

## CHAPTER 7

### ENVIRONMENT AND CLIMATE

#### ARTICLE 390

##### Definitions

1. For the purposes of this Chapter, "environmental levels of protection" means the levels of protection provided overall in a Party's law which have the purpose of protecting the environment, including the prevention of a danger to human life or health from environmental impacts, including in each of the following areas:

- (a) industrial emissions;
- (b) air emissions and air quality;
- (c) nature and biodiversity conservation;
- (d) waste management;
- (e) the protection and preservation of the aquatic environment;

- (f) the protection and preservation of the marine environment;
- (g) the prevention, reduction and elimination of risks to human health or the environment arising from the production, use, release or disposal of chemical substances; or
- (h) the management of impacts on the environment from agricultural or food production, notably through the use of antibiotics and decontaminants.

2. For the Union, "environmental levels of protection" means environmental levels of protection that are applicable to and in, and are common to, all Member States.

3. For the purposes of this Chapter, "climate level of protection" means the level of protection with respect to emissions and removals of greenhouse gases and the phase-out of ozone depleting substances. With regard to greenhouse gases, this means:

- (a) for the Union, the 40 % economy-wide 2030 target, including the Union's system of carbon pricing;
- (b) for the United Kingdom, the United Kingdom's economy-wide share of this 2030 target, including the United Kingdom's system of carbon pricing.

## ARTICLE 391

### Non-regression from levels of protection

1. The Parties affirm the right of each Party to set its policies and priorities in the areas covered by this Chapter, to determine the environmental levels of protection and climate level of protection it deems appropriate and to adopt or modify its law and policies in a manner consistent with each Party's international commitments, including those under this Chapter.
2. A Party shall not weaken or reduce, in a manner affecting trade or investment between the Parties, its environmental levels of protection or its climate level of protection below the levels that are in place at the end of the transition period, including by failing to effectively enforce its environmental law or climate level of protection.
3. The Parties recognise that each Party retains the right to exercise reasonable discretion and to make *bona fide* decisions regarding the allocation of environmental enforcement resources with respect to other environmental law and climate policies determined to have higher priorities, provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.
4. For the purposes of this Chapter, insofar as targets are provided for in a Party's environmental law in the areas listed in Article 390, they are included in a Party's environmental levels of protection at the end of the transition period. These targets include those whose attainment is envisaged for a date that is subsequent to the end of the transition period. This paragraph shall also apply to ozone depleting substances.

5. The Parties shall continue to strive to increase their respective environmental levels of protection or their respective climate level of protection referred to in this Chapter.

## ARTICLE 392

### Carbon pricing

1. Each Party shall have in place an effective system of carbon pricing as of 1 January 2021.
2. Each system shall cover greenhouse gas emissions from electricity generation, heat generation, industry and aviation.
3. The effectiveness of the Parties' respective carbon pricing systems shall uphold the level of protection provided for by Article 391.
4. By way of derogation from paragraph 2, aviation shall be included within two years at the latest, if not included already. The scope of the Union system of carbon pricing shall cover departing flights from the European Economic Area to the United Kingdom.
5. Each Party shall maintain its system of carbon pricing insofar as it is an effective tool for each Party in the fight against climate change and shall in any event uphold the level of protection provided for by Article 391.

6. The Parties shall cooperate on carbon pricing. They shall give serious consideration to linking their respective carbon pricing systems in a way that preserves the integrity of these systems and provides for the possibility to increase their effectiveness.

## ARTICLE 393

### Environmental and climate principles

1. Taking into account the fact that the Union and the United Kingdom share a common biosphere in respect of cross-border pollution, each Party commits to respecting the internationally recognised environmental principles to which it has committed, such as in the Rio Declaration on Environment and Development, adopted at Rio de Janeiro on 14 June 1992 (the "1992 Rio Declaration on Environment and Development") and in multilateral environmental agreements, including in the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992 ("UNFCCC") and the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992 (the "Convention on Biological Diversity"), in particular:

- (a) the principle that environmental protection should be integrated into the making of policies, including through impact assessments;
- (b) the principle of preventative action to avert environmental damage;
- (c) the precautionary approach referred to in Article 356(2);

(d) the principle that environmental damage should as a priority be rectified at source; and

(e) the polluter pays principle.

2. The Parties reaffirm their respective commitments to procedures for evaluating the likely impact of a proposed activity on the environment, and where specified projects, plans and programmes are likely to have significant environmental, including health, effects, this includes an environmental impact assessment or a strategic environmental assessment, as appropriate.

3. These procedures shall comprise, where appropriate and in accordance with a Party's laws, the determination of the scope of an environmental report and its preparation, the carrying out of public participation and consultations and the taking into account of the environmental report and the results of the public participation and consultations in the consented project, or adopted plan or programme.

## ARTICLE 394

### Enforcement

1. For the purposes of enforcement as referred to in Article 391, each Party shall, in accordance with its law, ensure that:
  - (a) domestic authorities competent to enforce the relevant law with regard to environment and climate give due consideration to alleged violations of such law that come to their attention; those authorities shall have adequate and effective remedies available to them, including injunctive relief as well as proportionate and dissuasive sanctions, if appropriate; and
  - (b) national administrative or judicial proceedings are available to natural and legal persons with a sufficient interest to bring actions against violations of such law and to seek effective remedies, including injunctive relief, and that the proceedings are not prohibitively costly and are conducted in a fair, equitable and transparent way.

## ARTICLE 395

### Cooperation on monitoring and enforcement

The Parties shall ensure that the European Commission and the supervisory bodies of the United Kingdom regularly meet with each other and co-operate on the effective monitoring and enforcement of the law with regard to environment and climate as referred to in Article 391.

## ARTICLE 396

### Dispute settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.
2. By way of derogation from Title I of Part Six, in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 408, 409 and 410.

## CHAPTER 8

### OTHER INSTRUMENTS FOR TRADE AND SUSTAINABLE DEVELOPMENT

#### ARTICLE 397

##### Context and objectives

1. The Parties recall the Agenda 21 and the 1992 Rio Declaration on Environment and Development, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development of 2002, the International Labour Organization (ILO) Declaration on Social Justice for a Fair Globalization, adopted at Geneva on 10 June 2008 by the International Labour Conference at its 97th Session (the "2008 ILO Declaration on Social Justice for a Fair Globalization"), the Outcome Document of the UN Conference on Sustainable Development of 2012 entitled "The Future We Want", endorsed by the UN General Assembly Resolution 66/288 adopted on 27 July 2012, and the UN 2030 Agenda for Sustainable Development, adopted by the UN General Assembly Resolution 70/1 on 25 September 2015 and its Sustainable Development Goals.
2. In light of paragraph 1 of this Article, the objective of this Chapter is to enhance the integration of sustainable development, notably its labour and environmental dimensions, in the Parties' trade and investment relationship and in this respect to complement the commitments of the Parties under Chapters 6 and 7.

## ARTICLE 398

### Transparency

1. The Parties stress the importance of ensuring transparency as a necessary element to promote public participation and of making information public within the context of this Chapter. In accordance with their laws and regulations, the provisions of this Chapter, of Title IX and of Title X, each Party shall:
  - (a) ensure that any measure of general application pursuing the objectives of this Chapter is administered in a transparent manner, including by providing the public with reasonable opportunities and sufficient time to comment, and by publishing such measures;
  - (b) ensure that the general public is given access to relevant environmental information held by or for public authorities, as well as ensuring the active dissemination of that information to the general public by electronic means;
  - (c) encourage public debate with and among non-state actors as regards the development and definition of policies that may lead to the adoption of law relevant to this Chapter by its public authorities; this includes, in relation to the environment, public participation in projects, plans and programmes; and

- (d) promote public awareness of its laws and standards relevant to this Chapter, as well as enforcement and compliance procedures, by taking steps to further the knowledge and understanding of the public; in relation to labour laws and standards, this includes workers, employers and their representatives.

## ARTICLE 399

### Multilateral labour standards and agreements

1. The Parties affirm their commitment to promoting the development of international trade in a way that is conducive to decent work for all, as expressed in the 2008 ILO Declaration on Social Justice for a Fair Globalization.
  
2. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted at Geneva on 18 June 1998 by the International Labour Conference at its 86th Session, each Party commits to respecting, promoting and effectively implementing the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are:
  - (a) freedom of association and the effective recognition of the right to collective bargaining;
  
  - (b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

3. Each Party shall make continued and sustained efforts to ratify the fundamental ILO Conventions if they have not yet done so.

4. The Parties shall exchange information, regularly and as appropriate, on the respective situations and progress of the Member States and of the United Kingdom with regard to the ratification of ILO Conventions or protocols classified as up-to-date by the ILO and of other relevant international instruments.

5. Each Party commits to implementing all the ILO Conventions that the United Kingdom and the Member States have respectively ratified and the different provisions of the European Social Charter that, as members of the Council of Europe, the Member States and the United Kingdom have respectively accepted<sup>1</sup>.

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<sup>1</sup> Each Party maintains its right to determine its priorities, policies and the allocation of resources in the effective implementation of the ILO Conventions and the relevant provisions of the European Social Charter in a manner consistent with its international commitments, including those under this Title. The Council of Europe, established in 1949, adopted the European Social Charter in 1961, which was revised in 1996. All Member States have ratified the European Social Charter in its original or revised version. For the United Kingdom, the reference to the European Social Charter in paragraph 5 refers to the original 1961 version.

6. Each Party shall continue to promote, through its laws and practices, the ILO Decent Work Agenda as set out in the 2008 ILO Declaration on Social Justice for a Fair Globalization (the "ILO Decent Work Agenda") and in accordance with relevant ILO Conventions, and other international commitments, in particular with regard to:

- (a) decent working conditions for all, with regard to, inter alia, wages and earnings, working hours, maternity leave and other conditions of work;
- (b) health and safety at work, including the prevention of occupational injury or illness and compensation in cases of such injury or illness; and
- (c) non-discrimination in respect of working conditions, including for migrant workers.

7. Each Party shall protect and promote social dialogue on labour matters among workers and employers, and their respective organisations, and with relevant government authorities.

8. The Parties shall work together on trade-related aspects of labour policies and measures, including in multilateral fora, such as the ILO, as appropriate. Such cooperation may cover inter alia:

- (a) trade-related aspects of implementation of fundamental, priority and other up-to-date ILO Conventions;

- (b) trade-related aspects of the ILO Decent Work Agenda, including on the interlinkages between trade and full and productive employment, labour market adjustment, core labour standards, decent work in global supply chains, social protection and social inclusion, social dialogue and gender equality;
- (c) the impact of labour law and standards on trade and investment, or the impact of trade and investment law on labour;
- (d) dialogue and information-sharing on the labour provisions in the context of their respective trade agreements, and the implementation thereof; and
- (e) any other form of cooperation deemed appropriate.

9. The Parties shall consider any views provided by representatives of workers, employers, and civil society organisations when identifying areas of cooperation and when carrying out cooperative activities.

## ARTICLE 400

### Multilateral environmental agreements

1. The Parties recognise the importance of the UN Environment Assembly of the UN Environment Programme and of multilateral environmental governance and agreements as a response of the international community to global or regional environmental challenges and stress the need to enhance the mutual supportiveness between trade and environment policies, rules and measures.
2. In light of paragraph 1, each Party commits to effectively implementing the multilateral environmental agreements, protocols and amendments that it has ratified in its law and practices.
3. The Parties shall regularly and as appropriate exchange information on:
  - (a) their respective situations as regards the ratification and implementation of multilateral environmental agreements, including their protocols and amendments;
  - (b) on-going negotiations of new multilateral environmental agreements; and
  - (c) each Party's respective views on becoming a party to additional multilateral environmental agreements.

4. The Parties reaffirm the right of each Party to adopt or maintain measures to further the objectives of multilateral environmental agreements to which it is party. The Parties recall that measures adopted or enforced to implement such multilateral environmental agreements may be justified under Article 412.

5. The Parties shall work together on trade-related aspects of environmental policies and measures, including in multilateral fora, such as the UN High-level Political Forum for Sustainable Development, the UN Environment Programme, the UN Environment Assembly, multilateral environmental agreements, the International Civil Aviation Organization (ICAO) or the WTO as appropriate. Such cooperation may cover inter alia:

- (a) initiatives on sustainable production and consumption, including those aimed at promoting a circular economy and green growth and pollution abatement;
- (b) initiatives to promote environmental goods and services, including by addressing related tariff and non-tariff barriers;
- (c) the impact of environmental law and standards on trade and investment; or the impact of trade and investment law on the environment;
- (d) the implementation of Annex 16 to the Convention on International Civil Aviation, done at Chicago on 7 December 1944, and other measures to reduce the environmental impact of aviation, including in the area of air traffic management; and

(e) other trade-related aspects of multilateral environmental agreements, including their protocols, amendments and implementation.

6. Cooperation pursuant to paragraph 5 may include technical exchanges, exchanges of information and best practices, research projects, studies, reports, conferences and workshops.

7. The Parties will consider views or input from the public and interested stakeholders for the definition and implementation of their cooperation activities, and they may involve such stakeholders further in those activities, as appropriate.

## ARTICLE 401

### Trade and climate change

1. The Parties recognise the importance of taking urgent action to combat climate change and its impacts, and the role of trade and investment in pursuing that objective, in line with the UNFCCC, with the purpose and goals of the Paris Agreement adopted at Paris on 12 December 2015 by the Conference of the Parties to the United Nations Framework Convention on Climate Change at its 21st session (the "Paris Agreement"), and with other multilateral environmental agreements and multilateral instruments in the area of climate change.

2. In light of paragraph 1, each Party:
- (a) commits to effectively implementing the UNFCCC, and the Paris Agreement of which one principal aim is strengthening the global response to climate change and holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5 °C above pre-industrial levels;
  - (b) shall promote the mutual supportiveness of trade and climate policies and measures thereby contributing to the transition to a low greenhouse gas emission, resource-efficient economy and to climate-resilient development; and
  - (c) shall facilitate the removal of obstacles to trade and investment in goods and services of particular relevance for climate change mitigation and adaptation, such as renewable energy, energy efficient products and services, for instance through addressing tariff and non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of the best available solutions.

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

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

## ARTICLE 402

### Trade and biological diversity

1. The Parties recognise the importance of conserving and sustainably using biological diversity and the role of trade in pursuing these objectives, including by promoting sustainable trade or controlling or restricting trade in endangered species, in line with the relevant multilateral environmental agreements to which they are party, and the decisions adopted thereunder, notably the Convention on Biological Diversity and its protocols, and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington D.C. on 3 March 1973 ("CITES").
  
2. In light of paragraph 1, each Party shall:
  - (a) implement effective measures to combat illegal wildlife trade, including with respect to third countries, as appropriate;
  
  - (b) promote the use of CITES as an instrument for conservation and sustainable management of biodiversity, including through the inclusion of animal and plant species in the Appendices to CITES where the conservation status of that species is considered at risk because of international trade;
  
  - (c) encourage trade in products derived from a sustainable use of biological resources and contributing to the conservation of biodiversity; and

(d) continue to take measures to conserve biological diversity when it is subject to pressures linked to trade and investment, in particular through measures to prevent the spread of invasive alien species.

3. The Parties shall work together on trade-related matters of relevance to this Article, including in multilateral fora, such as CITES and the Convention on Biological Diversity, as appropriate. Such cooperation may cover inter alia: trade in wildlife and natural resource-based products, the valuation and assessment of ecosystems and related services, and the access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation consistent with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, done at Nagoya on 29 October 2010.

## ARTICLE 403

### Trade and forests

1. The Parties recognise the importance of conservation and sustainable forest management for providing environmental functions and economic and social opportunities for present and future generations, and the role of trade in pursuing that objective.

2. In light of paragraph 1 and in a manner consistent with its international obligations, each Party shall:

- (a) continue to implement measures to combat illegal logging and related trade, including with respect to third countries, as appropriate, and to promote trade in legally harvested forest products;
- (b) promote the conservation and sustainable management of forests and trade and consumption of timber and timber products harvested in accordance with the law of the country of harvest and from sustainably managed forests; and
- (c) exchange information with the other Party on trade-related initiatives on sustainable forest management, forest governance and on the conservation of forest cover and cooperate to maximise the impact and mutual supportiveness of their respective policies of mutual interest.

3. The Parties shall work together to strengthen their cooperation on trade-related aspects of sustainable forest management, the conservation of forest cover and illegal logging, including in multilateral fora, as appropriate.

## ARTICLE 404

### Trade and sustainable management of marine biological resources and aquaculture

1. The Parties recognise the importance of conserving and sustainably managing marine biological resources and ecosystems as well as of promoting responsible and sustainable aquaculture, and the role of trade in pursuing those objectives.
2. In light of paragraph 1, each Party:
  - (a) commits to acting consistently and complying, as appropriate, with the relevant UN and Food and Agriculture Organization ("FAO") agreements, the United Nations Convention on the Law of the Sea, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, done at New York on 4 August 1995, the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, done at Rome on 24 November 1993, the FAO Code of Conduct for Responsible Fisheries and the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated ("IUU") fishing, approved at Rome on 22 November 2009 at the 36th Session of the FAO Conference, and to participating in the FAO's initiative on the Global Record of Fishing Vessels, Refrigerated Transport Vessels and Supply Vessels;

- (b) shall promote sustainable fisheries and good fisheries governance by participating actively in the work of relevant international organisations or bodies to which they are members, observers, or cooperating non-contracting parties, including the Regional Fisheries Management Organizations (RFMOs) by means of, where applicable, effective monitoring, control or enforcement of the RFMOs' resolutions, recommendations or measures; the implementation of their catch documentation or certification schemes, and port state measures;
  - (c) shall adopt and maintain their respective effective tools to combat IUU fishing, including measures to exclude the products of IUU fishing from trade flows, and cooperate to that end; and
  - (d) shall promote the development of sustainable and responsible aquaculture, including with regard to the implementation of the objectives and principles contained in the FAO Code of Conduct for Responsible Fisheries, as appropriate.
3. The Parties shall work together on conservation and trade-related aspects of fishery and aquaculture policies and measures, including in the WTO, the RFMOs and other multilateral fora, as appropriate, with the aim of promoting sustainable fishing and aquaculture practices and trade in fish products from sustainably managed fisheries and aquaculture operations.
4. This Article is without prejudice to the provisions of Heading Five.

## ARTICLE 405

### Trade and investment favouring sustainable development

1. The Parties confirm their commitment to enhancing the contribution of trade and investment to the goal of sustainable development in its economic, social and environmental dimensions.
2. Pursuant to paragraph 1, the Parties shall continue to promote:
  - (a) trade and investment policies that support the four strategic objectives of the ILO Decent Work Agenda, consistent with the 2008 ILO Declaration on Social Justice for a Fair Globalization, including the minimum living wage, health and safety at work, and other aspects related to working conditions;
  - (b) trade and investment in environmental goods and services, such as renewable energy and energy efficient products and services, including through addressing related non-tariff barriers or through the adoption of policy frameworks conducive to the deployment of the best available solutions;
  - (c) trade in goods and services that contribute to enhanced social conditions and environmentally sound practices, including those subject to voluntary sustainability assurance schemes such as fair and ethical trade schemes and eco-labels; and
  - (d) cooperation in multilateral fora on issues referred to in this Article.

3. The Parties recognise the importance of addressing specific sustainable development issues by reviewing, monitoring and assessing the potential economic, social and environmental impacts of possible actions, taking account of the views of stakeholders.

## ARTICLE 406

### Trade and responsible supply chain management

1. The Parties recognise the importance of responsible management of supply chains through responsible business conduct and corporate social responsibility practices and the role of trade in pursuing this objective.

2. In light of paragraph 1, each Party shall:

- (a) encourage corporate social responsibility and responsible business conduct, including by providing supportive policy frameworks that encourage the uptake of relevant practices by businesses; and
- (b) support the adherence, implementation, follow-up and dissemination of relevant international instruments, such as the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, and the UN Guiding Principles on Business and Human Rights.

3. The Parties recognise the utility of international sector-specific guidelines in the area of corporate social responsibility and responsible business conduct and shall encourage joint work in this regard. In respect of the OECD Due Diligence Guidance for responsible supply chains of minerals from conflict-affected and high-risk areas and its supplements, the Parties shall also implement measures to promote the uptake of that Guidance.

4. The Parties shall work together to strengthen their cooperation on trade-related aspects of issues covered by this Article, including in multilateral fora, as appropriate, inter alia through the exchange of information, best practices and outreach initiatives.

#### Article 407

##### Dispute settlement

1. The Parties shall make all efforts through dialogue, consultation, exchange of information and cooperation to address any disagreement on the application of this Chapter.

2. By way of derogation from Title I of Part Six, in the event of a dispute between the Parties regarding the application of this Chapter, the Parties shall have recourse exclusively to the procedures established under Articles 408 and 409.