emisiones%202030.pdf)

²³ <https://climateactiontracker.org/climate-target-update-tracker-2022/>

²⁴ <https://www.ipcc.ch/report/2006-ipcc-guidelines-for-national-greenhouse-gas-inventories/>

As for livestock, the 2022 update to the NDC does not mention efforts to reduce methane emissions by 30%, but it is worth noting that Brazil has committed to this goal by signing the Global Methane Pledge at COP26.

2.3 Paraguay

Paraguay submitted its Updated First NDC on July 16, 2021.²⁵ Its sufficiency is not assessed by Climate Action Tracker. Paraguay pledges to reduce 20% of the projected emissions by 2030, according to the BAU (business as usual) scenario, whereby 10% are conditioned to international support and the remainder 10% are unconditional.

The NDC states that Paraguay's efforts, as a landlocked country, focus on adaptation, and proceed to make the country's first adaptation communication under Article 7 of the Paris Agreement, containing 7 prioritized sectors – namely, Resilient Communities and Cities, Health and Epidemiology, Ecosystems and Biodiversity, Energy, Agriculture, Livestock, Forestry and Food Security, Water Resources, and Transport - and a total of 25 objectives, which include their lines of action, gaps and needs, by 2030.

As for mitigation, the NDC states that the emissions baseline has been updated to 2030, and Climate Change Mitigation Plans (PMCC) drawn up in 5 sectors - Agriculture, LULUCF, IPPU, Waste, and Energy - also as to cover a total of 45 prioritized measures.

Paraguay's NDC highlights that the country maintains an economic system of free trade, which favors free circulation of financial resources and capital movement, as an aperturist market economy for both imports and exports. It further states that primary production (agriculture and livestock) represents the basis of the country's socio-economic activity, which is boosted by agro industrialization and commodity exports contributing annually up to 50% of GDP.

2.4 Uruguay

Uruguay submitted its First NDC on November 10, 2017.²⁶ Its sufficiency is not assessed by Climate Action Tracker. Uruguay's National Climate Change Law was passed in 2017, before submission of its sole NDC. In December 2021, Uruguay announced the launch of a sovereign bond linked to climate targets.

The NDC presents both unconditional and conditional targets, meaning that the country pledges to a higher ambition depending on additional means of implementation it receives, through financing, transfer and development of technologies, and capacity-building, and details several sector-specific measures.

Uruguay pledges to a sustainable development process, in which economic growth is decoupled from GHG emissions. It notes that from 2005 to 2016, Uruguay has grown at an average annual rate of 4.6%, a period in which the energy demand of its industrial sector has increased and the production of food increased three times the average. This growth was

²⁵ https://unfccc.int/sites/default/files/NDC/2022-06/Actualización-NDC_VF_PAG_WEB_MADES_Mayo_2022.pdf

²⁶ https://unfccc.int/sites/default/files/NDC/2022-06/Uruguay_Primer_Contribucion_Determinada_a_nivel_Nacional.pdf

accompanied by an important reduction in poverty, which dropped from 39.9% to 9.4%, while extreme poverty practically disappeared, going from 4.7% to 0.2%, and the country has reached a Gini index of 0.38.

Of all four MERCOSUR NDCs, and although it has not been recently updated, Uruguay's draws perhaps the clearest relationship between trade and climate change, as it details sectoral climate policies that are centered around agriculture and livestock, which amount to 80% of the country's exports.

It is also worth mentioning that, during COP 26, Uruguay pledged to reduce methane emissions by 30% by 2030, which has important implications for the production of livestock. The NDC states that agriculture and livestock then represented 93.4% of CH₄ emissions and 98.7% of N₂O emissions, and 73.8% of the country's total emissions.

The NDC mentions that the State granted tax benefits to low-carbon productive investments, such as in the forestry sector and in projects of renewable. In the cattle ranching sector, and in milk and rice production, public policies, investments, and technology changes allowed an increase in productivity and a reduction in the intensity of emissions per unit of product. The document also foresees the development and implementation, by 2020, of an Agricultural Adaptation Plan.

Mitigation practices include the management of pasture areas and breeding, including adjustment of the supply of forage, regenerative management, incorporation of supplements during periods of drought. Sectoral measures also mention water management models, risk transfer instruments, increased productivity of soils through adequate management, research programs in dry agriculture, and a pledge to maintain 100% of forests.

3. Identification of possible new provisions for the EU-MERCOSUR FTA legal scrubbing process and/or future negotiations

EU-MERCOSUR FTA climate change provisions are mainly concentrated in Article 6 of the Trade and Sustainable Development Chapter, which generally recognizes the need to implement the Paris Agreement and to cooperate on trade-related climate change issues.

Given the priority climate priorities expressed in MERCOSUR countries' NDCs and the climate commitments contained in the EU-MERCOSUR FTA, new provisions could be proposed in the FTA to support current and future negotiations.

There is precedent of procedures formally labelled as mere legal scrubbing resulting in a de facto renegotiation (e.g., one-fifth of CETA was amended to reflect terms of newer EU FTAs). However, particularly in light of the agreement's long history of negotiations and current political climate, there may not be much wiggle room for renegotiation. An interpretative declaration, MoU, or side letter attached to the FTA could be options for the inclusion of further climate provisions.

Some recent developments in this front are particularly worth mentioning. On 22 June 2022, the European Commission issued its new Action Plan on Trade and Sustainable Development Chapters (TSD) in Free Trade Agreements (FTAs),²⁷ which establishes 20 action points over 6 policy priorities: (1) the need to be more proactive in the cooperation with partners; (2) stepping up the country-specific approach; (3) mainstreaming sustainability beyond the TSD chapter of trade agreements; (4) increasing the monitoring of the implementation of TSD commitments; (5) reinforcing the role of civil society; and (6) enhancing enforcement by means of trade sanctions as a measure of last resort. The UK-New Zealand FTA,²⁸ signed on 28 February 2022 and currently undergoing domestic procedures in both the UK and New Zealand, includes a detailed clause (22.6) on climate, stating that “nothing in this Agreement prevents a Party from taking measures to fulfil its commitments under the UNFCCC and the Paris Agreement provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination against the other Party or a disguised restriction on trade”, and agreeing, among other provisions, to “promote carbon pricing as an effective policy tool for reducing greenhouse gas emissions efficiently”. Finally, on 30 June 2022, the European Union concluded negotiations for an FTA with New Zealand,²⁹ whose proposed chapter on climate change³⁰ includes similar wording to that of the UK-New Zealand, and includes “the obligation to refrain from any action or omission which materially defeats the object and purpose of the Paris Agreement”.

As mentioned in Section 1, above, climate change in MERCOSUR is extensively driven by land use and deforestation, which is, therefore, an important area to prioritize in FTA negotiations. At the same time, the rapid pace of savannization of the Amazon rainforest is likely to directly impact an essential activity falling within the scope of FTA, in that the ecosystem services that are vital for agricultural production – responsible for a sizeable portion of the bloc’s exports -, may no longer be rendered by the forest and its role as a carbon sink is in steady decline.³¹ To counter possible climate impacts of the FTA on these fronts, several measures could be implemented, such as:

- Alignment of policies in carbon-intensive sectors, especially those responsible for the largest portions of both exports and GHG emissions;
- Establishment of working groups to explore the relationship of climate commitments and trade and flesh out synergies;
- Technical cooperation on increasing vertical productivity and avoiding expansion of the agricultural frontier, in order to research and implement scientific solutions to problems as diverse as, e.g., methane emissions from cattle farming, illegal procurement from deforested areas, food security, family farming and animal welfare;
- Measures to halt imported deforestation/outsourced emissions resulting from EU consumption,³² e.g. cooperation for NDC implementation; domestic/regional

²⁷ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_3921

²⁸ <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/new-zealand-united-kingdom-free-trade-agreement/resources/>

²⁹ https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/new-zealand/eu-new-zealand-agreement/text-agreement_en

³⁰ <https://circabc.europa.eu/ui/group/09242a36-a438-40fd-a7af-fe32e36cbd0e/library/5b1523f5-4758-4ce5-892a-9c4828063d69/details>

³¹ Gatti, L. V. et al. Amazonia as a carbon source linked to deforestation and climate change. <https://www.nature.com/articles/s41586-021-03629-6>

³² Per the European Commission’s Communication on Stepping up EU Action to Protect and Restore the World’s Forests, a disproportionate 10% of the global share of deforestation is related to EU consumption: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52019DC0352>

regulations; monitoring, quantification and disclosure of supply chain emissions; oversight of financing of high-emitting projects;

- Incentives and cooperation on the transition to a low-carbon economy, in order to promote a positive agenda of free trade of low-carbon products and technologies;
- Incentives and a taxonomy for green and low-carbon investment;
- Incentives and cooperation to fight forest fires, a major problem affecting the Amazon, Pantanal, and Pampa biomes that expanded significantly from 2020;
- As for deforestation and illegal logging, considering the negotiation of a FLEGT VPA;
- As the Paris Agreement and other MEAs are listed in an un-prescriptive fashion, incorporating key commitments from those treaties (e.g. the binding Paris obligation of presenting progressively ambitious NDCs), as well as wording stating that parties have obligations to ratify, implement via domestic legislation, and enforce via domestic courts said commitments without additional conditions;
- Discussion of CBAM implementation to ensure fairness and avoid disguised protection that would violate WTO rules, as well as opposition and obstruction of cooperative action to reduce global emissions that would undermine Paris goals.

Other general recommendations, not specifically climate-related but with a possible bearing on the subject:

- Developing mirror measures to avoid double standards for pesticides (Brazil imports, from European companies, dozens of pesticides that are prohibited in the EU);
- Extending the standard dispute settlement mechanism of the FTA, including economic sanctions, to TSD, e.g. via a panel of experts as set forth on CPTPP Art. 28.9(5);
- Extending the precautionary principle included in the TSD chapter to other essential chapters dealing with these matters, e.g. SPS and Dialogues;
- Including a human rights/democracy clause as adopted in other EU FTAs;
- As for governance and participation, including representatives of civil society, particularly traditional communities and experts from all relevant fields, in the TSD Sub-Committee.

Conclusion

The current iteration of MERCOSUR countries' NDCs shows different levels of detail. As a general conclusion, MERCOSUR countries' NDCs, as well as the sectoral policies described in the document, do not expressly consider the reciprocal implications of climate priorities and trade. The relationship between trade and climate change, however, is significant, and should be leveraged both to avoid hindering trade and as a means to achieve the goals of the Paris Agreement. This holds especially true in the current scenario of post-pandemic economic recovery efforts, inflationary trends, and geopolitical instability affecting supply chains and energy and food security.

EU-MERCOSUR FTA provisions on climate change are similarly programmatic and open-ended, and generally less detailed than those concerning sustainable development or environmental matters at large. The UNFCCC transparency framework and stocktake process, as well as the EU-MERCOSUR FTA legal scrubbing process and/or further negotiations, may provide good

opportunities to explicitly align MERCOSUR and EU climate priorities to their trade implications, enhancing implementation of climate provisions and boosting climate ambition in both contexts.

Annex – Proposed Provisions

Annex 2: Proposed provisions for the legal scrubbing process

Proposed provision 1 and 2:

Preamble

COMMITTED to implementing this Agreement in accordance with the objective of sustainable development, including, the promotion of economic progress, the respect for labour rights and the protection of the environment, in accordance with the international commitments adopted by the Parties;

(EU-Colombia-Peru FTA)

REAFFIRMING their commitment to promote sustainable development and the development of international trade in such a way as to contribute to sustainable development in its economic, social and environmental dimensions;

(CETA)

Proposed provision 3:

Article X

Regional Integration

1. The Parties recognise the importance of regional integration in furthering the social, economic and sustainable development of the signatory MCS and of the European Union, enabling to strengthen the relations between the Parties, acknowledging the relevance these processes may have in promoting regional sustainable development and to contribute to the objectives of this Agreement.

(EU-Colombia-Peru Agreement)

2. While recognising the differences in their respective regional integration processes, and without prejudice to the commitments undertaken under this Agreement, the Parties shall foster conditions which facilitate the movement of goods and services between and within the two regions.
3. With respect to movement of goods, pursuant to paragraph 1:
 - a. goods originating in a signatory Member State of MCS that are released for free circulation in the European Union [EU Party] shall benefit from free movement of goods within the territory of the European Union [EU Party] under the conditions established by the Treaty on the Functioning of the

European Union;

- b. the signatory Member States of MCS shall apply to goods originating in the European Union [EU Party] that are imported in its territory from another signatory Member State of MCS, customs procedures that are no less favourable than those applicable to goods originating in that signatory Member State of MCS.

The treatment referred to under points (a) and (b) of this paragraph does not include tariff treatment for goods, which is governed by Chapter X [Trade in Goods].

- c. the signatory Member States of MCS shall periodically review their customs procedures with a view to facilitating the movement of goods of the European Union [EU Party] between their territories and to avoiding duplication of procedures and controls when practicable and in accordance with the evolution of their integration process.
- d. benefits of MCS harmonisation of technical regulations and conformity assessment procedures, SPS requirements and approval procedures (including import certificates, controls) shall be extended under non-discriminatory conditions to goods originating in the EU if they have been imported in compliance with the importing Member State of MCS laws and regulations.

4. With respect to trade of services, pursuant to paragraph 2:

- a. Member States of the European Union shall endeavour to facilitate, as appropriate, the freedom to provide services between their territories to enterprises owned or controlled by natural or juridical persons of a signatory Member State of MCS and established in a Member State of the European Union;
- b. signatory Members States of MCS shall endeavour to facilitate, as appropriate, the freedom to provide services between their territories to enterprises owned or controlled by natural or juridical persons of a Member State of the European Union and established in a signatory Member State of MCS.

Proposed provision 4:

CHAPTER

TECHNICAL BARRIERS TO TRADE

Article 10

Cooperation and technical assistance

1. To contribute to fulfilling the objectives of this Chapter, the Parties agree to, inter alia:
 - a) Promote cooperation and joint activities and projects between their respective organizations, public and/or private, national and/or regional, in the fields of technical regulations, standardization, [\[eco-labelling\]](#), conformity assessment, metrology and accreditation;
 - b) Promote good regulatory practices through the exchange of information, experiences and best practices about, inter alia, regulatory impact assessment, regulatory stock management and risk assessment and public consultation;
 - c) Exchange views on market surveillance;
 - d) Strengthen the technical and institutional capacity of the national regulatory, metrology, standardization, conformity assessment and accreditation bodies, supporting the development of their technical infrastructure, including labs and testing equipment, and sustaining the continuous training of human resources;
 - e) Promote, facilitate and, whenever possible, coordinate their participation in international organizations and other fora related to technical regulations, conformity assessment, standards, accreditation and metrology;
 - f) Support technical assistance activities by national, regional and international organizations in the areas of technical regulations, standardization, conformity assessment, metrology and accreditation;
 - g) endeavour to share available scientific evidences and technical information among regulatory authorities of the Parties, to the extent necessary to cooperate or pursue technical discussions under this Chapter, with the exception of confidential or other sensitive information.

2. A Party shall give appropriate consideration to proposals of the other Party for cooperation under this Chapter.

Proposed provision 5:

CHAPTER
TECHNICAL BARRIERS TO TRADE

Article 5

Technical regulations

1. The Parties agree to make best use of good regulatory practices with regard to the preparation, adoption and application of technical regulations, as provided for in the TBT Agreement, including, for example, preference for performance-based technical regulations, use of impact assessments or stakeholder consultation. In particular, the Parties agree to:
 - a) use relevant international standards as a basis for their technical regulations including any conformity assessment elements therein, except when such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued. Where international standards have not been used as a basis for a technical regulation, which may have a significant effect on trade, a Party shall, upon request of the other Party, explain

the reasons why such standards have been judged inappropriate or ineffective for the aim pursued.

b) when reviewing their technical regulations, in addition to the Article 2.3 and without prejudice to the Articles 2.4 and 12.4 of the TBT Agreement, to increase their alignment with relevant international standards. The Parties shall consider, inter alia, any new development in the relevant international standards and whether the circumstances that have given rise to any divergence from any relevant international standard continue to exist.

c) promote the development of regional technical regulations and that these are adopted at national level and/or replace existing ones, in order to facilitate trade between the Parties; and

d) allow a reasonable interval between the publication of technical regulations and their entry into force for economic operators of the other Party to adapt. The phrase “reasonable interval” shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

e) to carry out the impact analysis of planned technical regulations in accordance with its respective rules and procedures.

f) when preparing technical regulations, to take due account of the characteristics and special needs of micro, small and medium-sized enterprises.

g) Where appropriate, the Parties shall specify technical regulations based on product requirements in terms of performance, including environmental performance, rather than design or descriptive characteristics.

(EU-Singapore FTA)

Proposed provision 6:

CHAPTER

SANITARY AND PHYTOSANITARY MEASURES

Article 19

Special and Differentiated Treatment

1. The European Union should provide technical assistance to address specific needs of MCS Members to comply with the Union's SPS measures, including food safety, animal and plant health, and the use of international standards.

2. In application of article 10 of the SPS Agreement, when Paraguay has identified difficulties with a proposed measure notified by the EU Party, Paraguay may request, in its comments submitted to the EU, pursuant to Annex B to the SPS Agreement referred to in Article 7 of the SPS Trade part of the Agreement, an opportunity to discuss the issue. The EU Party and Paraguay shall enter into consultation in order to agree on:

a) alternative import conditions to be applied by the importing Party according to Article 7 (alternative measures); or

- b) technical assistance according to Article 18 cooperation and technical assistance; or
- c) a transitional period of 6 months for proposed measures to apply to goods from Paraguay, which could be exceptionally extended for another period of no longer than 6 months.

(EU-Vietnam FTA)

Proposed provision 7:

CHAPTER

DIALOGUES

Article 2

The subcommittee

1. The Parties hereby establish a Subcommittee on Dialogues in animal welfare, in agricultural, biotechnology, in combating antimicrobial resistance and in food safety, plant and animal health, hereinafter referred as the Subcommittee.
2. The Subcommittee shall be comprised of representatives of the Parties with responsibility on matters covered by this Chapter.
3. The Subcommittee will appoint ad-hoc working groups to conduct the Dialogues. It will also establish the scope, mandate and agendas of these working groups.
4. The working groups will be composed of representatives of the Parties with technical expertise on the matters subjected to dialogue. They will be co-chaired by the representatives of the Parties.
5. The Subcommittee and the working groups may meet by video or audio-conference and may also address issues electronically.
6. The co-chairs of the working groups shall report to the Subcommittee on the work of the group.
7. The Subcommittee may review the task assigned to a working group.
8. The Subcommittee will be responsible to promote and disseminate information on its work of competence, inter alia, to business circles and civil society. When appropriate, relevant stakeholders shall be invited to participate in the discussions of issues of their expertise.

Proposed provision 8:

CHAPTER
GOVERNMENT PROCUREMENT

Article 28

Cooperation in Government procurement

The Parties commit to cooperate to ensure the effective implementation of this chapter. The Parties shall use the available and existing instruments, resources and mechanisms. In particular, cooperation activities in this area shall be carried out, inter alia, through:

- i) exchange of information, good practices, statistical data, experts, experiences and policies in areas of mutual interest;
- ii) exchange of good practices regarding the use of sustainable procurement practices and other areas of mutual interest;
- iii) promoting networks, seminars and workshops in topics of mutual interest;
- iv) transfer of knowledge, including, inter alia, contacts between experts from the EU and MCS countries;
- v) sharing of information between the EU and MCS countries, with a view to facilitate access to the government procurement markets of each other Parties', in particular for micro, small and medium size enterprises.

vi) exchange of information and cooperation on fair and ethical trade, private and public certification and labelling schemes including eco-labelling and green public procurement;

(EU-South Korea and EU-Singapore FTAs).

Proposed provision 9:

CHAPTER [XX]
INTELLECTUAL PROPERTY

Article X.39

Cooperation and transparency

1. The Sub Committee on Intellectual Property established in accordance with Article X.59 shall see to the proper functioning of this Sub-Section and may consider any matter related to its implementation and operation. In particular, it shall be responsible for:

- (a) taking decisions amending Annex I as regards the references to the law applicable in the Parties,
- (b) taking decisions modifying Annex II as regard to geographical indications and exchanging information for that purpose,

(c) exchanging information on legislative and policy developments on geographical indications and any other matter of mutual interest in the area of geographical indications,

(d) cooperating on the development of alternative names for products that were once marketed by producers of a Party with terms corresponding to geographical indications of the other Party, especially in cases subject to a phasing out. Parties shall notify each other if a geographical indication listed in Annex II ceases to be protected in the territory of the Party concerned. Following such notification, the Sub Committee shall modify Annex II in accordance with Article X.39.3 (b) to end the protection under this Agreement. Only the Party in which the product originates is entitled to request the end of the protection under this Sub-Section of a geographical indication listed in Annex II.

(e) cooperating on the identification of products that could benefit from protection as geographical indications and any other action aimed at achieving protection as geographical indications for these products. In so doing, the European Union and MCS shall pay particular attention to promoting and preserving local traditional knowledge and biodiversity through the establishment of geographical indications.

4. Parties shall, either directly or through the Sub Committee, remain in contact directly on all matters relating to the implementation and the functioning of this Sub-Section. In particular, a Party may request from the other Party information relating to product specifications and their amendments, as well as contact points for control provisions.

5. A product specification referred to in this agreement shall be the one approved, including any amendments also approved, by the authorities of the Party in the territory from which the product originates.

6. Parties may make publicly available the product specifications or a summary thereof corresponding to the geographical indications of the other Party protected pursuant to this Subsection, in Portuguese, Spanish or English.

(EU-CARIFORUM Agreement)

Proposed provision 10 and 11:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 1

Objectives and Scope

1. The objective of this Chapter is to enhance the integration of sustainable development in the Parties' trade and investment relationship, notably by establishing principles and actions concerning labour¹ and environmental aspects of sustainable development of specific relevance in a trade and

¹ For the purposes of this chapter, the term "labour" means the strategic objectives of the ILO under the Decent Work Agenda, which is expressed in the ILO 2008 Declaration on Social Justice for a Fair Globalisation

investment context.

2. The Parties recall the Agenda 21 and the Rio Declaration on Environment and Development of 1992, the Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the United Nations Economic and Social Council on Creating an environment at the national and international levels conducive to generating full and productive employment and decent work for all, and its impact on sustainable development of 2006, the Declaration on Social Justice for a Fair Globalisation of 2008 of the International Labour Organisation (ILO), and the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want" and the document "Transforming our World: the 2030 Agenda for Sustainable Development", adopted in 2015.

3. The Parties recognize that the economic, social and environmental dimensions are interdependent and mutually reinforcing dimensions of sustainable development and reaffirm their commitment to promoting the development of international trade in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations. [They underline the benefit of cooperation on trade-related social and environmental issues as part of a global approach to trade and sustainable development.]

4. Consistent with the instruments referred to in paragraph 2, the Parties shall promote sustainable development through:

(a) the development of trade and economic relations in a manner that contributes to the objective of achieving the Sustainable Development Goals and supports their respective labour and environmental standards and objectives in a context of trade relations that are free, open, transparent, and respectful of multilateral agreements to which they are Party.

(b) the respect of their multilateral commitments in the fields of labour and of the environment.

(c) enhanced cooperation and understanding of their respective labour and environmental trade-related policies and measures, taking into account the different national realities, capacities, needs and levels of development and respecting national policies and priorities.

(d) joint cooperation in relevant trade and environment forums, including the WTO Committee on Trade and Environment.

5. Recognizing the differences in their levels of development, the Parties agree that this Chapter embodies a cooperative approach based on common values and interests.

(EU-Singapore)

Proposed provision 12:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 7

Trade and Biodiversity

1. The Parties recognise the importance of the conservation and sustainable use of biological diversity [and the role of trade in pursuing these objectives, including by promoting sustainable trade or controlling or restricting trade in endangered species, in line with] ~~consistent with~~ the Convention on Biological Diversity (CBD), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Treaty on Plant Genetic Resources for Food and Agriculture [and other relevant multilateral environmental agreements to which they are a party], and the decisions adopted thereunder ~~and the role that trade can play in contributing to the objectives of these agreements.~~

2. Pursuant to paragraph 1, each Party shall:

(a) promote the use of CITES as an instrument for conservation and sustainable use of biodiversity; including through the inclusion of animal and plant species in the Appendices to the CITES where the conservation status of that species is considered at risk because of international trade]; and conduct periodic reviews, which may result in recommendation to amend the Appendices to the CITES, in order to ensure that they properly reflect the conservation needs of species subject to international trade,]

(b) implement effective measures leading to a reduction of illegal trade in wildlife, consistent with international agreements to which it is Party.

(c) encourage trade in natural resource-based products obtained through a sustainable use of biological resources or which contribute to the conservation of biodiversity, in accordance with domestic laws.

(d) promote the fair and equitable sharing of benefits arising from the use of genetic resources and, where appropriate, measures for access to such resources and prior informed consent.

3. The Parties shall also exchange information on initiatives and good practices on trade in natural resource-based products with the aim of conserving biological diversity and cooperate, as appropriate, bilaterally, regionally and in international fora on issues covered by this article.

(EU-UK TCA)

Proposed provision 13:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 14

Sub-Committee on Trade and Sustainable Development and Contact Points

1. The Parties hereby establish a Sub-Committee on Trade and Sustainable Development (hereafter "TSD Sub-Committee"). It shall comprise senior officials, or their delegates, from each Party.

2. The TSD Sub-Committee shall meet within a year of the date of entry into force of this Agreement, unless otherwise agreed by the Parties, and thereafter as necessary in accordance with Article ... of Chapter ... *[Institutional provisions on meetings of Sub-*

Committees of the Trade Committee]. [This TSD Sub-Committee shall establish its own rules of procedures and adopt its decisions by consensus.]

3. The functions of the TSD Sub-Committee are to:
 - (a) facilitate and monitor the effective implementation of this Chapter, including cooperation activities undertaken under this Chapter,
 - (b) carry out ex post analysis of the environmental impact of trade provisions and make recommendations to the Trade Committee with respect to negative outcomes of the agreement,
 - (c) carry out the tasks referred to in Articles 16 and 17,
 - (d) make recommendations to the Trade Committee, including with regard to topics for discussion with the *[civil society mechanism]*, referred to in Article ... of Chapter ... *[general institutional provisions]*,
 - (e) consider any other matter related to this Chapter as the Parties may agree.
4. The TSD Sub-Committee shall publish a report after each of its meetings.
5. Each Party shall designate a Contact Point within its administration to facilitate communication and coordination between the Parties on any matter relating to the implementation of this Chapter.

Annex 3: Proposed provisions for future negotiations

Proposed provision 1:

CHAPTER I CUSTOM DUTIES

Article 3

1. For purposes of this Chapter, "originating" means qualifying under the rules of origin set out in Annex [X] (Rules of Origin).
2. Except as otherwise provided for in this Agreement, each Party shall reduce and/or eliminate its customs duties on originating goods in accordance with the Schedules set out in Annex 1 (hereinafter referred to as "Schedules").
3. A customs duty includes any duty or charge of any kind imposed on or in connection with the importation of a good, including any form of surtax or surcharge imposed on or in connection with such importation,¹ but does not include any:
 - (a) internal taxes or other internal charges imposed consistently with Article III of GATT 1994 [, including carbon-adjustment taxes.]

(b) Antidumping or countervailing duties applied in accordance with Articles VI and XVI of GATT 1994 and the WTO Agreement on the Implementation of Article VI of GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures in conformity with the Chapter (Trade Remedies).

(c) measures applied in accordance with Article XIX of GATT 1994 and with the WTO agreement on Safeguards, or with other safeguard measures of the Agreement.

(d) measures authorised by the WTO Dispute Settlement Body or under the Dispute Settlement provisions of this Agreement.

(e) fee or other charge, imposed consistently with Article VIII of GATT 1994.

(f) measures adopted to safeguard a Party's external financial position and its balance of payments, in conformity with Article XII of GATT 1994 and the Understanding on Balance of Payments Provisions of GATT 1994.

Proposed provision 2, 3 and 4:

TRADE AND SUSTAINABLE DEVELOPMENT

Article [X]

Trade Favouring Sustainable Development

1. The Parties shall strive to facilitate and promote trade and foreign direct investment in environmental goods and services, including through addressing the reduction of non-tariff barriers related to these goods and services.

(EU-Colombia-Peru/CETA)

2. The parties shall facilitate increased cooperation with respect to the manufacture, importation, sale and operation of motor vehicles using alternative fuels.

(CPTPP – EU-UK TCA)

3. The Parties recognise the need to ensure that, when developing public support systems for fossil fuels, proper account is taken of the need to reduce greenhouse gas emissions and of the need to limit distortions of trade as much as possible. The Parties share the goal of progressively reducing subsidies for fossil fuels. Such reductions may be accompanied by measures to alleviate the social consequences associated with the transition to low carbon fuels. In addition, both Parties will actively promote the development of a sustainable and safe low-carbon economy, such as through investment in renewable energies and energy efficient solutions, and promote the use of nature based solutions.

Proposed provision 5:

CHAPTER

SANITARY AND PHYTOSANITARY MEASURES

Article 11

Transparency and exchange of information

1. Upon request of a Party and within 15 working days following the date of such request, the Parties shall exchange information on:

- a) SPS procedures for the import approval of a product, including, if possible, expected timelines;
- b) The requirements that apply for the import of specific products, including as appropriate the model of certificate;
- c) Information on the pest status, including surveillance, eradication and containment programs and their results in order to support such pest status and import phytosanitary measures;
- d) The state of play of the procedure for import approval of specific products;
- e) The relation of the SPS measure to the international standards, guidelines and recommendations and, in case that a measure is not based on international standard, the scientific information on which the SPS measure is not in conformity with and an explanation of the reasons of such measure.
- f) In cases where relevant scientific evidence is insufficient, a Party adopting a provisional measure shall provide the available pertinent information on which the measure is based and, when available the additional information for a more objective assessment of the risk and will review the SPS measure accordingly in a reasonable period of time.
- f) In cases where relevant scientific evidence [or information] is insufficient [or inconclusive and there is a risk on human, animal or plant life or safety in its territory], a Party [may adopt sanitary or phytosanitary measures based on the precautionary principle].-[Such measures shall be based upon available pertinent information and subject to periodic review. The Party adopting the measure shall seek to obtain new or additional scientific information necessary for a more conclusive assessment and shall review the measure as appropriate.]

2. The Parties shall make publicly available, by the means they decide, updated information of their:

- a) SPS import requirements and authorisation procedures for the products covered by this chapter.
- b) List of regulated pests.

3. The Parties shall inform each other of:

- a) Any change in the sanitary and phytosanitary status that may affect trade between the Parties.
- b) Matters related to the development and application of SPS measures that may affect trade between the Parties.
- c) Any pertinent information for the adequate implementation of this Chapter.

4. Without prejudice of paragraph 1 when the information referred has been made available by notification to the WTO or to the International Standard Setting Body, in accordance with

the relevant rules, or on publicly accessible and fee free web-sites of the Parties, the information shall be considered communicated to the other Party.

5. Each Party shall designate a contact point and inform the other Party no later than one month after the entry into force of this Agreement.

Proposed provision 6:

CHAPTER

GOVERNMENT PROCUREMENT

Article 6

General Principles

1. With respect to any measure related to covered procurement:

a. the EU Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the signatory MCS countries and to the suppliers of the signatory MCS countries offering such goods and services, treatment no less favourable than the treatment accorded to its own goods, services and suppliers;

b. each signatory MCS country, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the EU Party and to the suppliers of the EU Party offering such goods and services, treatment no less favourable than the treatment accorded to its own goods, services and suppliers.

2. With respect to any measure concerning covered procurement, the EU and each MCS State, including their respective procuring entities, shall not:

a. treat a locally established supplier less favourably than another locally established supplier on the basis of degree of foreign affiliation to, or ownership by, juridical or natural persons of the other Party; nor

b. discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

3. The provisions of this Article do not apply to custom duties or any other measure of an equivalent nature, which have an impact on foreign trade, or to other import regulations and measures which affect the trade in services, different to the ones which specifically regulate public procurement covered under this agreement.

4. Each Party shall ensure that its procuring entities may take into account environmental, labour and social considerations throughout the procurement procedure, provided that those considerations are compatible with the rules established this Chapter and are indicated in the

notice of intended procurement or in another notice used as a notice of intended procurement or tender documentation.

(EU-Japan FTA and EU-UK Trade and Cooperation Agreement)

Proposed provision 7 and 8:

CHAPTER [XX]

INTELLECTUAL PROPERTY

Section A – General Provisions and Principles

Article X.6

Protection of Biodiversity and Traditional knowledge

- ~~1. The Parties recognise the importance and value of biological diversity and its components and of the associated traditional knowledge, innovations and practices of indigenous and local communities.~~ [The Parties recognise the past, present and future contribution of indigenous and local communities to the conservation and sustainable use of biological diversity and all of its components and, in general, the contribution of the traditional knowledge of their indigenous and local communities to the culture and to the economic and social development of nations].
- [Subject to their domestic legislation the EU and MCS respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the involvement and approval of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.]
- [The Parties recognise the importance of taking appropriate measures, subject to national legislation, to preserve traditional knowledge.]
- The Parties furthermore reaffirm their sovereign rights over their natural resources and recognise their rights and obligations as established by the Convention of Biological Diversity of 1992 (henceforth referred to as CBD) [and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the CBD] with respect to access to genetic resources, and to the fair and equitable sharing of benefits arising out of the utilisation of these genetic resources.
- [The Parties shall cooperate, subject to domestic legislation and international law, to ensure that intellectual property rights are supportive of, and do not run counter to, their rights and obligations under the CBD, in so far as genetic resources and associated traditional knowledge of the indigenous and local communities located in their respective territories are concerned]
- Recognising the special nature of agricultural biodiversity, its distinctive features and problems needing distinctive solutions, the parties agree that access to genetic resources

for food and agriculture shall be subject to specific treatment in accordance with the International Treaty on Plant Genetic Resources for Food and Agriculture (2001).

7. The Parties may, by mutual agreement, review this Article subject to the results and conclusions of multilateral discussions.

(EU-CARIFORUM)

Proposed provision 9:

CHAPTER [XX]

INTELLECTUAL PROPERTY

Article [x]

Transfer of technology

1. The Parties agree to exchange views and information on their practices and policies affecting transfer of technology, both within their respective regions and with third countries. This shall in particular include measures to facilitate information flows, business partnerships, licensing and subcontracting. Particular attention shall be paid to the conditions necessary to create an adequate enabling environment for technology transfer in the host countries, including issues such as development of human capital and legal framework.
2. The Parties shall take measures to prevent or control licensing practices or conditions pertaining to intellectual property rights which may adversely affect the international transfer of technology and that constitute an abuse of intellectual property rights by right holders or an abuse of obvious information asymmetries in the negotiation of licences.
3. The EU Party shall facilitate and promote the use of incentives granted to institutions and enterprises in its territory for the transfer of technology to institutions and enterprises of the MCS States in order to enable the MCS States to establish a viable technological base.
4. The Parties encourage transfer of technology to help in the adoption of new technologies that may contribute to the mitigation of climate change and aid in energy transition.

(Based on EU-CARIFORUM, EU-Central America and EU-South Korea Agreements.)

Proposed provision 10:

CHAPTER [XX]

INTELLECTUAL PROPERTY

Section D - Final provisions

Article X.59

Cooperation

1. The Parties agree to cooperate with a view to supporting implementation of the commitments and obligations undertaken under this Chapter in view of Objectives set out in Article X.2 and Principles set out in Article X.4 of this Chapter.
2. The areas of cooperation include, but are not limited to, the following activities:
 - a) The exchange of information on the legal framework concerning intellectual property rights and relevant rules of protection and enforcement;
 - b) The exchange of experience between the Parties on legislative progress;
 - c) The exchange of experience between the Parties on the enforcement of intellectual property rights;
 - d) The exchange of experience between the Parties on enforcement at central and sub-central level by customs, police, administrative and judiciary bodies;
 - e) Coordination to prevent exports of counterfeit goods, including with other countries;
 - f) Technical assistance, capacity-building; exchange and training of personnel;
 - g) The protection and defence of intellectual property rights and the dissemination of information in this regard in, inter alia, business circles and civil society;
 - h) Public awareness of consumers and right holders; enhancement of institutional cooperation, particularly between the intellectual property offices;
 - i) Actively promoting awareness and education of the general public on policies concerning intellectual property rights;
 - j) Engaging with SMEs, including at SME-focused events or gatherings, regarding using, protecting and enforcing intellectual property rights;
 - k) The application of the CBD and related instruments, and the domestic frameworks on access to genetic resources and associated traditional knowledge, innovations and practices;
 - l) The promotion of the convergence of green patent programs, with the objective of creating a space for the exchange of experiences in green technologies.
 - m) Facilitation of voluntary stakeholder initiatives to reduce intellectual property rights infringement, including over the internet and in other marketplaces;
 - n) The exchange of information related to public domain in their territories.

[3. Without prejudice to paragraph 1 and 2 and to supplement them if necessary, the Parties agree to establish a Sub-Committee on Intellectual Property to follow up on the implementation of the provisions of this Chapter and any other relevant issue. This Sub-Committee shall be co-chaired by officials of both Parties and will meet at least once per year, except if the Parties agree otherwise. These meetings shall be carried out through any agreed means, including by video conference. The Sub-Committee on Intellectual Property will adopt its decisions by consensus. It may also adopt specific rules of procedure, by consensus.]

Proposed provision 11, 12 and 13:

SECTION

SUBSIDIES

Article X.1

Principles

1. The Parties agree that subsidies can be granted by a Party when they are necessary to achieve a public policy objective. ~~The Parties acknowledge, however, that certain subsidies have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.~~

2. With a view to ensuring that subsidies are not granted where they have or could have a material effect on trade or investment between the Parties, each Party shall have in place and maintain an effective system of subsidy control that ensures that the granting of a subsidy respects the following principles:

a) subsidies pursue a specific public policy objective to remedy an identified market failure or to address an equity rationale such as social difficulties or distributional concerns (“the objective”);

b) subsidies are proportionate and limited to what is necessary to achieve the objective;

c) subsidies are designed to bring about a change of economic behaviour of the beneficiary that is conducive to achieving the objective and that would not be achieved in the absence of subsidies being provided;

d) subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy;

e) subsidies are an appropriate policy instrument to achieve a public policy objective and that objective cannot be achieved through other less distortive means;

f) subsidies’ positive contributions to achieving the objective outweigh any negative effects, in particular the negative effects on trade or investment between the Parties.

2. An illustrative list of public policy objectives for which a Party may grant subsidies, subject to not undermine the proper functioning of markets and the benefits of trade liberalisation, includes the following:

(a) making good the damage caused by natural disasters or exceptional occurrences;

(b) promoting the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;

(c) remedying a serious disturbance in the economy of one of the Parties;

(d) facilitating the development of certain economic activities or of certain economic areas, including but not limited to, subsidies for clearly defined research, development and innovation purposes, subsidies for training or for the creation of employment, subsidies for environmental purposes, subsidies in favour of small and medium-sized enterprises as defined in the Parties' respective legislations;

(e) promoting, developing and increasing the generation of energy from renewable and sustainable non-fossil sources; and

(f) promoting culture and heritage conservation.

3. The Parties acknowledge the relevance of achieving multilateral regulations regarding the use of subsidies for environmental purposes, for which they commit to cooperate within the framework of the WTO.

4. The Parties recognise the importance of a secure, affordable and sustainable energy system and environmental sustainability, notably in relation to the fight against climate change which represent an existential threat to humanity. Therefore, without prejudice to Article 1.1 [Principles], the subsidies in relation to energy and environment shall be aimed at, and incentivise the beneficiary in, delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market or increasing the level of environmental protection compared to the level that would be achieved in absence of the subsidy. Such subsidies shall not relieve the beneficiary from liabilities arising from its responsibilities as a polluter under the law of the relevant Party.

(EU-Vietnam and EU-Singapore FTAs and EU-UK TCA)

Proposed provision 14:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 1

Objectives and Scope

1. The objective of this Chapter is to enhance the integration of sustainable development in the Parties' trade and investment relationship, notably by establishing principles and actions concerning labour¹ and environmental aspects of sustainable development of specific relevance in a trade and investment context.

2. The Parties recall the Agenda 21 and the Rio Declaration on Environment and Development of 1992, the Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation on Sustainable Development of 2002, the Ministerial Declaration of the United Nations Economic and Social Council on Creating an environment at the national and international levels conducive to generating full and productive employment and decent work for all, and its impact on sustainable development of 2006, the Declaration on Social Justice for a Fair Globalisation of 2008 of the International Labour Organisation (ILO), and the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want" and the document "Transforming our World: the 2030 Agenda for Sustainable Development", adopted in 2015.

3. The Parties recognize that the economic, social and environmental dimensions are interdependent and mutually reinforcing dimensions of sustainable development, and reaffirm

¹ For the purposes of this chapter, the term "labour" means the strategic objectives of the ILO under the Decent Work Agenda, which is expressed in the ILO 2008 Declaration on Social Justice for a Fair Globalisation

their commitment to promoting the development of international trade in such a way as to contribute to the objective of sustainable development, for the welfare of present and future generations.

4. Consistent with the instruments referred to in paragraph 2, the Parties shall promote sustainable development through:

(a) the development of trade and economic relations in a manner that contributes to the objective of achieving the Sustainable Development Goals and supports their respective labour and environmental standards and objectives in a context of trade relations that are free, open, transparent, and respectful of multilateral agreements to which they are Party.

(b) the respect of their multilateral commitments in the fields of labour and of the environment.

(c) enhanced cooperation and understanding of their respective labour and environmental trade-related policies and measures, taking into account the different national realities, capacities, needs and levels of development and respecting national policies and priorities.

5. Recognizing the differences in their levels of development, the Parties agree that this Chapter embodies a cooperative approach based on common values and interests.

6. [The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded by their domestic labour and environment law. At the same time, the Parties stress that environmental and labour standards should not be used for protectionist trade purposes.]

(EU-Singapore)

Proposed provision 15 and 16:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 5

Multilateral Environmental Agreements

1. The Parties recognize that the environment is one of the three dimensions of sustainable development and that its three dimensions -economic, social and environmental- should be addressed in a balanced and integrated manner. Additionally, the Parties recognize the contribution that trade could make to sustainable development.

2. The Parties recognise the importance of the United Nations Environment Assembly (UNEA) of the United Nations Environment Programme (UNEP) and multilateral environment agreements as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environment policies.

3. Recalling the above paragraphs, each Party reaffirms its commitments to promote and effectively implement, multilateral environmental agreements (MEAs), protocols ~~and~~, their amendments [and specific programmes, decisions and recommendations] to which it is a party.

[4. The Parties reaffirm their commitment to effectively implement in their laws and practice the multilateral environmental agreements to which they are parties including:

- a) United Nations Framework Convention on Climate Change (UNFCCC);
- b) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- c) The Stockholm Convention on Persistent Organic Pollutants;
- d) Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- e) Convention on Biological Diversity (CBD);
- f) Cartagena Protocol on Biosafety to the CBD;

5. The Parties shall regularly exchange information on their respective progress as regards the ratifications of MEAs, including their protocols and amendments.

7. The Parties shall consult and cooperate, as appropriate, on trade-related environmental matters of mutual interest in the context of multilateral environmental agreements.

8. The Parties acknowledge their right to invoke Article [insert article number – General Exceptions] in relation to environmental measures.

9. Nothing in this agreement shall prevent Parties from adopting or maintaining measures to implement the MEAs to which they are party provided that such measures are consistent with Article 2.6.

(EU-Colombia-Peru and EU-Central America)

Proposed provision 17:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article [X]

Invasive Alien Species

1. The Parties recognise that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect the environment, economic activities and development, and human health. The Parties also recognise that the prevention, early detection, control and, when possible, eradication, of invasive alien

species are fundamental strategies for the prevention and mitigation of risks related to the introduction of these species and for the management of adverse impacts.

2. Accordingly, the Committee shall coordinate with the Subcommittee on Sanitary and Phytosanitary Measures established under Article 18 (Subcommittee on SPS matters) 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.

(CPTPP and Brazil-Chile FTA.)

Proposed provision 18:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article [X]

Sustainable Agriculture

1. The Parties recognize the increasing impact that global changes, such as climate change, biodiversity loss, land degradation, droughts and the emergence of new pests and diseases have on the development of productive sectors such as agriculture, livestock and the forestry sector.
2. The Parties recognize the importance of strengthening policies and developing programs that contribute to the development of more productive, sustainable, inclusive and resilient agricultural systems, including technical cooperation for increasing vertical productivity.
3. The Parties will share information and experiences in the development and implementation of integrated policies that promote the incorporation of the pillars of agricultural sustainable development. In this sense, the Parties will seek to improve agricultural productivity considering the protection and sustainable use of ecosystems and natural resources, including water, soil and air, biodiversity and ecosystem services, as well as reinforcing the social dimension, in addition to contributing to the adaptation and effective mitigation of the agricultural, forestry and food sectors to global changes.

(Brazil-Chile and Argentina-Chile FTAs.)

Proposed provision 19:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article [X]

Trade in Wild Fauna and Flora

1. The Parties affirm the importance of combating the illegal trade in wild fauna and flora and recognize that this trade undermines efforts to conserve and sustainably manage those natural resources.
2. The Parties, in accordance with their international obligations in MEAs and their legal system, undertake to:
 - (a) promote legally obtained wild fauna and flora trade, and
 - (b) exchange information and cooperate, as appropriate, in mutual initiatives interest that allow improving coordination, communication, training between authorities, in areas such as legal and sustainable trade, and that promote the conservation and the fight against poaching and trafficking of wild fauna and flora.

Brazil-Chile FTA.

Proposed provision 20:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 6

Trade and Climate Change

1.

~~1. The Parties shall also cooperate, as appropriate, on trade-related climate change issues bilaterally, regionally and in international fora, particularly in the UNFCCC. [The Parties shall work together to strengthen their cooperation on trade-related aspects of climate change policies and measures bilaterally, regionally and in international fora, as appropriate, including in the UNFCCC, the WTO, the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal on 26 August 1987 (the “Montreal Protocol”), the International Maritime Organisation (IMO) and the International Civil Aviation organization (ICAO). Such cooperation may cover inter alia:~~

- (a) policy dialogue and cooperation regarding the implementation of the Paris Agreement, such as on means to promote climate resilience, renewable energy, low-carbon technologies, energy efficiency, sustainable transport, sustainable and climate-resilient infrastructure development, emissions monitoring, international carbon markets;
- (b) supporting the development and adoption of ambitious and effective greenhouse gas emissions reduction measures by the IMO to be implemented by ships engaged in international trade;
- (c) supporting the development and adoption of ambitious and effective greenhouse gas emissions reduction measures by the ICAO;
- (d) supporting an ambitious phase-out of ozone depleting substances and phase-down of hydrofluorocarbons under the Montreal Protocol through measures to control their production, consumption and trade; the introduction of environmentally friendly alternatives to them; the updating of safety and other relevant standards as well as by combating the illegal trade of substances

regulated by the Montreal Protocol]

- (e) supporting the transition to a low-carbon economy, in order to promote a positive agenda of free trade of low-carbon products and technologies;
- (f) supporting alignment of policies in carbon-intensive sectors, especially those responsible for the largest portions of both exports and GHG emissions.

2. Pursuant to paragraph 1, each Party shall:

(a) effectively implement the UNFCCC, the Paris Agreement established thereunder and respective side agreements, as appropriate [of which one principal aim is strengthening the global response to climate change and holding increase in global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels.];

(b) consistent with article 2 of the Paris Agreement, promote the positive contribution of trade to a pathway towards low greenhouse gas emissions and climate-resilient development and to increasing the ability to adapt to the adverse impacts of climate change in a manner that does not threaten food production.

(c) to fulfil the obligations of article 4 of the Paris Agreement, enhance cooperation for the implementation of nationally determined contributions.

3. The Parties shall also cooperate, as appropriate, on trade-related climate change issues bilaterally, regionally and in international fora, particularly in the UNFCCC [, including the monitoring of NDCs through the Paris Agreement Transparency mechanism.]

(EU-UK TCA)

Proposed provision 21:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 2

Right to regulate and levels of protection

1. The Parties recognise the right of each Party to determine its sustainable development policies and priorities, to establish the levels of domestic environmental and labour protection it deems appropriate and to adopt or modify its law and policies. Such levels, law and policies shall be consistent with each Party's commitment to the international agreements and labour standards referred to in Articles 4 and 5.

2. Each Party shall strive to improve its relevant laws and policies so as to ensure high and effective levels of environmental and labour protection.

3. A Party should not weaken the levels of protection afforded in domestic environmental or labour law with the intention of encouraging trade or investment.

4. A Party shall not waive or derogate from, or offer to waive or derogate from, its environmental or labour laws in order to encourage trade or investment.
5. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its environmental or labour laws in order to encourage trade or investment.
6. A Party shall not apply environmental and labour laws in a manner that would constitute a disguised restriction on trade or an unjustifiable or arbitrary discrimination.
7. The Parties commit to not adopting or applying regional or national trade or investment-related legislation or other related administrative measures as the case may be in a way which has the effect of frustrating measures intended to benefit, protect or conserve the environment or natural resources or to protect public health.

Proposed provision 22:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article [X]

Public Information and Civil Society Dialogue Forum

1. Each Party shall encourage public debate with and among non-state actors as regards the development and definition of policies that may lead to the adoption of environmental law by its public authorities.
2. Each Party shall promote public awareness of its environmental law, as well as enforcement and compliance procedures, by ensuring the availability of information to stakeholders.
3. The Parties agree to organise and facilitate a bi-regional Civil Society Dialogue Forum for open dialogue, with a balanced representation of environmental, economic and social stakeholders. The Civil Society Dialogue Forum shall conduct dialogue encompassing sustainable development aspects of trade relations between the Parties, as well as how cooperation may contribute to achieve the objectives of this Title. The Civil Society Dialogue Forum will meet once a year, unless otherwise agreed by the Parties.
4. Unless the Parties agree otherwise, each meeting of the Board will include a session in which its members shall report on the implementation of this Title to the Civil Society Dialogue Forum. In turn, the Civil Society Dialogue Forum may express its views and opinions in order to promote dialogue on how to better achieve the objectives of this Title.

(EU-Central America Agreement and CETA.)

Proposed provision 23, 24, 25 and 26:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 13

Working together on trade and sustainable development

The Parties recognise the importance of working together in order to achieve the objectives of this Chapter. They may work together on inter alia:

- (a) labour and environmental aspects of trade and sustainable development in international fora, including in particular the WTO, the ILO, UNEP, UNCTAD, High-level Political Forum for Sustainable Development and multilateral environmental agreements (MEAs)
- (b) the impact of labour and environmental law and standards on trade and investment;
- (c) the impact of trade and investment law on labour and the environment;
- (d) voluntary sustainability assurance schemes such as fair and ethical trade schemes and eco-labels through the sharing of experience and information on such schemes;

as well as trade-related aspects of:

- (e) the implementation of fundamental, priority and other up-to-date ILO Conventions;
- (f) the ILO Decent Work Agenda, including on the inter-linkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue, skills development and gender equality;
- (g) the implementation of MEAs and support for each other's participation in such MEAs;
- (h) the dynamic international climate change regime under the UNFCCC, in particular the implementation of the Paris Agreement;

(e) trade-related aspects of the current and future international climate change regime, as well as domestic climate policies and programmes relating to mitigation and adaptation, including issues relating to carbon markets, ways to address adverse effects of trade on climate, as well as means to promote energy efficiency and a clean energy matrix, and the development and deployment of low-carbon and other climate-friendly technologies;

- (i) the Montreal Protocol and any amendments to it ratified by the Parties, in particular measures to control the production and consumption of and trade in Ozone Depleting Substances (ODS) and Hydrofluorocarbons (HFCs), and the promotion of environmentally friendly alternatives to them, and measures to address illegal trade of substances regulated by the Protocol;

- (j) corporate social responsibility, responsible business conduct, responsible management of global supply chains and accountability, including with regard to implementation, follow-up, and dissemination of relevant international instruments;
- (k) the sound management of chemicals and waste;
- (l) the conservation and sustainable use of biological diversity, and the fair and equitable sharing of the benefits arising from the utilization of genetic resources, including by appropriate access to such resources, as referred to in Article 7;
- (m) combatting wildlife trafficking, as referred to in Article 7;
- (n) the promotion of the conservation and sustainable management of forests with a view to reducing deforestation and illegal logging, as referred to in Article 8;
- (o) private and public initiatives contributing to the objective of halting deforestation, including those linking production and consumption through [\[vertical productivity and\]](#) supply chains, consistent with SDGs 12 and 15;
- (p) the promotion of sustainable fishing practices and trade in sustainably managed fish products, as referred to in Article 9;
- (q) sustainable consumption and production initiatives consistent with SDG 12, including, but not limited to, circular economy and other sustainable economic models aimed at increasing resource efficiency and reducing waste generation.

[\(r\) the conservation of biomes, such as the Amazon, considering its relevance to global climate and environment.](#)

[\(s\) In the light of the environmental challenges facing their respective regions, and in order to promote the development of international trade in such a way as to ensure sustainable and sound management of the environment, the Parties recognise the importance of establishing effective strategies and measures at the regional level. The Parties agree that in the absence of relevant environmental standards in national or regional legislation, they shall seek to adopt and implement the relevant international standards, guidelines or recommendations, where practical and appropriate.](#)

(EU-CARIFORUM)

Proposed provision 27:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 17

Panel of Experts

1. If, within 120 days of a request for consultations under Article 16 no mutually satisfactory resolution has been reached, a Party may request the establishment of a Panel of Experts to examine the matter. Any such request shall be made in writing to the contact point of the other Party established in accordance with Article 14.5 and shall identify the reasons for requesting the establishment of a Panel of Experts, including a description of the measure(s) at issue and indicating the relevant provision(s) of this Chapter that it considers applicable.

2. Except as otherwise provided for in this Article, the provisions set out in Articles 8 (Composition of arbitration panel), 9 (Hearings) and 10 (Information and technical advice) of Chapter 3 (Dispute Settlement Procedures), Articles 23 (Confidentiality) and 24 (Costs) of Chapter 4 (General Provisions) of Title VIII (Dispute Settlement), as well as the Rules of Procedure in Annex I and the Code of Conduct in Annex II to Title VIII (Dispute Settlement) shall apply.

3. The TSD Sub-Committee shall, at its first meeting after the entry into force of this Agreement, establish a list of at least 15 individuals who are willing and able to serve on the Panel of Experts. The list shall be composed of three sub-lists: one sub-list proposed by the EU, one sub-list proposed by MCS and one sub-list of individuals that are not nationals of either Party. Each Party shall propose at least five individuals for its sub-list. The Parties shall also select at least five individuals for the list of individuals that are not nationals of either Party. The TSD Sub-Committee shall ensure that the list is kept up to date and that the number of experts is maintained at least at 15 individuals.

4. The individuals referred to in paragraph 3 shall have specialised knowledge of, or expertise in issues addressed in this Chapter including labour, environmental or trade law, or in the resolution of disputes arising under international agreements. They shall be independent, serve in their individual capacities and shall not take instructions from any organisation or government with regard to issues related to the disagreement, or be affiliated with the government of any Party, and shall comply with Annex II (Code of Conduct) to Title VIII (Dispute Settlement).

5. A Panel of Experts shall be composed of three members, unless the Parties agree otherwise. The Chairperson shall be from the sub-list of individuals that are not nationals of either Party. A Panel of Experts shall be established according to the procedures set out in paragraphs 1 and 4 of Article 8 (Composition of arbitration panel) of Chapter 3 (Dispute Settlement Procedures) of Title VIII (Dispute Settlement). The experts shall be selected from the relevant individuals on the sub-lists referred to in paragraph 3 of this Article, in accordance with the relevant provisions of paras 2, 3 or 5 (Composition of arbitration panel) of Chapter 3 (Dispute Settlement Procedures) of Title VIII (Dispute Settlement).

6. Unless the Parties agree otherwise within seven days from the date of establishment of the Panel of Experts, as defined in paragraph 6 of Article 8 (Composition of arbitration panel) of Chapter 3 (Dispute Settlement Procedures), Title VIII (Dispute Settlement), the terms of reference shall be: "to examine, in the light of the relevant provisions of Chapter X [Trade and Sustainable Development] of the EU-MCS Association Agreement, the matter referred to in

the request for the establishment of the Panel of Experts, and to issue a report, in accordance with Article 17 of that Chapter, making recommendations for the resolution of the matter".

7. With regard to matters related to the respect of multilateral agreements referred to in this Chapter, the opinions of experts or information requested by the Panel of Experts in accordance with Article 10 (Information and Technical Advice) of Chapter 3 (Dispute Settlement Procedures) of Title VIII (Dispute Settlement) should include information and advice from the relevant ILO or MEA bodies. Any information obtained under this paragraph shall be provided to both Parties for their comments.

8. The Panel of Experts shall interpret the provisions of this Chapter in accordance with the customary rules of interpretation of public international law.

9. The Panel of Experts shall issue to the Parties an interim report within 90 days of the establishment of the Panel, and a final report no later than 60 days after issuing the interim report. These reports shall set out the findings of facts, the applicability of the relevant provisions and the basic rationale behind any findings and recommendations. Either of the involved Parties may submit written comments on the interim report to the Panel of Experts within 45 days of the date of issue of the interim report. After considering any such written comments, the Panel of Experts may modify the report and make any further examination it considers appropriate. Where it considers that the deadlines set in this paragraph cannot be met, the chairperson of the Panel of Experts shall notify the Parties in writing, stating the reasons for the delay and the date on which the panel plans to issue its interim or final report.

10. The Parties shall make the final report publicly available within 15 days of its submission by the Panel of Experts

11. ~~The Parties shall discuss appropriate measures to be implemented taking into account the report and recommendations of the Panel of Experts. [If the final report of the Panel of Experts determines that a Party has not conformed with its obligations under this Chapter, the Parties shall engage in discussions and shall endeavour, within three months of the delivery of the final report, to identify an appropriate measure or, if appropriate, to decide upon a mutually satisfactory action plan. In these discussions, the Parties shall take into account the final report.]~~ The Party complained against shall inform its... [civil society domestic advisory group] referred to in Article ... of Chapter ... and the other Party of its decisions on any actions or measures to be implemented no later than 90 days after the report has been made publicly available. The Sub-Committee on Trade and Sustainable Development shall monitor the follow-up to the report of the Panel of Experts and its recommendations. The ... [civil society domestic advisory groups set up under the Agreement] referred to in Article(s) ... of Chapter... may submit observations to the TSD Sub-Committee in this regard.

(CETA)

Proposed provision 28:

CHAPTER

TRADE AND SUSTAINABLE DEVELOPMENT

Article 15

Dispute Resolution

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the interpretation or application of this Chapter.
2. Any time period mentioned in Articles 16 and 17 may be extended by mutual agreement of the Parties.
3. All time periods established under this Chapter shall be counted in calendar days from the day following the act or fact to which they refer.
4. For the purpose of this Chapter, parties to a dispute under this chapter shall be as set out in Article 2 (Parties) of Chapter 1 (Objective and Scope) of Title VIII (Dispute Settlement).
5. ~~No Party shall have recourse to dispute settlement under Title VIII (Dispute Settlement) for any matter arising under this Chapter.~~ [If the consulting Parties have failed to resolve the matter under the framework proposed in this chapter, the requesting Party may recourse to dispute settlement under Title XXX Dispute Settlement.]

(CPTPP and USMCA)