



**MEMORANDUM**

**FOR :** **The Directors**  
Biodiversity Management Bureau  
Environmental Management Bureau  
Ecosystem Research Development Bureau  
Forest and Management Bureau  
Mines and Geosciences Bureau  
Legal Affairs Service  
Climate Change Service

**FROM :** **The OIC Director**  
Policy and Planning Service

**SUBJECT :** **VIRTUAL INTER- AGENCY MEETING RE: INDO-PACIFIC  
ECONOMIC FRAMEWORK (IPEF) ON 05 SEPTEMBER  
2023 AT 9:30 AM VIA ZOOM**

**DATE :** **29 AUG 2023**

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In preparation for the upcoming 5th negotiating round of the Indo-Pacific Economic Framework (IPEF) for Prosperity to be held in Bangkok, Thailand on 10-16 September 2023, we would like to invite you and/or your representative to an inter-agency meeting to be held virtually on **05 September 2023 (Tuesday) at 9:30 AM, via Zoom.**

The inter-agency meeting will seek to discuss the **Environment Chapter's** negotiating text with other concerned agencies such as the Department of Trade and Industry, Department of Energy, and Bureau of Fisheries and Aquatic Resources. This is to discuss the IPEF Partner's comments during the 4<sup>th</sup> round in Busan, South Korea, highlighting attributions, redlines, specific interests and the overall negotiating position of the Philippines.

Relatedly, we would also welcome your written attribution prior to the proposed meeting. In this regard, we would appreciate receiving an advance copy of your responses, send to [psddivision@gmail.com](mailto:psddivision@gmail.com) or [policy@denr.gov.ph](mailto:policy@denr.gov.ph), **on or before 01 September 2023**. Should you have further questions and clarifications, you may also contact us thru: 8925-1183.

Attached is the Notice of Meeting and the latest text on Pillar I- Environment Chapter, for your ready reference.

For your information and appropriate action.

  
**CHERYL LOISE T. LEAL**



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## INTER-AGENCY MEETING ON THE INDO-PACIFIC ECONOMIC FRAMEWORK (IPEF)

### NOTICE OF MEETING

**FOR/TO:** The Division Chief, Policy Studies Division  
The OIC Division Chief, Legal Research and Opinion Division  
The Division Chief, Climate Change Information and Technical Support  
Division  
Representative/s, Biodiversity Management Bureau  
Representative/s, Climate Change Service  
Representative/s, Ecosystems Research and Development Bureau  
Representative/s, Environmental Management Bureau  
Representative/s, Forest Management Bureau  
Representative/s, Legal Affairs Service  
Representative/s, Mines and Geosciences Bureau  
Representative/s, National Water Resource Board  
Representative/s, Policy and Planning Service

**FROM:** **The OIC Director,**  
Policy and Planning Service

**DATE/  
TIME:** **September 05, 2023 | 9:00 AM**

**VENUE:** **Via Zoom**  
Meeting ID: 469 574 5952

**AGENDA:**

1. Updates on Inter-agency meetings on IPEF;
2. Conduct of the 5<sup>th</sup> round of Negotiation Round in Thailand;
3. Presentation of Negotiating Text for Pillars 1- Environment in preparation for the conduct of the 5th In-Person Negotiating Meeting and Related Meetings for Pillars I-IV of the Indo-Pacific Economic Framework for Prosperity (IPEF) in Bangkok, Thailand; and
4. Other Matters

  
**CHERYL LOISE T. LEAL**

# **Indo-Pacific Economic Framework (IPEF) Trade Pillar Negotiations**

## **IPEF Negotiating Text on Environment**

For Bangkok Round

**Derived From:**

Classification Authorization of April 13, 2022, by Deputy United States Trade Representative Sarah Bianchi, per Executive Order 13526, Section 1.4(b); modified handling authorized under Section 4.1(h).

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**Declassification Date:**

Five years after an instrument enters into force or five years after the close of negotiations related to such instrument, which occurs later, unless a determination is made to declassify the information at an earlier date.

### **CHAPTER [X]**

#### **ENVIRONMENT**

**Preamble:**

*Recognizing* that a healthy and sound environment is essential for building inclusive, resilient, and strong national and regional economies among the Parties now and in the future;

*Recognizing*, in particular, that the sustainable management and continued availability of natural resources are foundational to the global economy and the global trading system;

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*Recognizing* that many current environment and climate-related challenges are] [AU: interrelated,] global in nature and require a collective response;

[NZ: **Alt:** *Recognizing* that the triple global crises of biodiversity loss, pollution, and climate change are interconnected, and require a collective response;]

[BN/FJ/ID/MY/PH/SG/TH/VN **propose;** AU/JP/KR/NZ/US **oppose:** *Recognizing* the importance of adhering to the principles [KR/JP **oppose:** of common but differentiated responsibilities and respective capabilities] in pursuing the ultimate objectives of the United Nations Framework Convention on Climate Change (UNFCCC) and [JP **oppose:** its] [JP: the] Paris Agreement adopted in 2015, [JP **oppose:** and other Multilateral Environmental Agreements,] in order to address environmental [MY: and climate change] challenges, [MY **oppose:** the urgent threat of climate change and the role of trade to this end.]]

[FJ/NZ: *Recognising* urgent action is necessary to [NZ: maintain a pathway to limit the global average temperature increase to 1.5\* above pre-industrial levels, while enhancing climate resilience and advancing the objective of the UNFCCC, goals of the Paris Agreement, and our respective goals to achieve net zero emissions.]

[BN/FJ/ID/MY/PH/SG/TH/VN: *Recognizing* the importance of enhancing the capacities of the Parties to address trade-related environmental issues, including through cooperation;]

[SG **oppose:** [AU/NZ **oppose:** *Noting*] [AU/NZ: *Recognizing*] that the environment plays an [NZ **oppose:** important] [NZ: essential] role in the economic, social, [NZ: spiritual,] and cultural well-being of [AU/NZ/PH: Indigenous Peoples] [ID/PH: and local communities] [AU/ID/NZ **oppose:** indigenous peoples], [AU/NZ **propose;** ID **oppose:** and the importance of protecting [JP **oppose:** indigenous rights [JP **oppose:** and interests]] [JP: rights of indigenous peoples] including in respect of the environment;] and *acknowledging* the importance of [NZ: engagement, consultation and partnerships with, and participation and leadership by,] [ID **oppose:** engaging with] [ID: public engagement and consultation] [AU/NZ/PH: Indigenous Peoples] [PH: and local communities] [AU/ID/NZ **oppose:** indigenous peoples] [AU/NZ: and their participation and leadership,] in the long-term [NZ: preservation, protection and enhancement] conservation of the environment;]

[FJ/ID **considering:** *Mindful* that trade and investment can contribute to environmental sustainability and support climate change objectives, [AU/NZ **propose;** ID/MY **oppose:** and contribute to halting and reversing biodiversity loss;] [ID **oppose:** and *further recognizing* that trade and investment measures [JP/SG/TH/US **oppose;** NZ **propose:** , and incentives including subsidies,] should not undermine environmental sustainability [AU **oppose:** and] actions to address climate change [AU/NZ: , and efforts to address biodiversity loss]]; [AU **oppose:** and]]

[FJ/PH/SG/TH: *Recognizing* that it is inappropriate to establish or use their environmental laws or other measures in a manner which would constitute a disguised restriction on trade or investment between the Parties; and]

*Desiring* to enable a more sustainable and prosperous Indo-Pacific region through a robust set of commitments that will contribute to ensuring that trade and investment in the region supports environmental sustainability and progress on climate-related challenges [BN/ID/MY/TH: , taking into account the Parties' respective national priorities and circumstances]; [AU: and]

[AU: *Noting* that the Parties have [SG: their respective] [SG **oppose:** existing] environmental obligations under [SG: existing] [SG **oppose:** various] multilateral environmental agreements, desiring to draw upon these for the reasons set out above, and confirming that in the event of any inconsistency, the provisions of those existing multilateral environmental agreements shall prevail;]

[FJ: For the purposes of realizing a mutually beneficial outcome, recognizing different levels of economic development and capacity constraints, we are committed to considering flexibilities, where appropriate and working with partners on providing for technical assistance and capacity

building.]

the Parties hereby agree as follows:

### **Article X.1: Definitions**

For the purposes of this Chapter:

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

- (a) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;
  - (b) the control of environmentally hazardous or toxic chemicals, substances, materials, or wastes, and the dissemination of information related thereto; or
  - (c) **[ID/MY/PH: the conservation and sustainable use [JP oppose: of components] of biological diversity,]** the protection or conservation of wild flora or fauna,<sup>1</sup> including endangered species, their habitat, and specially protected natural areas,<sup>2</sup>
- [AU/FJ/NZ: (d) the protection, [ID/JP/MY: conservation] [ID/JP/MY oppose: preservation], and enhancement of [AU oppose: natural] water resources]**

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

**statute or regulation** means:

- (a) **[AU: for Australia, an Act of the Commonwealth Parliament, or a regulation made by the Governor-General in Council under delegated authority under an Act of the Commonwealth Parliament, that is enforceable at the central level of government;]**
- (b) **[BN: for Brunei, an Act, Order or a Regulation promulgated pursuant to the Constitution of Brunei Darussalam, enforceable by the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam.]**
- (c) **[JP: for Japan, a Law of the Diet, a Cabinet Order, or a Ministerial Ordinance and other Orders established pursuant to a Law of the Diet, that is enforceable by action of the central level of government.]**
- (d) **[KR: for Korea, an act of the National Assembly or a regulation promulgated pursuant to an act of the National Assembly that is enforceable by action of the central level of government]**
- (e) **[NZ: for New Zealand, an Act of the Parliament of New Zealand or a regulation made under an Act of the Parliament of New Zealand by the Governor-General in Council, which is enforceable by action of the central level of government;]**

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

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

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- (f) [SG: for Singapore, an Act of the Parliament of Singapore, or a Regulation promulgated pursuant to an Act of the Parliament of Singapore, which is enforceable by action of the Government of Singapore;]
- (g) for the United States, an Act of Congress or regulation promulgated pursuant to an Act of Congress that is enforceable by action of the central level of government.

**clean energy** refers to any energy source that generates energy resulting in low or no greenhouse gas emissions [ID oppose: and] [ID: or solutions that save] energy [ID oppose: saved] through efficiency [ID: or conservation] measures consistent with achieving net zero emissions and our shared climate goals. [KR/ID oppose: Clean energy may include, for example, wind, solar, hydro, geothermal, or nuclear energy; [SG: renewable] [SG oppose: sustainable] bioenergy; fossil energy with carbon capture, utilization, and storage (CCUS); carbon dioxide removal; [SG: as well as batteries and] [SG oppose: or] hydrogen energy [SG: (including derivatives such as ammonia [JP: and recycled carbon fuels and gas])] derived from the foregoing sources, or from gas pyrolysis.]

[US Alt: Pillar III “bridging proposal” - “clean energy includes any energy source that generates energy resulting in low- or zero-greenhouse gas emissions or solutions that save energy through efficiency and conservation, consistent with achieving net-zero emissions and the Parties’ shared climate goals.”]

**Article X.2: [AU/BN/FJ/SG/US oppose; ID propose: Rights to Regulate and] Levels of Protection**

1. The Parties recognize the sovereign right of each Party to establish its own levels of domestic environmental protection and its own environmental priorities and to [ID oppose: establish,] adopt, or modify its [AU/BN/FJ/KR/NZ/PH/SG/TH/US oppose; ID propose: relevant] environmental laws and policies accordingly [AU/BN/FJ/KR/MY/NZ/PH/SG/TH/US oppose; ID propose: consistent with internationally recognized standards and agreements, to which it is a Party].
2. Each Party shall strive to ensure that its environmental laws and policies provide for, and encourage, high levels of environmental protection and shall strive to continue to improve its respective levels of environmental protection.

**Article X.3: Enforcement of Environmental Laws**

1. [ID: Each] [ID oppose: No] Party shall [ID oppose: fail to] [PH oppose: effectively] enforce its environmental laws [ID: , regulations and standards] [SG: through a sustained or recurring course of action or inaction] [ID oppose: in a manner affecting trade or investment between the Parties<sup>3</sup>, [AU/BN/FJ/JP/KR/MY/SG/TH oppose: <sup>4</sup>] after the date of entry into force of this Agreement.<sup>5</sup>]

[ID: 2bis. A Party shall not apply environmental law and policy in a manner that would constitute a disguised restriction on trade or unjustifiable discrimination between the Parties.]

2. The Parties recognize that each Party retains the right to exercise discretion and to make decisions regarding [ID oppose: : (a)] investigatory, prosecutorial, regulatory, and compliance

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[ID oppose: <sup>3</sup> For greater certainty, a Party’s failure to “effectively enforce its environmental laws” is “in a manner affecting trade or investment between the Parties” if the failure involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.]

[AU/BN/FJ/JP/KR/MY/SG/TH oppose: <sup>4</sup> A failure is presumed to be in a manner affecting trade or investment between the Parties, unless demonstrated otherwise.]

[ID/SG oppose: <sup>5</sup> An isolated or unsustained case does not constitute a failure to effectively enforce a Party’s environmental laws under this paragraph.]

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matters [ID oppose: ; and (b) the allocation of environmental enforcement resources with respect to other environmental laws determined to have higher priorities. Accordingly, the Parties understand that, with respect to the enforcement of environmental laws, a Party is in compliance with paragraph 1 if [NZ oppose: an] [NZ/SG: course of] action or inaction reflects a reasonable exercise of that discretion or results from a *bona fide* decision regarding the allocation of those resources in accordance with priorities for enforcement of its environmental laws].

3. Without prejudice to Article X.2 (Levels of Protection), the Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective environmental laws. Accordingly, a Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its environmental laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties.

[SG/NZ/TH: 4. No Party shall establish or use its environmental laws or other environmental measures in a manner that would constitute a disguised restriction on trade or investment between the Parties.]

4. [NZ: 6] Nothing in this Chapter shall be construed to empower a Party's authorities to undertake environmental law enforcement activities in the territory of another Party.

#### **Article X.4: Procedural Matters**

1. Each Party shall ensure that an interested person [JP oppose/ID propose: within its respective national jurisdiction] [BN/JP/KR/MY/NZ/PH/SG/TH/VN: residing or established in its territory] may request that the Party's competent authorities investigate alleged violations of its environmental laws, and that the competent authorities give those requests due consideration, in accordance with its law.

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

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

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

[ID oppose: 5. [BN/FJ/SG/TH: In accordance with its law], each] [SG oppose: Each] Party shall provide [SG: , as appropriate,] that final decisions on the merits of the case in these proceedings are:

- (a) in writing and if appropriate state the reasons on which the decisions are based;
- (b) made available without undue delay to the parties to the proceedings and [SG oppose: , in accordance with its law, to the public]; and
- (c) based on information or evidence presented by the parties or other sources [SG oppose: , in accordance with its law].]

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**[ID oppose: 6.**       **[FJ/PH/SG/TH: In accordance with its law, each] [FJ/PH/SG/TH oppose: Each]** Party shall also provide, as appropriate, that parties to these proceedings have the right **[FJ/PH/SG/TH oppose: , in accordance with its law,]** to seek review and, if warranted, correction or redetermination, of final decisions in such proceedings.]

**[ID oppose: 7.**       Each Party shall provide appropriate sanctions or remedies for violations of its environmental laws and shall ensure that it takes **[JP/SG: appropriate]** account of relevant factors when establishing sanctions or remedies, which may include the nature and gravity of the violation, damage to the environment, and any economic benefit derived by the violator.]  
**[BN/SG: Those sanctions or remedies may include a right to bring an action directly against the violator to seek damages or injunctive relief, or a right to seek governmental action.]**

#### **Article X.5: Public Information and Participation**

1.       Each Party shall promote public awareness of its environmental laws and policies, including enforcement and compliance procedures, by ensuring that relevant information is available to the public.
2.       Each Party shall **[ID oppose: provide for the receipt and consideration of written questions or comments from persons of that Party] [ID: inform the public]** regarding its implementation of **[ID oppose: this Chapter] [ID: obligations under its national environmental laws as well as multilateral agreements to which it is a Party].** Each Party shall **[ID/BN/MY/PH/SG/TH: , in accordance with domestic procedures,]** respond **[ID oppose: in a timely manner]** to **[ID oppose: these]** questions or comments **[ID: regarding implementation of such obligations] [ID oppose: in writing] [BN/MY/PH/SG/TH oppose: and in accordance with [ID: its] domestic procedures] [ID oppose: and make the questions or comments and the responses available to the public, for example by posting on an appropriate public website].**
3.       Each Party **[ID oppose: shall] [ID: may]** make use of existing, or establish new, consultative mechanisms **[ID oppose: , for example national advisory committees,]** to **[ID oppose: seek] [ID: exchange]** views on matters related to the implementation of this Chapter. These mechanisms may include persons with relevant experience, as appropriate, including experience in business, natural resource conservation and management, or other environmental matters **[NZ: and representatives of Indigenous Peoples which they determine have appropriate knowledge and experience of the relevant trade and environmental issues concerning the implementation of this chapter].**

#### **Article X.6: Environmental Impact Assessment**

1.       Each Party shall maintain appropriate procedures for assessing the environmental impacts of proposed projects **[AU/US propose; KR oppose: that are subject to an action by that Party's central level of government]** that may cause significant **[ID oppose: effects] [ID: impacts]** on the environment **[AU: in accordance with each Party's own levels of domestic environmental protection]** with a view to avoiding, minimizing, or mitigating adverse effects.

**[ID oppose: 2.**       Each Party shall ensure that **[SG/TH: in accordance with its law,]** such procedures provide for the timely and accessible disclosure of information to the public and **[SG/TH oppose: , in accordance with its law,]** allow for public participation.]



**Article X.7: Multilateral Environmental Agreements [AU oppose:<sup>6</sup>][AU/JP/KR/SG/TH oppose:<sup>7</sup>]**

1. [AU oppose: The Parties recognize the important role that multilateral environmental agreements can play in protecting the environment and as a response of the international community to global or regional environmental problems.] [ID: , as well as instruments to facilitate cooperation in addressing environmental challenges.] [NZ: , including reducing biodiversity loss and addressing climate change].

[SG/AU: The Parties recognize that multilateral environmental agreements to which they are party play an important role, globally and domestically, in protecting the environment and that their respective implementation of these agreements is critical to achieving the environmental objectives of these agreements. Accordingly, each Party re-affirms its commitment to implement the multilateral environmental agreements to which it is a party.]

2. [SG/AU oppose: Each Party affirms its commitment to implement the multilateral environmental agreements to which it is a party.] [ID: , based on its respective obligations and responsibilities under each Multilateral Environmental Agreement [KR/JP oppose: and principles of common but differentiated responsibilities and respective capabilities].]

[SG/AU: The Parties emphasize the need to enhance the mutual supportiveness between trade and environmental law and policies, through dialogue between the Parties on trade and environmental issues of mutual interest, particularly with respect to the negotiation and implementation of relevant multilateral environmental agreements and trade agreements.]

3. The Parties [KR/MY oppose: commit to] [KR: will seek to] [MY: are encouraged to] consult and cooperate as appropriate with respect to environmental issues of mutual interest, in particular trade-related issues, pertaining to relevant multilateral environmental agreements. [ID oppose: This [SG: may] include exchanging information on the implementation of multilateral environmental agreements to which a Party is party; [NZ: exchanging information on] ongoing negotiations of new multilateral environmental agreements; and, [NZ: exchanging] each Party's respective views on becoming a party to additional multilateral environmental agreements.]

4. [AU/NZ/SG oppose: Each Party shall adopt, maintain, and implement laws, regulations, [ID: obligations,] and all other measures [ID: of multilateral environmental agreements to which it is a Party.] [ID oppose: necessary to fulfill its respective obligations under the following multilateral environmental agreements (“covered agreements”):<sup>8</sup>

(a) the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended;

(b) the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as adjusted and amended; and

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<sup>6</sup> [AU/SG oppose: A violation of Article X.X.4 must be in a manner affecting trade or investment between the Parties. For greater certainty, a violation of this provision is “in a manner affecting trade or investment between the Parties” if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party. For greater certainty, a Party’s compliance with its respective obligations under a covered agreement shall only be subject to Article X.32 (Environment Consultations) under this Agreement if the complaining Party is a party to the relevant covered agreement.]

<sup>7</sup> [AU/JP/KR/SG/TH oppose: A violation of Article X.X.4 is presumed to be in a manner affecting trade or investment between the Parties, unless demonstrated otherwise.]

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

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(c) the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London, February 17, 1978, as amended.]]

5. [AU/ID/SG **oppose**: Pursuant to Article X.X [(Amendments)], the Parties may agree in writing to modify paragraph 4 to include any amendment to an agreement referred to therein, and any other environmental or conservation agreement.]

[ID/SG: 5bis. Nothing in this Agreement shall prevent Parties from adopting or maintaining measures to implement the multilateral environmental agreements to which they are party provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties or a disguised restriction on trade.]

**Article X.8: [AU/ID **oppose**: Climate and Trade] [AU/FJ/NZ: Climate, Trade, and Investment] [ID: Trade and Climate]**

[KR/NZ **oppose**: 1. The Parties [ID: affirm their commitment to pursue sustainable developments which encompasses three dimensions:] [ID **oppose**: recognize that the] economic, social, and environmental dimensions [ID **oppose**: of sustainable development] [ID: which] are interdependent and mutually reinforcing, [ID: . The Parties recognize] [ID **oppose**: and] that as such trade [AU/FJ/NZ: and investment are] [AU/FJ **oppose**: is] [ID **oppose**: inherently] linked to sustainable development [ID **oppose**: . The Parties also recognize] [ID: , ] that trade [AU/FJ/NZ: and investment] can [ID: contribute to the objectives of sustainable development] [ID **oppose**: advance sustainable development while supporting environmental and [SG **oppose**: social] objectives] , and that [AU/FJ **oppose**: trade] [AU/FJ: relevant] policies should complement [AU/FJ: and further] climate objectives.]

[BN/KR: 1. The Parties recognize trade and [NZ: investment and] climate change are inherently linked, and that as such trade can support climate objectives. The Parties also recognize that trade [NZ: and investment] policies should [BN: complement] [KR: support] [NZ: drive] climate action.]

[NZ ALT (para 1, KR para 1, NZ paras 2 & 4): The Parties recognize the importance of taking urgent action to combat climate change and its impacts and affirm their commitments under the Paris Agreement, including to take action to reduce greenhouse gas emissions with the aim of strengthening the global response to climate change, pursuing efforts to limit the temperature increase to 1.5\* C above pre-industrial levels. To this end, the Parties also recognize trade and investment and climate change are inherently linked [NZ: . As such] trade and investment policies should support climate objectives [NZ: and climate policies should not unjustifiably restrict trade].]

[TH: 1bis. The Parties further recognize the importance of promoting a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change, and that measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.]

[MY **oppose**: 3. The Parties commit to cooperate on advancing climate [AU/NZ: , trade, and investment] objectives, which may include sharing their experiences and best practices [AU/NZ **propose**; ID **oppose**: to develop interoperable] [AU/NZ **oppose**: in developing] methodologies for assessing carbon intensity of traded goods, developing natural capital accounts, [AU/NZ/PH: delivering nature-based solutions,] [ID: and ecosystem-based approaches, ] and assessing equivalency of various approaches to decarbonization.] [BN/ID/NZ/PH: , promoting domestic and international carbon markets [NZ **oppose**: , and promoting energy efficiency,] including through capacity building cooperation and technology transfer.]

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[AU/NZ propose; ID/TH oppose: 5. The Parties recognize the need to make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development, and that trade and investment disciplines can play a significant role in achieving this objective.]

[NZ propose; JP/KR/TH/US oppose: 6. The parties recognise that global action is required to reduce agricultural greenhouse gas emissions while meeting global food security needs, and that this requires further action to promote sustainable and efficient agricultural production, while reducing protection and distortion in global agriculture production and markets.]

[NZ: 7. Accordingly, the Parties commit to:

- (a) promote the mutual supportiveness of trade, investment, and climate policies and measures thereby contributing to the transition to a low greenhouse gas emission, resource-efficient and circular economy and to climate-resilient development;
- (b) establish policies and regulatory frameworks that facilitate [NZ: trade and investment including] access to, and the [NZ: production,] adoption and deployment of, goods and services that advance climate objectives, including those goods and services that improve energy efficiency, [NZ: avoid,] reduce or remove greenhouse gas emissions;
- (c) Cooperating on advancing climate objectives, which may include sharing their experiences and best practices in developing shared, science and evidence-based methodologies for assessing [NZ: the emission] intensity of traded goods, developing natural capital accounts, and assessing equivalency of various approaches to decarbonization.
- (d) Promoting carbon pricing [NZ: including carbon markets] as [BN/JP oppose: an] [BN/JP: one of] effective policy tool [BN/JP: s] for reducing greenhouse gas emissions efficiently, and promote environmental integrity in the development of international carbon markets.]
- (e) [NZ: Effectively implement the Paris Agreement]

2. [ID/JP oppose: Recalling the Paris Agreement<sup>9</sup>,] [ID: Recognising the importance of adhering to the principles and pursuing the ultimate objectives of the United Nations Framework Convention on Climate Change (UNFCCC) and [JP oppose: its] [JP: the] Paris Agreement adopted in 2015 and of the Montreal Protocol on Substances that Deplete the Ozone Layer,] [ID/JP: T]he Parties commit to [ID: effectively implement the UNFCCC and the Paris Agreement and address the urgent threat of climate change and the role of trade to this end.] [ID oppose: establishing policies and regulatory frameworks that facilitate] [ID: 2bis. In achieving climate objectives, the Parties commit to pursue the mutual supportiveness of trade and climate policies and establish climate-relevant domestic policy frameworks, which may include (i) enhancing climate resilience, (ii) increasing energy efficiency, (iii) facilitating] access to, and the adoption and deployment of, goods and services that advance climate objectives [ID oppose: , including those goods and services that improve energy efficiency, reduce or remove greenhouse gas emissions [JP oppose: in line with keeping within reach a limit to warming of 1.5 degrees Celsius], have a positive effect on air quality, water, soil and natural resource conservation, or advance climate adaptation and resiliency].

## **Article X.9: Clean Energy and Clean Technologies**

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[ID/JP oppose: <sup>9</sup> Paris Agreement Under the United Nations Framework Convention on Climate Change, done at Paris, December 12, 2015.][JP: Paris Agreement, done at Paris, December 12, 2015]

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1. The Parties recognize the need to establish policies and regulatory frameworks that [US: incentivize] [ID/SG/TH: encourage] [NZ propose; ID oppose: rapid] [ID/NZ oppose: and increase the] development and use of clean energy, including by facilitating investments in, and expediting adoption and deployment of, [ID/PH: affordable] clean energy technologies [ID/NZ oppose: and sources].

2. The Parties commit to cooperate on clean energy and clean technologies, which may include sharing their experiences and best practices in the development and deployment of incentives for clean energy [ID: which shall not distort trade], the development of smart grids, [AU/NZ: long-term emissions reduction strategies and low-emissions pathways,] [SG: , information exchange on technical regulations, collaboration on standards development and adoption of [SG: internationally recognized][AU: international] standards, as well as mutual recognition of conformity assessment procedures, including for cross-border electricity interconnections in line with Article 3 of the IPEF Clean Economy Pillar III,] and other [NZ oppose: national] measures to accelerate deployment and adoption of clean energy technologies.

[NZ propose; KR oppose: 3. The Parties recognise the need to [NZ: accelerate the phase out of fossil fuels] [ID/AU/JP/PH oppose: eliminate the use of fossil fuels] [SG oppose: eliminate] [ID oppose / SG propose: phase out the use of fossil fuels] [ID oppose / AU/JP propose: accelerate the phase out of unabated fossil fuels] and to support a rapid global transition to renewable and clean energy.

[NZ propose; KR/JP/SG oppose: 4. The Parties further recognise that fossil fuel subsidies can distort trade and investment, disadvantage renewable and clean energy, encourage wasteful consumption, and contribute significantly to global greenhouse gas emissions.]

[NZ propose; KR/SG oppose: 5. In light of paragraph 2 and 3, the Parties share a goal of reforming and progressively reducing [NZ: towards the elimination of] [JP oppose: harmful] [JP propose/NZ: inefficient] fossil fuel subsidies and reaffirm their commitment to work to meet this objective in accordance with national circumstances, including taking into account the specific needs of populations affected.]

[NZ propose; KR/SG oppose: 6. Accordingly, each Party shall [NZ: take concrete steps to phase out and eventually eliminate [NZ/JP propose: inefficient] fossil fuel subsidies. Parties shall determine a clear timeline and make only limited exceptions in support of legitimate public policy objectives. Parties shall cooperate bilaterally and in relevant international fora on fossil fuel subsidy reform, including by encouraging transparency of policies and by sharing best practice approaches to policy reform.]

#### **Article X.10: Environmental Goods and Services**

1. The Parties recognize the importance of [FJ/NZ propose; ID oppose: actions to facilitate] trade and investment in environmental goods and services, [FJ/NZ propose; ID oppose: both among the Parties and globally,] [ID/MY oppose: including clean technologies,] as a means of improving environmental and economic performance, [ID oppose: contributing to green growth and jobs,] and encouraging sustainable development, while addressing global environmental challenges.

[KR oppose: 2. Accordingly, the Parties shall [TH propose; NZ oppose: strive to] facilitate and promote trade and investment in environmental goods and services.] [FJ/ID/PH propose; US oppose: , increase the capacity of developing countries to produce environmental goods and services and enable their greater participation in global value chains.] [AU/NZ/SG propose; ID/MY/PH/TH/US oppose: To this end, Parties have identified a list of environmental goods and services under Annex XX-C that can support the transition to sustainable economic growth, promote and facilitate trade and investment flows, and assist in identifying and addressing barriers to these goods and services.]

[KR: 2. The Parties shall strive to facilitate and promote trade and investment in environmental goods and services, including through addressing related non-tariff barriers.]

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[NZ/SG propose; ID/US oppose: X. Parties shall cooperate to enable and improve the Parties' access to environmental goods and services by aligning and cooperating on standards, technical regulations and conformity assessment procedures, with the aim of enhancing compatibility, interoperability and reliability in these areas, as well as reducing barriers to trade.]

[NZ/SG propose; ID/US oppose: 3. Further, the Parties acknowledge the important role of the tariff commitments made by APEC economies through that forum in advancing trade in environmental goods in the Region, and the importance of continuing to act collectively through APEC and other relevant international fora to advance trade in environmental goods and services.]

[KR oppose: 3. [ID/JP oppose: The Environment Committee established under Article X.30 (Environment Committee and Contact Points) shall consider issues identified by a Party related to trade in environmental goods and services, including issues identified as potential non-tariff barriers to that trade.] The Parties shall endeavor to address any potential barriers to trade in environmental goods and services that may be identified by a Party, [JP: through a mechanism of this Agreement as appropriate, and in conjunction with the relevant WTO mechanism] [JP oppose: including by working through the Environment Committee and in conjunction with [ID propose; JP oppose: the Technical Barriers to Trade Agreement of the WTO and] other relevant committees established under this Agreement, as appropriate].]

4. The Parties shall cooperate in international fora [AU/JP/NZ/SG: , including in APEC and the WTO,] on ways to further facilitate global trade in environmental goods and services [ID: with a balanced approach that considers the mutual benefits of all Parties and takes into account Parties' different stages of development, priorities, and approaches to addressing environmental challenges.] [ID oppose: and] [ID: Parties] may develop cooperative projects on environmental goods and services to address current and future global environmental challenges. Such projects may include identification of environmental goods through their production, life cycle, and intended use [NZ/SG propose; ID oppose: , as well as consideration of relevant multilateral or plurilateral developments, and other environmental and climate factors].

#### **Article X.11: More Resource Efficient and Circular Economies**

1. The Parties recognize that more resource efficient and circular economies improve resource security [JP: , enhance resilience and autonomy of our economies] and reduce [NZ oppose: potential] [ID oppose: adverse climate and] environmental impacts of certain materials, goods, and production processes.

2. The Parties further recognize the key role that trade can play in facilitating more circular economies, including trade in remanufactured goods, second-hand goods, end-of-life products, recyclable and secondary materials [NZ propose; ID/TH/US oppose: and waste], and [NZ propose; ID/US oppose: trade in] related services.

3. The Parties also recognize that policy objectives that promote [NZ propose; ID/JP oppose: and facilitate the transition to a] more resource efficient and circular economies include, but are not limited to: [NZ propose; ID/JP oppose: product stewardship, right to repair,] [JP propose; ID oppose: enhancing the design of products for reuse and other value retention processes,] [AU/ID/SG: extended producer responsibility,] extending product lifetimes, increasing the proportion of materials and products that are reused and recycled, [NZ propose; ID/JP oppose: waste management and recycling capabilities at the export destination,] [JP: environmentally-sound management of waste and enhancing recycling capabilities with strengthened regulatory frameworks] [SG propose; ID/TH/US oppose: , facilitating waste exchange and movement of waste for recycling] and reducing waste throughout supply chains [AU propose; ID oppose: , particularly through product design.].

4. The Parties acknowledge that a transition to more resource efficient and circular economies has the potential to widen economic gaps [ID/TH: among and within countries] and disproportionately impact [AU: some segments of society] [AU oppose: traditionally underserved communities within each Party's respective territory], and that it is important to

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[AU: manage] [AU **oppose**: consider] such risks when pursuing relevant policy objectives [SG: , which should be tailored to each Party's needs and contexts].

5. Accordingly, the Parties shall cooperate to address matters of mutual interest to promote and facilitate more resource efficient and circular economies. Areas of cooperation may include:

(a) addressing trade barriers that inhibit more circular economies;

[SG **propose**; ID **oppose**: (b) enhancing compatibility interoperability and reliability through information exchanges on technical regulations, collaboration on standards development and adoption of [SG: internationally recognized] [AU: international] standards, and mutual recognition of conformity assessment procedures where appropriate;]

(b) incorporating circular economy approaches into the development and deployment of climate mitigation, resilience, and adaptation technologies;

(c) promoting trade facilitative approaches to enable reverse supply chains;

(d) supporting innovation that promotes more circular economies, including innovative approaches to [AU: waste prevention,] recycling and litter reduction, sustainable packaging, and alternative materials [ID/SG: that are economically viable and generate net environmental benefit];

[NZ: (e) encourage environmental performance standards, including eco-labelling, [SG: wherein such labelling should be based on [SG: internationally recognized] [AU: international] standards, and facilitate potential partnerships to create trusted certification schemes where appropriate, and] to make it easier for consumers to make more sustainable choices;]

[NZ: (f) endeavor to [NZ: avoid] [JP: minimize] the generation of waste, including [JP: from electronics] [JP **oppose**: electronic waste], by encouraging reuse, repair, and remanufacture [JP: where possible and increasing domestic and international environmentally-sound recycling of the end of life products] [JP **oppose**: as well as the recycling of waste where it does occur, and strive to reduce the amount of waste sent to landfill];]

(e) encouraging [AU: the designing of products to be more durable and easier to] [AU **oppose**: more resource efficient product design, including the designing of products to be easier to] reuse, dismantle, remanufacture, or recycle at end of life; [AU **oppose**: and]

[ID/TH: (f.bis1). helping access knowledge and technologies that make circular economy feasible; and]

[ID/TH: (f.bis2). upgrading capacity to meet standards that are developed to promote circular economy.]

[JP: (f) facilitating sustainable and environmentally-friendly manufacturing, recycling and other processes [ID **oppose**: through measuring circularity, sharing and utilizing the data on circularity along entire value chains as well as on comparable metrics; and]]

(f) exchanging information regarding approaches to [SG **oppose**: investing in, and financing of] [SG: supporting], circular economy-relevant projects.

[AU **propose**; ID **oppose**: (g) exploring the development and harmonization of standards, technical regulations, and conformity assessment procedures between parties, and rules that facilitate circular economy and resource efficiency; and]

[SG: (x) Undertaking cooperation between IPEF Partners, and in collaboration with businesses, through projects and initiatives to promote and facilitate [ID **oppose**: trade in] [ID: implementation of] the circular economy;]

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[AU/NZ: (h) promoting the [ID oppose: full, equal, and meaningful] participation and leadership of all persons, [ID oppose: particularly women, Indigenous Peoples, persons with disabilities, rural and remote populations, minorities, and local communities,] [ID: and groups,] as well as MSMEs, in the transition to more resource efficient and circular economies.]

[KR: (x) progressively increasing the use of recycled raw material, expanding green procurement, reducing single-use plastic, creating the environment that encourage consumers' green consumption, and promoting high-quality recycling.]

**[SG/US propose; BN/ID/JP/MY/TH oppose: Article X.XX: Remanufactured Goods**

[NZ: 1. For greater certainty, a remanufactured good means a good that:

- (a) is entirely or partially composed of recovered materials;
- (b) has a similar life expectancy and performs in a manner that is the same as or similar to such a good when new; and
- (c) has a [NZ oppose: factory] warranty similar to that applicable to such a good when new.]

2. No Party shall adopt or maintain any prohibition or restriction on the importation of any remanufactured good of the other Party or on the exportation or sale for export of any remanufactured good destined for the territory of another Party, except in accordance with Article XI of the GATT 1994 and its interpretative notes.

3. If a Party adopts or maintains measures prohibiting or restricting the importation of used goods, it shall not apply these measures to remanufactured goods.<sup>10]</sup>

[SG: FN10: Subject to its obligations under this Agreement and the WTO Agreement, a Party may require that remanufactured goods:

- (a) be identified as such for distribution or sale in its territory; and
- (b) meet all applicable technical requirements that apply to equivalent goods in new condition.]

**Article X.12: Marine Litter and Plastic Pollution**

1. The Parties recognize the importance of [AU/BN/FJ/NZ/US propose; ID/JP oppose: taking] [ID/JP: promoting effective and progressive] action to prevent [BN/FJ/NZ/SG/TH propose; ID oppose: plastic pollution and its related risks to human health and adverse effects on human well-being and the environment.] [ID propose; BN/SG oppose: and reduce marine litter and plastic pollution, including microplastics, [JP: at the local, regional and global levels, recognizing the important role played by plastics in society,] in order to [ID/JP oppose: protect] [ID/JP: prevent its risks to] human health and [JP: adverse effects on human well-being and] the environment.]

2. Recognizing the global [SG: and transboundary] nature of the challenge of marine litter and plastic pollution, each Party shall take measures to prevent and reduce marine litter and plastic pollution [SG: based on a comprehensive approach that addresses the full] [SG oppose: addressing the] life cycle of plastics, including, as appropriate, by supporting more circular approaches for plastics and relevant alternative materials, incentivizing innovation, and enabling reverse supply chains.

3. Recognizing that the Parties are taking action to address marine litter and plastic pollution in other fora, the Parties shall cooperate to address matters of mutual interest with respect to combatting marine litter and plastic pollution [AU: across the full life-cycle of plastics] [AU/SG: , and their connection to trade. This may include the exchange of information on how trade-related cooperation could help to support efforts to tackle marine litter and plastic pollution; and sharing experiences of approaches to move towards more circular resource efficient and environmentally

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sustainable plastics trade] [AU propose; SG oppose: , such as addressing land- and sea-based sources of plastic pollution, [ID: enhancing transparency, consent procedure and better regulation of transboundary trade of plastic waste,] promoting the [AU: sustainable production and consumption of plastics, circular economy approaches and the] development and maintenance of environmentally-sound waste management including recycling infrastructure, and advancing efforts related to addressing abandoned, lost, or otherwise discarded fishing gear] [AU: and other sources of plastic pollution].

**Article X.13: Digital Economy and Environmental Sustainability**

1. The Parties recognize that digital technologies and services have the potential to [NZ/SG oppose: dramatically] improve social, economic, and environmental objectives when developed and deployed in a manner that promotes environmental sustainability.

2. To [ID/MY/SG oppose: incentivize][ID/MY/NZ/SG: encourage] the development, adoption, and deployment of digital technologies and services [NZ: that promote environmental sustainability][NZ oppose: , and also maximize environmental benefits, while taking into consideration the needs of MSMEs, each] Party [NZ oppose: should][NZ: shall endeavor to]:

- (a) [KR/NZ oppose: take measures to] encourage digital technology and service providers to [NZ oppose: [KR oppose: prioritize] [KR: encourage/promote] the use of clean energy for their operations, particularly from zero- and low-carbon sources, and to encourage others in their supply chains to do the same][NZ: use clean energy and renewable energy];
- (b) [NZ oppose: promote] [NZ: encourage] trade and investment in digital technologies and services that incorporate environmental sustainability and circular economy approaches [NZ: and provide opportunities to reduce or mitigate adverse environmental effects][NZ/ID oppose: at scale, including technologies, goods and services that minimize waste from operations by restructuring production processes, resource allocation, and distribution systems, and by facilitating recovery of materials for reuse and recycling; and
- (c) [NZ oppose: ensure that national procedures for assessing the environmental impacts of proposed projects that are subject to [AU: assessment] [AU oppose: an action] by that Party's central level of government can also take into consideration opportunities to leverage digital technologies and services [AU oppose: that can minimize or mitigate adverse environmental effects].]

3. The Parties commit to cooperate to promote and facilitate trade in digital technologies and services that maximize environmental benefits, taking into account the needs of MSMEs [AU/NZ: , particularly those owned or led by women, Indigenous Peoples, persons with disabilities, rural and remote populations, minorities and local communities].

**Article X.14: [AU/NZ/TH/US propose; KR oppose: Responsible Business Conduct] [ID: or] [KR: Corporate Social Responsibility]**

1. The Parties recognize the importance of promoting responsible business conduct [BN/NZ: and [ID: or] corporate responsibility practices, [ID oppose: [SG: such as] [SG oppose: including supply chain management,] transparent disclosures of environmental sustainability considerations, and the role of trade in pursuing this objective to progressively reduce negative impacts on biodiversity, increase positive impacts, reduce biodiversity-related risks to business and financial institutions, and promote actions to ensure sustainable patterns of production]].

2. Each Party shall encourage enterprises organized or constituted under its laws, or operating in its territory, to adopt and implement [NZ: principles and] voluntary best practices of [BN/NZ/US: responsible business conduct and] corporate social responsibility that are related to environment, [ID oppose: such as those in internationally recognized standards and guidelines that have been endorsed or are supported by that Party, to strengthen coherence between



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economic and environmental objectives,] while seeking to avoid disproportionate burdens on MSMEs.

**Article X.15: Sustainable Finance**

1. The Parties recognize that their respective [ID **oppose:** decarbonization] [ID: climate and environmental] [BN/NZ: , climate resilience] [AU/NZ/US: , biodiversity, and environmental] objectives are critical to sustainable economic growth and that the effective [BN **oppose:** engagement] [BN: involvement] of the private sector is critical to achieving their climate [ID: and environmental] [AU/NZ/US: , biodiversity, and environmental sustainability] goals.

2. Each Party shall explore measures to support effective sustainable finance practices by enterprises organized or constituted under its laws, or operating in its territory. [AU **propose;** ID **oppose:** Each Party will explore opportunities to increase investment in [JP **propose:** climate-related and] nature-positive activities.]

[AU/SG **propose;** US **oppose:** 3. The Parties shall explore collaborative activities to promote [ID **oppose:** the following aspects of] sustainable finance [ID **oppose:** , including but not limited to:

(a) clear, consistent rules [JP **oppose:** and] [JP: or] policy guidance on green and transition finance, including the interoperability of approaches to green and transition finance to provide confidence and certainty to businesses and investors, and robust governance and regulatory frameworks, including on climate-related and nature-related financial disclosures;

(b) build confidence in the credibility of green and transition finance for [JP/TH **oppose:** both] decarbonization and nature-related objectives; and

(c) development of green and transition finance, including innovative financial instruments and the use of technology, to support the transition to net zero emissions and a nature-positive economy.]

[NZ: (d) measuring, disclosing and managing climate risk.]]

**Article X.16: Voluntary Mechanisms to Enhance Environmental Performance**

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

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

(a) the use [ID: and recognition] of flexible, voluntary mechanisms to protect the environment and natural resources [MY/SG **oppose:** , such as through the conservation and sustainable use of those resources,] in its territory]; and

(b) its relevant authorities, private sector, non-governmental organizations, and other interested persons involved in the development of criteria used to evaluate environmental performance, with respect to these voluntary mechanisms, to continue to develop and improve such criteria.

3. Further, if private sector entities or non-governmental organizations develop voluntary

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mechanisms for the promotion of products based on their environmental qualities, [AU: to highlight their environmental credentials,] each Party should encourage those entities and organizations to develop voluntary mechanisms that, among other things:

- (a) are truthful, are not misleading, and [AU: are built upon] [AU **oppose**: take into account] relevant scientific and technical information [AU: to prevent greenwashing];
  - (b) [SG: if applicable and available,] are based on relevant international standards, recommendations, guidelines, or best practices [SG **oppose**: , as appropriate];
  - (c) promote competition [AU **oppose**: and] innovation, [AU: and supply chain resilience,] taking into account the needs of MSMEs; [AU **oppose**: and]
  - (d) do not treat a product less favorably on the basis of origin [AU: ; and]
- [AU: (e) enable consumers and investors to make informed choices based on environmental sustainability objectives.]

### **Article X.17: Air Quality**

1. The Parties recognize that air pollution is a serious threat to public health, ecosystem integrity, and sustainable development and contributes to other environmental problems; and note that reducing certain air pollutants can provide multiple benefits [NZ **propose**/SG **oppose**: including reduce emissions of greenhouse gases and contribute to addressing climate change].

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

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

4. The Parties recognize the value of harmonizing air quality monitoring methodologies [JP: while respecting the situation in each country].

5. [KR **oppose**: The Parties recognize] [KR: Under the recognition of] the importance of international agreements and other efforts to improve air quality and control air pollutants, including those that have the potential for long-range transport, [KR: the Parties make efforts to support international collaborative activities.]

6. Recognizing that the Parties have made significant progress to address air pollution in other fora the Parties [JP **oppose**: shall] [JP: may] cooperate to address matters of mutual interest with respect to air quality. Cooperation may include exchanging information [KR **oppose**: and experiences] [KR: , experiences, professionals – through international joint research projects and capacity building programs –] in areas related to:

- (a) ambient air quality planning;
- (b) modeling and monitoring, including spatial distribution of main sources and their emissions;
- (c) measurement and inventory methodologies for air quality and emissions' measurements; and

(d) reduction, control, and prevention technologies and practices.

[KR: (e) utilization of satellite data to monitor and analyze long-range transboundary air pollutants.]

### **Article X.18: Protection of the Ozone Layer**

1. The Parties recognize that emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment. [NZ: The Parties further recognize that the continued consumption and emission of ozone depleting substances and hydrofluorocarbons can undermine efforts to address global environmental challenges including climate change.] Accordingly, each Party shall take measures to control the production and consumption of, and trade in, substances controlled by the Montreal Protocol, as amended.<sup>10, 11, 12, [AU/JP/KR/SG/TH oppose: <sup>13</sup></sup>

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

3. The Parties shall cooperate to address matters of mutual interest related to such substances. Cooperation may include, exchanging information and experiences in areas related to:

- (a) environmentally friendly alternatives to such substances;
- (b) refrigerant management practices, policies and programs [NZ: , including lifecycle management of coolants and refrigerants];
- (c) methodologies for stratospheric ozone measurements; [NZ oppose: and]
- (d) combatting illegal trade in such substances [NZ: , and;]

[NZ: (e) Emerging technologies for sustainable heat pumps, cooling, and refrigeration that use environmentally friendly refrigerants].

### **Article X.19: Conservation and Trade**

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<sup>10</sup> For greater certainty, this provision pertains to substances controlled by the *Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Montreal, September 16, 1987 (Montreal Protocol), and any existing and future amendments to the Montreal Protocol, including the *Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer*, done at Kigali on October 15, 2016 (the “Kigali Amendment”), to which the Parties are [AU: or become] parties. [AU: For further avoidance of doubt, this provision does not bind Parties who are not party to the Montreal Protocol to obligations set out in the Montreal Protocol or to amendments thereto to which it does not consent to be bound by the process under the Montreal Protocol.]

<sup>11</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex XX-A implementing its obligations under the Montreal Protocol or adopts any subsequent measure or measures that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>12</sup> [AU oppose: If compliance with this provision is not established pursuant to footnote 11,] [AU: A] violation of this provision must be in a manner affecting trade or investment between the Parties [AU: in order to attract the application of Article X.32]. For greater certainty, a violation of this provision is “in a manner affecting trade or investment between the Parties” if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

<sup>13</sup> [AU/JP/KR/SG/TH oppose: A violation of this provision is presumed to be in a manner affecting trade or investment between the Parties, unless demonstrated otherwise.]

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1. The Parties affirm the importance of combatting the illegal take<sup>14</sup> of, and illegal trade in, wild fauna and flora, and acknowledge that this trade undermines efforts to conserve and sustainably manage those natural resources, has social [NZ: and cultural] consequences, distorts legal trade in wild fauna and flora, and reduces the economic and environmental value of these natural resources.
2. The Parties commit to promote conservation and to combat the illegal take of, and illegal trade in, wild fauna and flora. To that end, the Parties shall:
  - (a) exchange information and experiences on issues of mutual interest related to combatting the illegal take of, and illegal trade in, wild fauna and flora, [AU/BN/US propose; ID oppose: including combatting illegal logging and associated illegal trade,] and [ID oppose: promoting] [ID: promote] the legal trade in associated products;
  - (b) undertake, as appropriate, joint activities on conservation issues of mutual interest, including through relevant regional and international fora; and
  - (c) [BN/MY/SG/TH/VN propose; NZ oppose: endeavor to] implement, as appropriate, CITES resolutions that aim to protect and conserve species whose survival is threatened by international trade.
3. Each Party further commits to:
  - (a) take appropriate measures to protect and conserve wild fauna and flora that it has identified to be at risk [NZ/US propose; MY/SG/TH oppose: internationally and] within its territory, [MY/SG/US propose; ID oppose: including measures to conserve the ecological integrity of specially protected natural areas, for example grasslands and wetlands] [NZ/US propose; MY/SG oppose: and other ecologically significant areas];
  - (b) maintain or strengthen government capacity and institutional frameworks to promote the conservation of wild fauna and flora, and endeavor to enhance public participation and transparency in these institutional frameworks; and
  - (c) endeavor to develop and strengthen cooperation and consultation with interested non-governmental entities [NZ: Indigenous Peoples] [AU/ID/NZ/US propose; MY/SG/VN oppose: and other [NZ: partners and] stakeholders] [AU/NZ/US propose; ID/SG/MY/VN oppose: , including through existing regional and international fora,] in order to enhance implementation of measures to combat the illegal take of, and illegal trade in, wild fauna and flora [ID: , in accordance with its law and policy].
4. In a further effort to address the illegal take of, and illegal trade in, wild fauna and flora, including parts [AU/MY/SG/US propose; PH oppose: and products] [PH propose; AU/MY/SG/US oppose: or derivatives] thereof, each Party shall [VN propose; NZ/US oppose: endeavor to continue taking] [NZ/US propose; VN oppose: take] measures to combat, and cooperate to prevent, the trade of wild fauna and flora that, based on credible evidence,<sup>15</sup> were

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<sup>14</sup> For the purposes of this Article, the term “take” means captured, killed, or collected and with respect to a plant, also means harvested, cut, logged or removed.

<sup>15</sup> For greater certainty, for the purposes of this paragraph, each Party retains the right to determine what constitutes “credible evidence”.

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taken or traded in violation of that Party's law or another applicable law,<sup>16</sup> the primary purpose of which is to conserve, protect, or manage wild fauna or flora. [SG: Such] [SG oppose: These] measures shall include sanctions, penalties, or other effective measures, including administrative measures, that can act as a deterrent to such trade. In addition, each Party shall endeavor [NZ/US propose; VN oppose: to take] [VN propose; NZ/US oppose: to continue taking] measures to combat the trade of wild fauna and flora transshipped through its territory that, based on credible evidence, were illegally taken or traded.

5. The Parties recognize that each Party retains the right to exercise administrative, investigatory, and enforcement discretion in its implementation of paragraph 4, including by taking into account in relation to each situation the strength of the available evidence and the seriousness of the suspected violation. In addition, the Parties recognize that in implementing paragraph 4, each Party retains the right to make decisions regarding the allocation of administrative, investigatory, and enforcement resources.

[MY/SG/TH oppose: 6. Further, each Party shall [KR propose; AU/US oppose: endeavor to]:

- (a) take measures to enhance the effectiveness of inspections of shipments containing wild fauna and flora, including parts [AU/MY/SG/US propose; PH oppose: and products] [PH propose; AU/MY/SG/US oppose: or derivatives] thereof, at ports of entry, such as improving targeting; and
- (b) [AU/US propose; JP/PH/VN oppose: treat] [JP/PH/VN propose; AU/US oppose: consider treating] intentional transnational trafficking of wildlife protected under its laws,<sup>17</sup> as a serious crime as defined in the *United Nations Convention against Transnational Organized Crime*.<sup>18</sup>

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

**[SG oppose: Article X.20: Sustainable Forest Management and Trade]**

1. The Parties acknowledge their role as major consumers, producers, and traders of forest products and [AU: recognize] [NZ: emphasize] the importance of a healthy forest sector to providing livelihoods and job opportunities, including for [AU/NZ/PH: Indigenous Peoples] [PH: and] [ID/PH: local communities] [AU/ID/NZ/PH oppose: indigenous peoples].

2. The Parties acknowledge the importance of:

- (a) the [AU oppose: conservation and] sustainable management of forests [ID propose; TH/US oppose: , including timber and timber products,] [NZ propose;

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<sup>16</sup> For greater certainty, "another applicable law" means a law of the jurisdiction where the take or trade occurred and is only relevant to the question of whether the wild fauna and flora has been taken or traded in violation of that law.

[AU/US propose; SG oppose: <sup>17</sup> For greater certainty, the term "wildlife" is understood to include all species of wild fauna and flora, including animals, timber, and marine species, and their related parts and products. Further, for purposes of this Article, the term "protected" means a CITES-listed species or a species that is listed under a Party's law as endangered, as threatened, or as being at risk within its territory.]

[AU/US propose; SG oppose: <sup>18</sup> The term "serious crime" is to be understood to have the same meaning as paragraph 2(b) of the *United Nations Convention on Transnational Organized Crime*, done at New York, on November 15, 2000.]

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**MY/TH/US oppose:** and the sustainable production of forest products] in order to provide environmental, economic, and social benefits for present and future generations [NZ propose; MY/TH oppose: including by reducing emissions of greenhouse gases which contribute to climate change and reducing biodiversity loss];

- (b) the critical role of forests [FJ/NZ propose; AU/MY/TH/US oppose: , and in particular [NZ: natural] forests,] in providing numerous ecosystem services, [ID oppose: including [NZ propose; TH oppose: sequestration of carbon dioxide] [TH propose; NZ oppose: carbon] storage, maintaining water quantity and quality, [AU: building disaster resilience,] stabilizing [AU oppose: soils] [AU: landscapes], [AU: supporting sustainable livelihoods,] and providing habitat for wild fauna and flora [AU oppose: ; and]].
- (c) combatting illegal logging [NZ propose; AU/BN/ID/JP/MY/SG/TH/US oppose: [NZ: global forest loss]] and associated trade.

[FJ/NZ propose; ID/MY oppose: (d) outcomes-focused, context appropriate, evidence and risk-based solutions to the conservation and sustainable management of forests, and the role of multilateral fora in promoting and establishing such solutions.]

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

4. Accordingly, each Party commits to:

- (a) maintain or strengthen government capacity and institutional frameworks to promote [NZ propose; AU/ID/TH/JP oppose: conservation of forests and] sustainable forest management; [AU/NZ oppose: and]
- (b) promote trade in legally harvested [ID: , in compliance with applicable laws of each Party] [NZ: and sustainably managed] forest products [AU: ; and]

[AU/BN/MY/NZ/US propose; SG oppose: (c) maintain and implement measures to combat illegal logging and associated trade.]

5. The Parties shall exchange information and cooperate, as appropriate, on initiatives to promote sustainable forest management, including initiatives designed to [AU propose; BN/ID/MY/TH/US oppose: support nature-based solutions to climate change and] [NZ propose; BN/ID/JP/MY/TH/US oppose: minimize [NZ: , global forest loss], forest conservation, the role of forests and wood-based products in climate change mitigation and the circular and bioeconomies, and to] combat illegal logging and associated trade.

#### **Article X.21: Trade and Biodiversity**

1. The Parties recognize the importance of conservation and sustainable use of biological diversity, as well as the ecosystem services it provides, and their key role in achieving [NZ propose; MY/SG/US oppose: human wellbeing, a healthy planet,] sustainable development [ID propose; MY/SG/US oppose: , consistent with the Convention on Biological Diversity (CBD), [TH oppose: Nagoya Protocol,] the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and other relevant international instruments to which they are party, and the decisions adopted thereunder].

[NZ: 4] 2. Accordingly, each Party shall promote and encourage the conservation and sustainable use of biological diversity, in accordance with its law or policy [NZ: and international obligations to which it is a Party to].

3. The Parties recognize the importance of respecting, preserving, and maintaining knowledge and practices of [AU/NZ/PH: Indigenous Peoples] [AU/NZ/PH **oppose:** indigenous peoples] and local communities embodying traditional lifestyles that contribute to the conservation and sustainable use of biological diversity [AU/NZ/PH: and of respecting their cultures and their rights over lands, territories, resources, and traditional knowledge].

4. The Parties recognize the importance of [AU/BN/ID/MY/NZ/PH/TH: ensuring the fair and equitable sharing of benefits arising out of the utilisation of genetic resources [PH **propose;** AU/JP **oppose:** and digital sequence information on genetic resources] and Parties] facilitating [NZ: ethical] access to genetic resources within their respective national jurisdictions, consistent with each Party's international obligations [AU/BN/NZ/PH: , ensuring traditional knowledge associated with genetic resources is appropriately protected]. The Parties further recognize that some Parties may require, through [NZ: through local Treaties, constitutional arrangements or other] national measures [ID/PH: or through multilateral and environmental treaties that they are Party to, including any multilateral benefits sharing mechanism], [NZ: free] prior informed consent [NZ: including of Indigenous Peoples] [ID: and local communities] to access such genetic resources and, if access is granted, the establishment of mutually agreed terms, including with respect to sharing of benefits from the use of such genetic resources [PH **propose;** AU/JP **oppose:** and digital sequence information on genetic resources], between users and providers.]

[ID **propose;** AU/JP/MY/US **oppose:** 4bis. The Parties affirm their obligations as Parties to the Convention on Biodiversity. Even if a Party has not ratified the Convention, that Party should respect, promote and realize in good faith the fundamental rules and principles of the Convention.]

[ID **propose;** AU/JP/MY/US **oppose:** 4bis2. the Parties recognize the sovereign rights of States over their natural resources and that the authority to determine access and benefit sharing arising from the utilization of genetic resources rests with their respective governments and is subject to their domestic laws.]

5. The Parties also recognize the importance of public participation and consultation, in accordance with their respective laws or policies, in the development and implementation of measures concerning the conservation and sustainable use of biological diversity. [AU/NZ **propose;** MY/SG **oppose:** Noting the important roles and contributions of Indigenous Peoples [ID: and local communities] as custodians of biodiversity and as partners in its conservation and sustainable use, this should include full, equitable, inclusive, effective, and gender-responsive representation and participation in decision-making by Indigenous Peoples [ID: and local communities].] Each Party shall make publicly available information about its programs and activities, including cooperative programs, related to the conservation and sustainable use of biological diversity.

6. The Parties shall cooperate to address matters of mutual interest. Cooperation may include [ID/MY/SG **propose;** US **oppose:** , in accordance with domestic laws and relevant multilateral environmental agreements,] exchanging information and experiences in areas related to:

- (a) the conservation and sustainable use of biological diversity;
- (b) mainstreaming conservation and sustainable use of biological diversity across relevant sectors [NZ: including best practice in reforming incentives, including subsidies, in its territory that are harmful for biodiversity];
- (c) the protection and maintenance of ecosystems and ecosystem services; and
- (d) access to genetic resources [ID **propose;** MY/SG/TH/US **oppose:** , [AU **oppose:** its] associated traditional knowledge] and the [ID/NZ/TH **propose;** MY/SG/US **oppose:** fair and equitable] sharing of benefits arising from their utilization [ID **propose;** AU/MY/SG/US **oppose:** , based on the principle of prior informed consent and mutually agreed terms [TH **oppose:** between providers and users of genetic resources].]

[**NZ propose; MY/SG oppose:** (e) identifying opportunities, consistent with their respective law and in accordance with applicable international agreements, to enhance law enforcement cooperation and information sharing.]

#### **Article X.22: Marine Wild Capture Fisheries<sup>19</sup>**

1. The Parties acknowledge their role as major consumers, producers, and traders of fisheries products and the importance of the marine fisheries sectors to their development and to the livelihoods of fishing communities, [**AU propose; MY oppose:** including those engaged in artisanal, small scale, and [**NZ/PH propose; ID/VN oppose:** indigenous] [**NZ/PH:** and] [**ID/PH/VN:** traditional] fisheries]. The Parties also recognize the [**AU/NZ propose; ID/VN oppose:** impacts on biodiversity and ecosystems associated with fisheries and the] need for individual and collective action within international fora to address the urgent resource problems [**TH:** including those] resulting from overfishing and unsustainable utilization of fisheries resources [**TH:** , natural disasters and climate change.] [**AU/NZ propose; ID/SG/VN oppose:** , as well as direct and indirect impacts on non-target species and habitats].

2. Accordingly, the Parties recognize the importance of taking measures [**NZ:** for] [**NZ oppose:** aimed at] the conservation and the sustainable management of fisheries [**NZ/US:** and associated ecosystems] and the contribution of those measures to providing environmental, economic, [**AU/NZ/US/VN propose; SG oppose:** and social] [**NZ:** and cultural] opportunities for present and future generations.

3. The Parties shall cooperate with, and in, Regional Fisheries Management Organizations (RFMOs) and Regional Fisheries Management Arrangements (RFMAs) [**SG:** to the extent] in which the Parties are members, observers, or cooperating non-contracting parties, with the aim of [**ID oppose:** achieving good governance,] [**AU/ID/VN:** conservation and sustainable management of fisheries,] including by advocating for [**AU/NZ/US propose; VN oppose:** precautionary ecosystem-based management approaches,] science-based decisions [**AU/NZ/US propose; VN oppose:** and effective monitoring] and compliance with those decisions in these organizations and arrangements.

#### **Article X.23: Sustainable Fisheries Management**

1. In furtherance of the objectives of conservation and sustainable management, each Party shall [**FJ/SG/TH/VN propose; AU/NZ oppose:** seek to] operate a fisheries management system that regulates marine wild capture fishing and that is designed to:

- (a) prevent overfishing and overcapacity [**US propose; ID/MY/VN oppose:** through appropriate measures, [**AU/SG oppose:** such as limited entry, time, area, and other restrictions and the setting and enforcement of catch or effort limits]];
- (b) reduce bycatch of non-target species and juveniles, [**KR:** through appropriate measures,] including [**K R o p p o s e:** through] the regulation [**AU:** and management] of, [**AU oppose:** and implementation of measures associated with,] fishing gear and methods that result in bycatch and the regulation of fishing in areas where bycatch is likely to occur;
- (c) promote the recovery of overfished stocks for all marine fisheries in which that Party's persons conduct fishing activities; and

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<sup>19</sup> For greater certainty, Article X.22 (Marine Wild Capture Fisheries), Article X.23 (Sustainable Fisheries Management), Article X.24 (Illegal, Unreported, and Unregulated (IUU) Fishing), Article X.25 (Conservation of Marine Species), and Article X.26 (Fisheries Subsidies) do not apply with respect to aquaculture.



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- (d) protect marine habitat [AU propose; ID/MY oppose: by cooperating, as appropriate, to prevent or mitigate significant adverse impacts from fishing] [AU/NZ: including lost and discarded fishing equipment].
2. Further, each Party shall adopt or maintain measures:
- (a) to prevent the use of poisons and explosives for the purpose of commercial fish harvesting; and
- (b) designed to [SG: include finning prohibitions] [SG oppose: prohibit the practice of shark finning] [JP propose; US oppose: in accordance with management measures adopted by RFMOs or RFMAs] [ID: and to improve control, monitoring, and surveillance of the practice of shark finning].
3. Each Party [TH oppose: shall] [TH: should] base its fisheries management system on [NZ propose; SG oppose: appropriately scaled systems and] the best scientific evidence available [NZ: , the precautionary approach, an ecosystem-based approach,] and on internationally recognized best practices for fisheries management and conservation, as reflected in the relevant provisions of international instruments aimed at ensuring the sustainable use and conservation of marine species.<sup>20</sup>

**Article X.24: Illegal, Unreported, and Unregulated (IUU) Fishing**

1. The Parties recognize the importance, as reflected in regional and international instruments, of concerted international action to address IUU fishing<sup>21</sup> and shall endeavor to improve cooperation internationally in this regard, including with and through competent international organizations.
2. In support of international efforts to combat IUU fishing and to help deter trade in products from IUU fishing, each Party shall:
- (a) implement port state measures, [ID/US propose; SG oppose: including through actions consistent with the Port State Measures Agreement];<sup>22</sup>
- (b) support monitoring, control, surveillance, compliance, and enforcement schemes, including by adopting, maintaining, reviewing, or revising, as appropriate, measures to:
- (i) deter vessels flying its flag and, to the extent provided for in each Party's [ID/JP oppose: law] [ID/JP: laws and regulations], its nationals from engaging in IUU fishing, and]

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<sup>20</sup> These instruments include, as they may apply, the *United Nations Convention on Law of the Sea* (UNCLOS), done at Montego Bay, December 10, 1982; the *United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*, done at New York, December 4, 1995 (UN Fish Stocks Agreement); the *FAO Code of Conduct for Responsible Fisheries*; the *1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas* (Compliance Agreement), done at Rome, November 24, 1993; the *2001 FAO International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing* (IUU IPOA), adopted at Rome, February 23, 2001; [JP oppose/MY propose: the *Kunming-Montreal Global Biodiversity Framework under the Convention on Biological Diversity*;] and the *2009 Agreement on Port State Measures to Prevent, Deter, and Eliminate IUU Fishing* (Port State Measures Agreement), done at Rome, November 22, 2009.

<sup>21</sup> Regional and international instruments include, among others, and as they may apply, the IUU IPOA, the *2005 Rome Declaration on IUU Fishing*, adopted at Rome, March 12, 2005, the Port State Measures Agreement, as well as instruments established and adopted by RFMOs and RFMAs, as appropriate, that have the competence to establish conservation and management measures.

<sup>22</sup> For greater certainty, this paragraph is without prejudice to a Party's status under the 2009 Port State Measures Agreement.

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- (ii) address the transshipment [SG: at sea] of fish [AU: or fish products] [AU **oppose:** caught through IUU fishing or fish products] [SG **oppose:** derived from IUU fishing] [AU: through implementing measures compatible with international best practice, such as the FAO's Voluntary Guidelines for Transshipment];
- (c) [SG **oppose:** maintain a vessel [JP **oppose:** documentation] [JP: registry] scheme and promote the use of International Maritime Organization numbers, or comparable unique vessel identifiers, as appropriate, for vessels operating outside of its national jurisdiction, in order to enhance transparency of fleets and traceability of fishing vessels;]
- (d) strive to act consistently with relevant conservation and management measures adopted by RFMOs or RFMAs of which it is not a party so as not to undermine those measures;
- (e) endeavor not to undermine catch or trade documentation schemes operated by RFMOs or RFMAs;
- [ID/MY/SG/VN **oppose:** (f) [AU **oppose:** develop and maintain publicly available and easily accessible registry data of fishing vessels flying its flag] [JP: and operating outside of its national jurisdiction]; promote efforts by non-Parties to develop and maintain publicly available and easily accessible registry data of such vessels flying its flag; and [AU: where possible,] support the [AU: FAO] Global Record of Fishing Vessels, Refrigerated Transport Vessels, and Supply Vessels; and]
- (g) cooperate with [AU **oppose:** the] other [AU: Parties] [AU **oppose:** Party] through the exchange of information and best practices to combat [AU: IUU fishing, including] trade in products derived from IUU fishing.

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

**Article X.25: Conservation of Marine Species**

1. Each Party shall promote the long-term conservation of sharks [NZ: , rays], sea turtles, seabirds, [AU **oppose:** and] marine mammals [AU: , and other protected<sup>23</sup> non-target species] [NZ: , and other species recognized as threatened in relevant international agreements to which each Party is a party] through the implementation and effective enforcement of conservation and management measures. Such [JP/SG: as] [JP **oppose:** measures shall include][SG: as appropriate]:

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

[AU FN23: For the purposes of this Chapter, the term ‘protected’ means those species identified as defined by the Party in its law.]

**[MY oppose: Article X.26: Fisheries Subsidies]**

**[ID/JP/KR/TH oppose: 1.** This Article applies to subsidies, within the meaning of Article 1.1 of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) that are specific within the meaning of Article 2 of that Agreement, to marine wild capture fishing and fishing related activities at sea.<sup>23, 24, 25</sup> ]

[TH: 1. The Parties recognize the importance of safeguarding ocean sustainability by prohibiting harmful fisheries subsidies which are a key factor in the depletion of the world’s fish stocks, and further recognize that improving the sustainability of fisheries is critical to the development of sustainable blue economy, especially to those whose livelihood depends on fishing.

2. The Parties intend to achieve the objectives set out in the 2030 Agenda for Sustainable Development regarding fisheries subsidies, including by implementing the WTO Agreement on Fisheries Subsidies and contributing to finalizing an agreement in the WTO that comprehensively fulfills the Sustainable Development Goals Target 14.6.]

**[ID/JP/KR/TH oppose: 2.** (a) Subject to subparagraph (b), the following provisions of the WTO Agreement on Fisheries Subsidies, set out in the Annex to the Protocol amending the Marrakesh Agreement Establishing the WTO attached to Ministerial Decision of 17 June 2022, WT/MIN(22)/W/22 (Fisheries Subsidies Agreement), are incorporated into and made part of this Agreement:

- (i) Article 2;
- (ii) Articles 3.1, 3.2<sup>26</sup>, 3.3(b)(i-iii), 3.4, 3.6, and 3.7;
- (iii) Articles 4.1, 4.2, and 4.3;
- (iv) Articles 5.1 and 5.3;
- (v) Articles 8.1<sup>27</sup>, 8.5, and 8.8; and
- (vi) Articles 11.1, 11.2(a), and 11.5.

(b) For purposes of the incorporation made in subparagraph (a), terms used in the Fisheries Subsidies Agreement shall be read as follows:

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[ID/JP/KR oppose: <sup>23</sup> For the purposes of this Article, a subsidy shall be attributable to the Party granting or maintaining it, regardless of the flag or registry of any vessel involved, the nationality of the recipient, or the application of rules of origin to the fish involved.]

[ID/JP/KR oppose: <sup>24</sup> For greater certainty, inland fisheries are excluded from the scope of this Article.]

[ID/JP/KR oppose: <sup>25</sup> For greater certainty, government-to-government payments under fisheries access agreements shall not be deemed to be subsidies within the meaning of this Agreement.]

[ID/JP/KR oppose: <sup>26</sup> For purposes of this Article, an affirmative determination under Article 3.2 of the Fisheries Subsidies Agreement refers to the final finding by a coastal State or flag State, the final listing by an RFMO/A that a vessel or operator has engaged in IUU fishing, or both.]

[ID/JP/KR oppose: <sup>27</sup> For purposes of this Article, when notifying information about shared stocks under Fisheries Subsidies Agreement Article 8.1(b)(i), Parties shall, to the extent possible, provide information on whether stocks are shared with any other coastal State.]

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- (i) Except as otherwise provided in this subparagraph, “Member” shall be read as “Party”,
  - (ii) “coastal Member” and “coastal non-Member” shall be read as “coastal State”,
  - (iii) “flag State Member” shall be “flag State”, and
  - (iv) “port State Member” shall be “port State”.
- (c) For greater certainty, the incorporation made in subparagraph (a) is without regard to whether the Fisheries Subsidies Agreement is in effect.
- (d) In the event that the Fisheries Subsidies Agreement is amended, the Parties shall consult on whether to incorporate those amendments into this Agreement.]

[ID/JP/KR/TH **oppose:** 3. With a view to achieving the objective of eliminating subsidies that contribute to overfishing and overcapacity, the Parties shall review the disciplines in paragraph 2 at regular meetings of the Environment Committee.]

[ID/JP/KRTH/ **oppose:** 4. In addition to paragraph 2(a)(v),<sup>28</sup> Parties shall:

- (a) transmit the notifications and information specified in Article 8 of the Fisheries Subsidies Agreement electronically to the other Parties, and, if the Fisheries Subsidies Agreement is in force, contemporaneously with the submission of the notifications and information to the Committee on Fisheries Subsidies; and
- (b) notify the other Parties in writing on an annual basis of any vessels and operators for which the Party has information that reasonably indicates the use of forced labor, along with relevant information to the extent possible.]

[NZ: (c) Parties may request the Environment Committee at its regular meetings to review notifications and information transmitted by Parties under paragraph 4(a)(b)]

[JP/TH **oppose:** 5. The Parties [ID: could] [ID **oppose:** shall] work in the WTO towards strengthening international rules on the provision of harmful fisheries subsidies to the fisheries sector [ID **oppose:** and enhancing transparency of fisheries subsidies].]

**Article X.27: Protection of the Marine Environment from Ship Pollution**

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[ID/JP/KR **oppose:** <sup>28</sup> Sharing information and data on existing fisheries subsidy programs is intended to complement WTO data reporting requirements. Notification of a measure does not prejudice: (a) its legal status under GATT 1994, the SCM Agreement, the Fisheries Subsidies Agreement, or this Agreement; (b) the effects of the measure under the SCM Agreement; or (c) the nature of the measure itself.]

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1. The Parties recognize the importance of protecting and preserving the marine environment. To that end, each Party shall take measures to prevent the pollution of the marine environment from ships.<sup>29, 30, 31, [AU/JP/KR/SG/TH oppose: 32]</sup>
2. The Parties also recognize the importance of public participation and consultation, in accordance with their respective law or policy, in the development and implementation of measures to prevent the pollution of the marine environment from ships. Each Party shall make publicly available appropriate information about its programs and activities, including cooperative programs, that are related to the prevention of pollution of the marine environment from ships.
3. The Parties shall cooperate to address matters of mutual interest with respect to pollution of the marine environment from ships. Areas of cooperation may include:
  - (a) accidental pollution from ships;
  - (b) pollution from routine operations of ships;
  - (c) deliberate pollution from ships;
  - (d) development of technologies to minimize ship-generated waste;
  - (e) emissions from ships;
  - (f) adequacy of port waste reception facilities;
  - (g) increased protection in special geographic areas; and
  - (h) enforcement measures including notifications to flag States and, as appropriate, by port States.

**Article X.28: Invasive Alien Species**

1. The Parties recognize that the movement of terrestrial and aquatic invasive alien species across borders through trade-related pathways can adversely affect **[FJ/NZ propose; BN/MY/SG oppose: biodiversity, ecosystems, and] the environment, [FJ/NZ propose; BN/MY/SG oppose: social, cultural and] economic activities and development, [FJ/NZ**

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<sup>29</sup> For greater certainty, this provision pertains to pollution regulated by the *International Convention for the Prevention of Pollution from Ships*, done at London, November 2, 1973, as modified by the *Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships*, done at London, February 17, 1978, and the *Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973 as Modified by the Protocol of 1978 relating thereto*, done at London, September 26, 1997 (MARPOL Convention), and any existing and future amendments to the MARPOL Convention, to which the Parties are [AU: or become] parties. [AU: For further avoidance of doubt, this provision does not bind Parties who are not party to the MARPOL Convention to obligations set out in the MARPOL Convention or to amendments thereto to which it does not consent to be bound by the process under the MARPOL Convention.]

<sup>30</sup> A Party shall be deemed in compliance with this provision if it maintains the measure or measures listed in Annex XX-B implementing its obligations under MARPOL Convention, or adopts any subsequent measure or measures that provide an equivalent or higher level of environmental protection as the measure or measures listed.

<sup>31</sup> [AU oppose: If compliance with this provision is not established pursuant to footnote 32,] [AU: A] violation of this provision must be in a manner affecting trade or investment between the Parties [AU: in order to attract the application of Article X.32]. For greater certainty, a violation of this provision is “in a manner affecting trade or investment between the Parties” if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

<sup>32</sup> [AU/JP/KR/SG/TH oppose: A violation of this provision is presumed to be in a manner affecting trade or investment between the Parties, unless demonstrated otherwise.]

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**propose; BN/MY/SG oppose:** climate change resilience,] and human health. The Parties also recognize that the [FJ/NZ/TH **propose; BN/MY/SG oppose:** management, including identifying and managing introduction pathways,] prevention, detection, control [FJ/NZ **propose; BN/MY/SG oppose:** and containment] and, when possible, eradication, of invasive alien species are critical strategies for managing those adverse impacts [FJ/NZ **propose; BN/MY/SG oppose:** especially in priority sites, such as small islands].

2. Accordingly, the Environment Committee established under Article X.30 (Environment Committee and Contact Points) shall coordinate with relevant committees established under this Agreement to identify cooperative opportunities to share information and management experiences on the movement, prevention, detection, control, and eradication of invasive alien species, with a view to enhancing efforts to assess and address the risks and adverse impacts of invasive alien species.

**Article X.29: Environmental Justice**<sup>33</sup>

1. The Parties recognize that, for the purposes of this Agreement, principal aspects of environmental justice<sup>34</sup> include, but [JP **oppose:** are] not limited to: providing appropriate access to information that is held by public authorities, the ability and opportunity for early and effective public participation in decision-making, and effective access to justice, including for, but not limited to, marginalized, underrepresented, and [ID **oppose:** Indigenous [NZ: Peoples] [NZ **oppose:** groups] and] [ID: local] communities, with respect to the development, implementation, and enforcement of the Parties' respective environmental laws, regulations, and policies, as relevant, including those intended to protect human health.

2. The Parties recognize that, for the purposes of this Agreement, environmental justice also entails facilitating equity in terms of the public's access to government environmental programs and services, and in terms of the public's protection from environmental pollution and hazards and their effects on human health, within their respective national jurisdictions.

3. Each Party recognizes that, in principle, no group of people within its national jurisdiction should bear a disproportionately high share of adverse environmental consequences that may result from measures or actions the Party may undertake within its national jurisdiction, including measures or actions to encourage trade or investment.

4. Accordingly, each Party shall strive, in accordance with its law, to:

- (a) improve marginalized, underrepresented, and [ID **oppose:** Indigenous groups and] [ID: local] communities' access to government environmental programs and services within its national jurisdiction; and
- (b) strengthen, as appropriate, its capacity to assess the distributional effects of its environmental laws, regulations, and policies, taking into consideration marginalized, underrepresented, and [ID **oppose:** Indigenous [NZ: Peoples] [NZ **oppose:** groups] and] [ID: local] communities.

5. Where feasible, and as appropriate, the Parties intend to exchange information and best practices for providing early and effective public participation, facilitating equity in access to government environmental programs and services, and identifying and addressing disproportionate adverse environmental impacts on, and concerns of, marginalized, underrepresented, and [ID **oppose:** Indigenous [NZ: Peoples] [NZ **oppose:** groups] and] [ID: local] communities in the development, implementation, and enforcement of the Parties'

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<sup>33</sup> For greater certainty, this Article only addresses environmental justice within a Party's national jurisdiction.

<sup>34</sup> The Parties recognize that the concept of environmental justice within a Party's national jurisdiction is adaptable to each Party's national circumstances.

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respective environmental laws, regulations, and policies, as relevant, including those intended to protect human health.

**Article X.30: Environment Committee and Contact Points**

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

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

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

(a) provide a forum to discuss and review the implementation of this Chapter;

[NZ: (a bis) establish priorities for cooperation and review cooperative activities undertaken pursuant to this Chapter;]

(b) coordinate with other committees under this Agreement as appropriate; and

(c) perform any other functions as the Parties may decide.

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

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

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

7. During the [KR oppose: fifth][KR: sixth] year after the date of entry into force of this Agreement, the Environment Committee shall:

(a) review the implementation and operation of this Chapter;

(b) report its findings, which may include recommendations, to the [appropriate body]; and

(c) undertake subsequent reviews at intervals to be decided by the Committee.

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

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

**Article X.31: Public Submissions**

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1. Each Party, through its contact point designated under Article X.30 (Environment Committee and Contact Points), shall provide for the receipt and consideration of written submissions from persons of [ID/PH/SG/TH: that] [ID/PH/SG/TH oppose: a] Party on matters related to this Chapter in accordance with its domestic [AU/BN: laws and] procedures. [KR: Such a submission shall be received by the contact point of the Party of which the person is a national or resident and delivered to the Party which the written submission concerns.] Each Party shall make readily accessible and publicly available its procedures [BN/ID/SG/TH oppose: , including timelines,] for the receipt and consideration of written submissions. [SG: These procedures may provide that to be eligible for consideration, the submission should:

- (a) be in writing in one of the official languages of the Party receiving the submission;
- (b) clearly identify the person making the submission;
- (c) provide sufficient information to allow for the review of the submission including any documentary evidence on which the submission may be based;
- (d) explain how, and to what extent, the issue raised affects trade or investment between the Parties;
- (e) not raise issues that are the subject of ongoing judicial or administrative proceedings; and
- (f) indicate whether the matter has been communicated in writing to the relevant authorities of the Party and the Party's response, if any.]

2. Each Party shall:

- (a) consider matters raised by the submission and provide a timely response to the submitter, including in writing, as appropriate; and
- (b) make the submission and the results of its consideration available to the other Parties and the public, as appropriate, in a timely manner.

3. A Party may request from the person or organization that made the submission additional information that is necessary to consider the substance of the submission.

### **Article X.32: Environment Consultations**

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

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

3. A Party that considers it has a substantial interest in the matter may participate in the consultations by notifying the contact points of the requesting and responding Parties in writing no later than [BN/NZ/TH oppose: seven] [NZ/TH: ten] [BN: 14] days after the date of delivery of the request for consultations. The notifying Party shall include in its notice an explanation of its substantial interest in the matter.



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

5. The consulting Parties shall make every effort to arrive at a mutually satisfactory resolution to the matter which may include appropriate cooperative activities. The consulting Parties may seek advice or assistance from any person or body they deem appropriate in order to examine the matter. **[JP/SG oppose:** If the matter arises under Article X.7 (Multilateral Environmental Agreements), or under both that Article and another provision of this Chapter, and involves an issue related to a Party's obligations under a **[AU/FJ/NZ: multilateral environmental] [AU/FJ/NZ oppose: covered]** agreement, the Parties shall endeavor, in the first instance, to address the matter **[AU/FJ/NZ/TH oppose: through a mutually agreeable consultative or other procedure, if any,]** under the relevant agreement **[AU/FJ/NZ/TH oppose: , unless the procedure could result in an unreasonable delay].<sup>35]</sup>**

6. If the consulting Parties fail to resolve the matter, a consulting Party may request that the relevant Ministers, or their designees, of the consulting Parties convene to consider the matter at issue by delivering a written request to the other consulting Party through its contact point. The Ministers of the consulting Parties, or their designees, shall convene promptly after the date of receipt of the request, and shall seek to resolve the matter, including, if appropriate, by consulting **[BN/SG/TH: governmental or non-governmental] [BN/SG/TH oppose: independent]** experts chosen by the consulting Parties to assist them, and having recourse to procedures such as good offices, conciliation, or mediation.

7. **[BN/MY/NZ/SG/TH: Consultations shall be confidential and without prejudice to the rights of any Party in any future proceedings.] [MY/SG oppose: The consulting Parties shall document the outcome of the matter, including, if appropriate, specific steps and timelines decided upon. The consulting Parties [BN/TH oppose: shall] [BN/TH: may decide to] make the outcome available to the other Parties and to the public [BN/TH oppose: , unless they decide otherwise].]**

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**[AU oppose:** <sup>35</sup> The Parties understand that for purposes of paragraph 5, where a covered agreement requires a decision to be taken by consensus, such a requirement could create an unreasonable delay.]

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**ANNEX XX-A**

[Placeholder for IPEF Partners]

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

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**ANNEX XX-B**

[Placeholder for IPEF Partners]

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