

Document 1

The International Investment & Climate Change Agreement (The “IICCA”)

February 28, 2018 | Text of the Model Treaty



Preamble

RECOGNIZING that climate change is an urgent threat to international peace and security and territorial sovereignty;

RECALLING the overall objective of the UN Framework Convention on Climate Change (UNFCCC) to stabilize global concentrations of greenhouse gas emissions at levels to “avoid dangerous climate change, allow ecosystems to adapt and enable sustainable economic developments”;

AFFIRMING the commitment to prevent climate change and promote sustainable development in its economic, social and environmental dimensions and the important role that private investment could play in this regard pursuant to the United Nations 2030 Agenda for Sustainable Development which acknowledges “the role of the diverse private sector, ranging from micro-enterprises to cooperatives to multinationals, and that of civil society organizations and philanthropic organizations in the implementation” of the U.N. Sustainable Development Goals;

ACKNOWLEDGING the desire between the Parties to promote multilateral cooperation with respect to Green Investments and the role of private entities pursuant to Article 6(4) of the Paris Agreement “to incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities”;

COGNIZANT that climate change will disproportionately affect those who have the least ability to prevent, adapt, or otherwise respond to climate change, increasingly extreme weather events, rising sea levels and new resource constraints;

PRESERVING the right of States to regulate and achieve legitimate objectives for public welfare;

IMPLEMENTING this Agreement in a manner consistent with the enforcement of the Parties respective labor and environmental laws and that enhances their levels of labor and environmental protection, and building upon their international commitments on labor and environmental matters;

APPRECIATING that bribery is a widespread phenomenon in international business transactions and the need to combat corruption to promote sustainable investments;

DETERMINED to create effective strategies to protect and environment and adopt an effective strategy for Climate Change Prevention, Mitigation and Adaptation;

HAVE AGREED as follows:

Chapter 1:

Initial Provisions and General Definitions

Article 1: Definitions:

For purposes of this Agreement, unless otherwise specified:

Climate Change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

Climate Change Prevention, Mitigation, & Adaptation means strategies relating to climate change mitigation and adaptation measures. Mitigation refers to measures to limit greenhouse gas emissions by reducing their sources or by enhancing the planet's capacity to absorb them. Adaptation refers to measures that adjust the natural or human systems to a new or changing environment to moderate harm or exploit beneficial opportunities.

Depository means the Stockholm Chamber of Commerce in Stockholm, Sweden.

Enterprise of a Party means any legal entity constituted, organized and operated in compliance with the law of a Party, including any company, corporation, limited liability partnership or a joint venture and carrying out substantial business activities in the territory of the Home State.

Environmental law means a statute or regulation of a Party, or provision thereof, including any rule 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 dangers to human life or health, through the prevention, abatement or control of the release, discharge or emission of pollutants or environmental contaminants.

Freely convertible currency means a currency that is widely used to make payments for international transactions and widely exchanged in principal international exchange markets.

Green Investments mean investments that contribute to environmental protection and climate change mitigation measures and adaptation, including through:

- i. helping to clean the air and water, e.g. carbon dioxide scrubbers;
- ii. manage waste, e.g. recycling machinery;
- iii. contributing to energy efficiency, e.g., heat pumps, thermostats, energy-efficient transportation, energy conservation;
- iv. controlling environmental pollution (including air and water), e.g., measuring equipment, producing products in an eco-friendly manner;
- v. generating renewable energy such as solar, wind, or hydroelectric, e.g., wind turbines, solar panels;
- vi. sustainable land use, e.g., sustainable agriculture, forest restoration;
- vii. climate-resilient infrastructure;

- viii. low-carbon projects;
- ix. technological innovation – affordable solar energy, energy-efficient vehicles, carbon capture and storage;
- x. sustainable investments, e.g., financial institutions financing to support low carbon and climate-resilient investments, financial innovations, incentivize go-to banks for climate change space;
- xi. tax incentives;
- xii. government subsidies;
- xiii. producing environmentally friendly products that have a tangible impact on the host state's ability to meet its targets under environmental law, the UNFCCC and the Paris Agreement; and
- xiv. investments in health infrastructure and products that works to help vulnerable populations mitigate the negative health impacts of climate change.

Greenhouse gases (GHG) means any atmospheric gas that has the effect of trapping more of the sun's energy than it reflects, with the sole exception of H₂O. (e.g. CO₂, methane). For greater certainty, a chemical precursor to a GHG also counts as a GHG.

Home State means the Party where the Investor is a national, permanent resident, or enterprise thereof.

Host State means the Party where the Investment is made.

Incentives mean obligations, including regulatory policies, undertaken by a Party to promote foreign direct investment in Green Investments. These include:

- i. tax measures providing tax deductions or credits, and/or lessen or eliminate certain taxes;
- ii. rebates, grants, and performance-based incentives that provide a direct cash incentive and do not require repayment;
- iii. loan programs, guarantees, and credit enhancements designed to provide lower interest loans and/or reduce risk associated with loans for Green Investments;
- iv. incentives for innovation and widespread diffusion of adaptation technology such as pollution control equipment;
- v. issuance of "green government bonds" that could be sold to the private sector, with a commitment that all their resources would be channeled to new Green Investments;
- vi. guarantees to be tailor made *pari passu* to be given on loans made for the purpose of investing in low carbon technology for enhancing flows to low-carbon investment, but shall be carefully monitored and risks assessed regularly; and
- vii. measures by a Party's regulators and/or Central Banks that a minimum (e.g. 5%) of lending for profitable investment must be allocated towards low-carbon technology.

Such incentives for the development of climate-friendly technologies and practices must be subject to the requirements of WTO law.

International Agreements Dealing with Climate Change means any international agreement or treaty regarding climate change, including:

- i. The United Nations Framework Convention on Climate Change (UNFCCC), effective March 21, 1994;
- ii. The Kyoto Protocol to the United Nations Framework Convention on Climate Change, entered into force on February 16, 2005;
- iii. United Nations Programme on Reducing Emissions from Deforestation and Forest Degradation (UN REDD), entered into force on September 24, 2008;
- iv. The 2010 United Nations Climate Change Conference (the “Cancun Agreements”) (2010); and
- v. The Paris Agreement Framework Convention on Climate Change, FCCC/CP/2015/L.9/Rev. 1, December 12, 2015

Investment means an enterprise constituted, organized and operated in good faith by an investor in accordance with the law of the Party in whose territory the investment is made, taken together with the assets of the enterprise, has the characteristics of an investment such as the commitment of capital or other resources, certain duration, the expectation of gain or profit, the assumption of risk and a significance for the development of the Party in whose territory the investment is made. An enterprise may possess the following assets:

- i. shares, stocks and other forms of equity instruments of the enterprise or in another enterprise;
- ii. a debt instrument or security of another enterprise;
- iii. a loan to another enterprise
 - a. where the enterprise is an affiliate of the investor, or
 - b. where the original maturity of the loan is at least three years;
- iv. licenses, permits, authorizations or similar rights conferred in accordance with
- v. the law of a Party;
- vi. rights conferred by contracts of a long-term nature such as those to cultivate, extract or exploit natural resources in accordance with the law of a Party, or
- vii. copyrights, know-how and intellectual property rights such as patents, trademarks, industrial designs and trade names, to the extent they are recognized under the law of a Party; and
- viii. moveable or immovable property and related rights;
- ix. any other interests of the enterprise which involve substantial economic activity and out of which the enterprise derives significant financial value;

For greater clarity, investment does not include the following assets of an enterprise:

- viii. portfolio investments of the enterprise or in another enterprise;
- ix. debt securities issued by a government or government-owned or controlled enterprise, or loans to a government or government-owned or controlled enterprise;
- x. any pre-operational expenditure relating to admission, establishment, acquisition or expansion of the enterprise incurred before the commencement of substantial business operations of the enterprise in the territory of the Party where the investment is made;
- xi. claims to money that arise solely from commercial contracts for the sale of goods or services by a national or enterprise in the territory of a Party to an enterprise in the territory of another Party;
- xii. goodwill, brand value, market share or similar intangible rights;
- xiii. claims to money that arise solely from the extension of credit in connection with any commercial transaction;

- xiv. an order or judgment sought or entered in any judicial, administrative or arbitral proceeding;
- xv. any other claims to money that do not involve the kind of interests or operations set out in the definition of investment in this Treaty.

Investor means a national, permanent resident or enterprise of a Party that has made an investment in the territory of the other Party; or

- i. any individual who is a national or a permanent resident of a Party, according to its laws, that makes an investment in the other Party;
- ii. any legal entity:
 - a. established in accordance with the laws of a Party;
 - b. having its headquarters and the center of its economic activities in the territory of that Party;
 - c. whose property or effective control belongs, directly or indirectly, to nationals or permanent residents of the Parties, according to the corresponding legislation; and
 - d. that invests in the other Party.

Measure means any measure adopted by a Party, whether in the form of law, regulation, rule, procedure, decision, administrative ruling, or any other form.

OECD Convention on Combating Bribery means the convention proposed by OECD countries to sanction companies from those countries engaging in acts of bribery in developing nations.

National Focal Points means the focal point of a Party performing the functions of an ombudsman and with the responsibilities set out in Article 3 of Chapter 5.

Paris Agreement means the agreement within the United Nations Framework Convention on Climate Change (UNFCCC) that was negotiated in Paris in 2015 and has thus far been adopted by 195 UNFCCC countries.

State or Party means any state and for the purpose of this Agreement these are classified as:

- i. **Developed Nations:** Any of the 35 Organization for Economic Cooperation and Development (OECD) countries.
- ii. **Developing Countries and Countries in Transition:** Any UN member state not a part of group i or iii.
- iii. **Least Developed Countries (LDC) and Small Island Developing States (SIDS):** Any countries on the U.N.'s list of LDC or SIDS countries.

Sustainable Development Goals means the United Nations Sustainable Development Goals.

Chapter 2:

State Obligations for the Protection & Promotion of Green Investments

Article 1: Admission and Treatment

1. Each Party shall admit and encourage Green Investments of Investors of the other Parties, according to their respective laws and regulations and in accordance with this Agreement. In doing so, each Party shall strive to minimize adverse economic, social and environmental impacts on the other Parties, including Developing Country Parties, pursuant to the applicable International Agreements Dealing with Climate Change to.
2. Each Party shall grant to Green Investments and Investors of the other Parties treatment according to the due process of law.
3. States may offer Incentives for Green Investments in accordance with this Agreement, provided that they are administered in a reasonable, objective and impartial manner, and in accordance with their respective laws and regulations.

Article 2: Standard of Treatment

1. Each Party shall not subject Green Investments of Investors of another Party to measures which constitute:
 - a) Denial of justice under customary international law;
 - b) Un-remedied and egregious violations of due process; or
 - c) Manifestly abusive treatment involving continuous, unjustified and outrageous coercion or harassment.
2. A determination that there has been a breach of another provision of this Treaty, or of a separate international agreement, does not establish that there has been a breach of this Article.
3. For greater certainty, it is clarified that “customary international law” results from a general and consistent practice of States that they follow from a sense of legal obligation.

Article 3: Expropriation

1. No Party shall nationalize or expropriate a Green Investment either directly or indirectly through measures having an effect equivalent to nationalization or expropriation (hereinafter referred to as “expropriation”) except:
 - a) for a public purpose;
 - b) under due process of law;
 - c) in a non-discriminatory manner; and
 - d) against payment of prompt, adequate, and effective compensation.

2. Such compensation shall be no less than the fair market value of the investment at the time immediately before the expropriation or the impending expropriation became public knowledge, whichever is earlier, plus interest at a normal commercial rate, from the date of expropriation until the date of payment.

3. Such compensation shall be effectively realizable and freely transferable in accordance with Article 5 (Transfers) and shall be made without delay.

4. The Investor affected shall have a right, under the law of the expropriating Party, to prompt review of its claim and of the valuation of its Green Investment, by a judicial or other independent authority of that Party, in accordance with the principles set out in this Article.

5. The Parties shall cooperate to improve the mutual knowledge of their respective national legislations regarding investment expropriation and any legislation regarding Green Investments or Climate Change Laws and Regulations.

Article 4: National Treatment

1. Each Party shall accord to investors of another Party in Green Investments treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the expansion, management, conduct, operation, and sale or other disposition of investments in its territory.

2. Each Party shall accord to investments of investors of the other Party in Green Investments treatment no less favorable than that it accords, in like circumstances, to investments in its territory of its own investors with respect to the expansion, management, conduct, operation, and sale or other disposition of investments.

3. For greater certainty, whether treatment is accorded in 'like circumstances' depends on the totality of the circumstances, including whether the relevant treatment distinguishes between Investors or Green Investments on the basis of legitimate public interest objectives.

4. For greater certainty, this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the Investor or the Green Investment.

5. A breach of paragraph 1 or 2 will only occur if the challenged measure constitutes intentional and unlawful discrimination against the Investor that has made a Green Investment on the basis of nationality.

6. The treatment to be accorded by a Party under paragraphs 1 and 2 means, with respect to a regional level of government, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that regional level of government to investors, and to investments of investors, of the Party of which it forms a part.

7. Measures taken by a Party in favor of its investors and their investments in pursuit of a legitimate public purpose including the protection of public health, safety, and the environment shall not be considered as a violation of this Article.

Article 5: Transfers

1. Each Party shall permit all transfers relating to Green Investments to be made without restriction or undue delay in a freely convertible currency and at the market rate of exchange applicable on the date of transfer. Such transfers include:

- a) the initial capital contribution or any addition thereof in relation to the maintenance or expansion of such investment;
- b) income directly related to the investment;
- c) the proceeds of sale or total or partial liquidation of the investment;
- d) the repayments of any loan, including interests thereon, relating directly to the investment; and
- e) the amount of a compensation.

2. Without prejudice to paragraph 1, a Party may, in an equitable, non-discriminatory manner, in good faith and in accordance with the Articles of the Agreement of the International Monetary Fund, prevent a transfer if such transfer is prevented under its laws relating to:

- a) bankruptcy, insolvency or the protection of the rights of creditors;
- b) criminal infractions;
- c) financial reports or maintenance of transfers' registers when necessary to cooperate with law enforcement or with financial regulators; or
- d) the guarantee for the enforcement of decisions in judicial or administrative proceedings.

3. Nothing in this Agreement shall be construed as to prevent a Party from adopting or maintaining temporary restrictive measures in respect of payments or transfers related to capital movements:

- a) in the case of serious difficulties in the balance of payments or external financial difficulties or threat thereof; or
- b) where, in exceptional circumstances, payments or transfers from capital movements generate or threaten to generate serious difficulties for macroeconomic management.

Article 6: Denial of Benefits

1. A Party may deny the benefits of this Treaty to an Investor of another Party that is an Enterprise of that other Party and to Green Investments of that Investor if:

- a) the Green Investment is owned or controlled by a person of a non-Party or of the denying Party; and
- b) the Investor or Green Investment has no substantial business activities in the territory of any Party other than the denying Party.

2. A Party may deny the benefits of this Treaty to an Investor of another Party that is an Enterprise of that other Party and to Investments of that Investor if persons of a non-Party own or control the Enterprise and the denying Party adopts or maintains measures with respect to the non-Party or a person of the non-Party that prohibit transactions with the

Enterprise or that would be violated or circumvented if the benefits of this Treaty were accorded to the Enterprise or to its investments.

Article 7: Security Exceptions

1. Nothing in this Agreement shall be construed to prevent a Party from adopting or maintaining measures aimed at preserving its national security or public order, or to apply the provisions of their criminal laws or comply with its obligations regarding the maintenance of international peace and security in accordance with the provisions of the United Nations Charter.

2. Measures adopted by a Party under paragraph 1 of this Article or a decision based on national security laws or public order that at any time prohibits or restricts the realization of an Investment in its territory by an Investor of another Party shall not be subject to the dispute settlement mechanisms set out in Chapter 5 of this Agreement.

3. Nothing in this Agreement shall be construed:

- a) to require a Party to furnish any information, the disclosure of which it considers contrary to its essential security interests;
- b) to prevent a Party from taking any action which it considers necessary for the protection of its essential security interests including but not limited to:
 - i. action relating to fissionable and fusionable materials or the materials from which they are derived;
 - ii. action taken in time of war or other emergency in domestic or international relations;
 - iii. action relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - iv. action taken so as to protect critical public infrastructure including communication, power and water infrastructures from deliberate attempts intended to disable or degrade such infrastructure; or
- c) to prevent a Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

Chapter 3:

Investors' Obligations for Green Investments

Article 1: Obligation to conduct an Environmental Impact Assessment

Before committing to any plans to build any major new facilities, an Investor shall conduct an environmental impact assessment or assessments in accordance with the law of a Party where the activities will be undertaken. This assessment must include an analysis of the proposed facility's carbon footprint and ways to reduce it and the potential effects of future Climate Change on the proposed facility.

Article 2: Obligation to Innovate and Transfer Technology

1. Investors in a Host State shall undertake to innovate and develop techniques and practices to deal with Climate Change Prevention, Mitigation and Adaptation.

2. Investors shall use their best efforts to develop technological or other breakthroughs dealing with Climate Change Prevention, Mitigation and Adaptation following the entry into force of this Agreement.

3. Investors shall transfer knowledge and technology dealing with Climate Change Prevention, Mitigation and Adaptation to the Host State as appropriate. Investors will not be obligated to share any confidential intellectual property but are encouraged to collaborate and share all techniques and strategies to preserve and protect the environment and reduce the harmful effects of Climate Change for public good.

Article 3: Charter of Corporate Social Responsibility

1. Investors and their Green Investments shall strive to achieve the highest possible level of contribution to the sustainable development of the Host State and the local community, through the adoption of a high degree of socially responsible practices, based on the recommended principles and standards set out in this Article.

2. Investors and their Green Investments shall create a "Charter of Corporate Social Responsibility" based on the following principles and standards:

- a) Stimulate the economic, social and environmental progress, aiming at achieving sustainable development;
- b) Respect the human rights of those involved in the companies' activities, consistent with the international obligations and commitments of the Host Party;
- c) Respect for the natural environment in which they operate towards promoting Climate Change Prevention, Mitigation and Adaptation;
- d) Encourage the strengthening of local capacities building through close cooperation with the local community;
- e) Encourage the development of human capital, especially by creating employment opportunities and facilitating access of workers to professional training;

- f) Refrain from seeking or accepting exemptions that are not established in the legislation of the Host Party, relating to environment, health, security, work or financial incentives, or other issues;
- g) Support and maintain good corporate governance principles, and develop and apply good practices of corporate governance;
- h) Develop and apply effective self-regulatory practices and management systems that foster a relationship of mutual trust between the companies and the society in which the operations are conducted;
- i) Promote the knowledge of workers about the corporate policy, through appropriate dissemination of this policy, including programs for professional training;
- j) Refrain from discriminatory or disciplinary action against the employees who submit grave reports to the board or, whenever appropriate, to the competent public authorities, about practices that violate the law or violate the standards of corporate governance that the company is subject to;
- k) Encourage, whenever possible, the business associates, including service providers and outsources, to apply the principles of business conduct consistent with the principles provided in this Article;
- l) Respect local political activities and processes; and
- m) Adopt techniques relating to Climate Change Prevention, Mitigation and Adaptation including lessons at schools, public awareness seminars, publications of best practices, and other similar measures.

3. Investors are encouraged to collaborate with other Investors, domestic or foreign or other local entities or communities in preparing their Charters of Corporate Social Responsibility.

4. Investors shall publish their Charters of Corporate Social Responsibility on their website or otherwise make it easily available to the public.

5. Investors shall provide an account on their activities pursuant to their Charters of Corporate Social Responsibility along with annual financial statements.

Article 4: Obligation against Corruption and Other Forms of Wrongdoings

1. Investors and their Green Investments in a Host State shall not, either prior to or after the establishment of an Investment, offer, promise, or give any undue pecuniary advantage, gratification or gift whatsoever, whether directly or indirectly, to a public servant or official of the Host State as an inducement or reward for doing or forbearing to do any official act or obtain or maintain any improper advantage.

2. Investors and their Investments shall not make illegal contributions to candidates for public office or to political parties or to other political organizations. Any political contributions and disclosures of those contributions must fully comply with the laws of Host State.

3. Investors and their Investments shall not be complicit in any act described in this Article, including inciting, aiding, abetting, conspiring to commit, or authorizing such acts.

4. For greater certainty, a breach of the obligations in this Article shall result in the case being inadmissible. A State shall be required to make a contribution to be determined by

the arbitral tribunal to the United Nations Development Programme's anti-corruption initiative if a case is dismissed because of a breach of this Article.

Article 5: Disclosures by the Investor

1. Investors and Green Investments must, in a timely matter, comply with the requirements of the law of the Host State to disclose true and complete information regarding their activities, structure, financial situation, performance, relationships with affiliates, ownership, governance, or other matters including but not limited to their physical and financial vulnerability to climate change and their pathways to climate change resilience.

2. Where required, Investors must also disclose the source and channel of their funds in the Home State or Host State by submitting appropriate documentary evidence establishing the legitimacy of such funds. This disclosure, if requested, shall include any changes in the form or ownership of the enterprise or other entity located in the Home State or the Host State.

3. Accounting records shall be maintained and financial statements prepared in currency of the Host State in accordance with principles of accounting generally accepted in the Host State.

Article 6: Compliance with Law of Host State

1. Investors and their Investments shall be subject to and comply with the law of the Host State at all times, including environmental laws and laws relating to the conservation of natural resources.

2. Investors and their Investments shall strive, through their management policies and practices, to contribute to the development objectives of the Host State and the United Nations Sustainable Development Goals. In particular, Investors and their Investments should recognize the rights, traditions and customs of local communities and indigenous peoples of the Host State and carry out their operations with respect and regard for such rights, traditions and customs.

Chapter 4:

State Obligations for Climate Change Prevention, Mitigation and Adaptation

Article 1: Regulatory Powers of a State

1. This Agreement shall not affect the right of each Party to regulate within its territory through measures necessary to achieve legitimate policy objectives, such as the protection of public health, safety, environment or public morals, consumer protection, or promotion and protection of cultural diversity and indigenous rights.

2. Parties may offer incentives for Green Investments as outlined in this Chapter, and that are administered in accordance with Article 1.3 of Chapter 2. The Parties are reminded that failure to respect hard Incentives may give rise to potential claims where Investors where such Incentives are arbitrarily rescinded.

Article 2: State Obligations to Enact and Implement Law and Regulations Dealing with Climate Change Prevention, Mitigation and Adaptation

1. Each Party shall enact laws and regulations to give effect to the obligations under the International Agreements Dealing with Climate Change. In doing so, a state may consider enacting provisions to give effect to the “polluter pays principle”.

2. Any laws or regulations adopted by a Party shall pursue efforts to hold the increase in the global average temperature to well below 2°C above pre-industrial levels pursuant to Article 2.1(a) of Paris Agreement.

3. Each Party shall endeavor to fulfill their “Nationally Determined Contributions” (NDCs) (including but not limited to its obligations under the Clean Development Mechanism, Joint Implementation under the Kyoto Protocol and United Nations Programme on Reducing Emissions from Deforestation and Forest Degradation) pursuant to Article 3 of the Paris Agreement and aim to progressively increase the obligations under the NDC, domestic mitigation measures and nationally defined development priorities pursuant to Article 4 (2) of the Paris Agreement.

4. Each Party shall endeavor to create laws and regulations on environmental and human rights issues which are transparent, clear and provide certainty for businesses planning their financial and operational commitments in the territory of the Party.

Article 3: Public-Private Partnerships

Recognizing the key role played by the private sector, the State shall consider Public-Private Partnerships in developing mechanisms for Climate Change Prevention, Mitigation and Adaptation.

Article 4: State Obligation to Facilitate International Cooperation towards Climate Change Prevention, Mitigation and Adaptation

1. Each Party shall facilitate international cooperation towards Climate Change Prevention, Mitigation and Adaptation.
2. Each Party is obligated to help Investors within its territory develop technological or other breakthroughs dealing with Climate Change Prevention, Mitigation and Adaptation following entry into the force of this Agreement.

Article 5: Knowledge and Technology Transfer Relating to Climate Change Prevention, Mitigation and Adaptation

Each Party shall endeavor to transfer knowledge and technology relating to Climate Change Prevention, Mitigation and Adaptation to other Parties as appropriate pursuant to the Paris Agreement. Parties are not obligated to share any confidential intellectual property but are encouraged to collaborate and share all techniques and strategies to preserve and protect the environment and reduce the harmful effects of Climate Change for public good.

Article 6: Exchange of Information between Parties

1. The Parties shall exchange information, whenever possible and relevant to Climate Change Prevention, Mitigation and Adaptation, through the Joint Committee and its National Focal Points.
2. The Parties shall fully respect the level of confidentiality and protection granted to such information, as requested by the submitting Party.

Article 7: Incentives to Investors making Green Investments in Developed Countries

1. Pursuant to the principles of equity and common but differentiated responsibilities and respective capabilities in the light of different national circumstances enshrined in the Paris Agreement, the priority Green Investments for Developed Countries shall include, but are not limited, to climate-change related research and development. Incentives that could be granted by these states include:
 - a) accelerated examination of patent applications directed to green technologies by national intellectual property (IP) offices;
 - b) supporting private-sector pollution prevention and control activities, the cleanup of contaminated industrial sites, farming and land preservation, consumer product waste management, alternative automobile fuels, clean-running cars, and municipal wastewater treatment; and
 - c) modifying and improving feed-in tariffs for renewable energy technologies by granting an additional premium for innovations.
2. Such projects shall foster climate resilience and low GHG emissions development in a manner that does not threaten food production.

Article 8: Special Provisions for LDCs & SIDS, Developing Countries and Countries in Transition

1. Pursuant to the principles of equity and common but differentiated responsibilities and respective capabilities in the light of different national circumstances enshrined in the Paris Agreement, the priority Green Investments for LDCs & SIDS, Developing Countries and Countries in Transition include adaptation measures such as protection of coastal zones, provision of timely climate information, capital adequacy requirements for banks (such as Basel III), public health and infrastructure and sustainable land use and forest restoration, and the like. The Green Investments, therefore, should be closely related to these economies' climate vulnerability, the sensitivity to climate factors, and the exposure to climate change, with a view to eradication of poverty and securing food production systems, being the special circumstances of developing country Parties recognized under the Paris Agreement and the UNFCCC.

2. A Party from these economies may opt to grant any of the following incentives in order to entice Green Investments:

- a) tax breaks for adaptation investments, property taxes differentiated by risk, differentiated insurance premiums, regulation (zone planning, building codes);
- b) regulations and standards to overcome policy-based barriers to entry;
- c) taxes and charges to make the polluter pay;
- d) subsidies and incentives to pay the innovator; and
- e) public-private partnerships that share risk and cover upfront costs, and improving accountability with expanded reporting requirements.

3. For LDCs and SIDs, and upon consideration of the urgency of the required measures, such incentives for the development of adaptation measures ought not be challenged by a Party under WTO law.

Article 9: Transparency

1. In line with the principles of this Agreement, each Party shall ensure that all measures that affect investment are administered in a reasonable, objective and impartial manner, in accordance with its legal system.

2. Each Party shall ensure that its laws and regulations related to any matter covered by this Agreement are published without delay and made publically available, where possible on a website.

3. Each Party shall endeavor to allow reasonable opportunity to those interested stakeholders in the private sector and civil society in expressing their opinions on the proposed measures.

Article 10: Review of Investment Obligations

The Parties shall regularly, or upon request of one third of the Parties, convene a meeting of experts to review the content of these obligations. The experts may develop recommendations in this regard and submit them to the Parties for decision. Such decision is to be taken by consensus or, if efforts to reach consensus are not successful, by a two-thirds majority of Parties.

Article 11: Creation of Guidelines for Corporate Responsibility

1. Each Party shall mandate corporations to develop corporate responsibility programs for human rights in relation to the environment finding guidance in the UN Guiding Principles on Business and Human Rights of 2011 and the Paris Agreement.
2. It is also each Party's responsibility to protect against non-state (*i.e.*, business enterprises or corporations) abuses by regulating and adjudicating abuses or risk breaching international obligations.
3. Each Party shall legislate clear regulatory standards that make compliance with corporate responsibilities possible for corporations.

Chapter 5:

Dispute Prevention and Resolution

Part A: Dispute Prevention between Investors and States or Between States

Article 1: General Framework for Cooperation and Dispute Prevention

1. The Parties shall at all times endeavor to agree on the interpretation and application of this Agreement, and shall make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect its operation or application.
2. The Parties shall use best endeavors to prevent and resolve a dispute or a potential dispute in accordance with this Chapter.
3. Wherever possible, the Parties shall try and meet through virtual means or through email exchanges to reduce expenses and otherwise adopt techniques to reduce devoting avoidable expenses.

Article 2: Creation of a Multilateral Committee on Green Investments

1. Upon the entry into force of this Agreement through three or more Parties, the Parties shall establish a Multilateral Committee for the administration of this Agreement (hereinafter referred as "Multilateral Committee on Green Investments").
2. The Multilateral Committee on Green Investments shall be composed of one government representative of each State Party designated by their respective Governments.
3. The Multilateral Committee on Green Investments shall meet at such times, in such places and through such means as the Parties may agree.
4. The Multilateral Committee on Green Investments shall have the following functions and responsibilities:
 - a) Supervise the implementation and execution of this Agreement;
 - b) Propose, discuss and divulge opportunities for the expansion of mutual investment in Green Investments;
 - c) Coordinate the implementation of the mutually agreed cooperation and facilitation agendas;
 - d) Consult with the private sector and civil society, when applicable, on their views on specific issues related to the work of the Joint Committee;
 - e) Seek to resolve any issues or disputes arising under the Agreement in an amicable manner; and

f) Such other functions that the Parties may agree.

Article 3: Creation of National Focal Points for Green Investment

1. Each Party shall designate a National Focal Point for Green Investment which shall have as its main responsibility the support for investors from the other Parties in Green Investments in its territory.

2. The responsibilities of the National Focal Point for Green Investment shall be to:

a) Endeavour to adopt the recommendations of the Multilateral Committee on Green Investments and interact with the National Focal Points for Green Investment of the other Parties;

b) Follow up on requests and enquiries of other Parties or of investors of the other Party with the competent authorities and inform the stakeholders on the results of its actions;

c) Assess, in consultation with relevant government authorities, suggestions and complaints received from the other Party or investors of the other Party and recommend, as appropriate, actions to improve the investment environment and framework for climate change prevention & reduction;

d) Seek to prevent differences in investment matters, in collaboration with government authorities and relevant private entities;

e) Provide timely and useful information on regulatory issues on general investment or on specific projects; and

f) Report its activities and actions to the Multilateral Committee on Green Investments, as appropriate.

Article 4: Dispute Prevention

1. The National Focal Points on Green Investment shall act in coordination with each other and with the members of the Multilateral Committee on Green Investments representing the Host State and the Home State in order to prevent, manage and resolve any disputes or potential disputes between the Parties (the “consulting parties”). Other members of the Multilateral Committee on Green Investments may also participate in this process, if agreed by the Host State and Home State. Three neutral third member states agreed by the consulting parties shall participate in the proceedings to facilitate the resolution of the dispute to constitute a “Taskforce of the Multilateral Committee on Green Investments.” One member from a neutral state shall be elected as the Convener and shall be the point-person to facilitate the resolution of the dispute.

2. Before initiating an arbitration procedure, any dispute, whether between an investor and a State or between States, shall be the object of consultations and negotiations between the Consulting Parties and be first examined by the Taskforce of the Multilateral Committee on Green Investments.

3. A Party or an Investor may submit a specific question and call a meeting of the Taskforce of the Multilateral Committee on Green Investments in accordance with the following procedure:

- a) To initiate the procedure, the interested Party or the Investor must submit a written request to the other Party, specifying the name of the affected investors, the specific measure in question, and the brief description of the facts and law underlying the request. The Taskforce of the Multilateral Committee on Green Investments shall meet within 15 days from the date of the request. Such meeting need not take place in-person and may be scheduled via telephone conference, electronic means, or on any other practical means;
- b) The Taskforce of the Multilateral Committee on Green Investments shall have 30 days to evaluate the relevant information about the presented case and to submit brief recommendations to the Parties. The Taskforce of the Multilateral Committee on Green Investments may recommend a variety of different options to resolve the disputes, such as revocation of measures, financial settlement, or that the matter be submitted for dispute resolution in accordance with this Chapter, although every attempt must be made to resolve the dispute amicably, wherever possible.
- c) In the event that a Host State does not attend the meeting of the Taskforce of the Multilateral Committee on Green Investments or does not follow its recommendation within a reasonable period of time, the dispute may be submitted for dispute resolution in accordance with this Chapter.

Part B: Dispute Resolution between Investor and States

Article 5: Submission of a Claim to Arbitration

1. If a dispute concerning an obligation set out in Chapter 2 or Chapter 3 (which govern the obligations of States and Investors with respect to Green Investments) cannot be resolved pursuant to Part A of this Chapter, an Investor or a Party may refer to the matter for resolution in accordance with this Part.

Article 6: Notice of Intent

1. At least 90 days before submitting any claim to arbitration under this Section, a claimant shall deliver to the respondent a written notice of its intention to submit the claim to arbitration (“notice of intent”).

2. The notice of intent shall specify:

- a) the name and address of the claimant and, where a claim is submitted on behalf of an enterprise, the name, address, and place of incorporation of the enterprise;
- b) the legal and factual basis for each claim; and
- c) the relief sought and the approximate amount of damages claimed.

Article 7: Arbitration Institutions

An Investor or State may submit a claim:

- a) under the ICSID Convention and the ICSID Rules of Procedure for Arbitration Proceedings, provided that both the respondent and the non-disputing Party are parties to the ICSID Convention;
- b) under the ICSID Additional Facility Rules, provided that either the respondent or the non-disputing Party is a party to the ICSID Convention;
- c) under the UNCITRAL Arbitration Rules;
- d) under the Stockholm Chamber of Commerce Arbitration Rules; or
- e) if the claimant and respondent agree, to any other arbitration institution or under any other arbitration rules.

Article 8: Notice of Arbitration

A claim shall be deemed submitted to arbitration under this Section when the claimant's notice of or request for arbitration ("notice of arbitration"):

- a) referred to in paragraph 1 of Article 36 of the ICSID Convention is received by the Secretary-General;
- b) referred to in Article 2 of Schedule C of the ICSID Additional Facility Rules is received by the Secretary-General;
- c) referred to in Article 3 of the UNCITRAL Arbitration Rules, together with the statement of claim referred to in Article 18 of the UNCITRAL Arbitration Rules, are received by the respondent;
- d) referred to in Article of the Stockholm Chamber of Commerce Arbitration Rules is received by the SCC; or
- e) referred to under any arbitral institution or arbitral rules selected is received by the respondent.

Article 9: Consent of Each Party to Arbitration

1. Each Party consents to the submission of a claim to arbitration under this Section in accordance with this Agreement.

2. The consent under paragraph 1 and the submission of a claim to arbitration under this Section shall be deemed to satisfy the requirements of:

- a) Chapter II of the ICSID Convention (Jurisdiction of the Centre) and the ICSID Additional Facility Rules for written consent of the parties to the dispute;
- b) Article II of the New York Convention for an "agreement in writing"; and
- c) Article I of the Inter-American Convention for an "agreement."

3. No claim may be submitted to arbitration under this Section if more than three years have elapsed from the date on which the investor first acquired, or should have first acquired, knowledge of the breach alleged.

Article 10: Selection of Arbitrators

1. Unless the disputing parties agree otherwise, the tribunal shall comprise three arbitrators, one arbitrator appointed by each of the disputing parties and the third, who shall be the presiding arbitrator, appointed by agreement of the disputing parties.
2. The Secretary-General of the Stockholm Chamber of Commerce shall serve as appointing authority for an arbitration under this Section.
3. If a tribunal has not been constituted within a period of 75 days after the date that a claim is submitted to arbitration under this Section, the Secretary-General of the Stockholm Chamber of Commerce, on the request of a disputing party, shall appoint, in his or her discretion, the arbitrator or arbitrators not yet appointed. The Secretary-General shall not appoint a national of either the respondent or the Party of the claimant as the presiding arbitrator unless the disputing parties agree otherwise.
4. The IBA Guidelines on Conflicts of Interest shall guide the selection of the Arbitrators.

Article 11: Counterclaims

1. Nothing in this Part will prevent the Respondent from raising any counterclaims against the opposing party. Any counterclaims need to be raised at the earliest available opportunity but no later than filing any counter-memorial of Respondent.
2. In assessing the monetary compensation to be paid to a Party under this Article, the tribunal can take into consideration the following: a. whether the breach justifies an award of damages; and b. whether that Party has taken steps to mitigate its losses.
3. An initiation of a counterclaim by a Party shall not be deemed to be a waiver of that Respondent Party's objection to the tribunal's jurisdiction over an Investment Dispute.

Article 12: Conduct of the Arbitration

1. The disputing parties may agree on the legal place of any arbitration under the applicable arbitral rules. If the disputing parties fail to reach agreement, the tribunal shall determine the place in accordance with the applicable arbitral rules, provided that the place shall be in the territory of a State that is a party to the New York Convention.
2. The non-disputing Party may make oral and written submissions to the tribunal regarding the interpretation of this Treaty.
3. The tribunal shall have the authority to accept and consider amicus curiae submissions from a person or entity that is not a disputing party.
4. A tribunal has the powers to determine a preliminary issue on a legal question, any issue relating to its jurisdiction, or any interim or provisional request by either party especially for measures that may have a harmful effect on Climate Change.

5. If a separate, multilateral agreement enters into force between the Parties that establishes an appellate body for purposes of reviewing awards rendered by tribunals constituted pursuant to international trade or investment arrangements to hear investment disputes, the Parties shall strive to reach an agreement that would have such appellate body review awards rendered in arbitrations commenced after the multilateral agreement enters into force between the Parties.

Article 13: Transparency of the Arbitration

The Arbitral Tribunal may decide to adopt the Rules under the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration to facilitate transparent proceedings, where possible.

Article 14: Applicable Law

1. The arbitral tribunal shall decide the issues in dispute in accordance with host state laws, this Treaty and applicable rules of international law, including International Agreements dealing with Climate Change.

2. A joint decision of the Parties, each acting through its representative designated for purposes of this Article, declaring their interpretation of a provision of this Treaty shall be binding on a tribunal, and any decision or award issued by a tribunal must be consistent with that joint decision.

Article 15: Awards

1. Where a tribunal makes a final award against a Party, the tribunal may award, separately or in combination:

- a) monetary damages and any applicable interest; and
- b) restitution of property, in which case the award shall provide that the respondent may pay monetary damages and any applicable interest in lieu of restitution. A tribunal may also award costs and attorney's fees in accordance with this Treaty and the applicable arbitration rules. The primary consideration of a tribunal must be protection of the environment and Climate Change Prevention and Reduction.

2. A tribunal may not award punitive damages.

3. An award made by a tribunal shall have no binding force except between the disputing parties and in respect of the particular case.

4. A disputing party shall abide by and comply with an award without delay.

5. Each Party shall provide for the enforcement of an award in its territory.

Part C: Disputes Between States

Article 16: Scope

1. Any dispute arising under Chapter 4 (which governs State Obligations for Climate Change Prevention, mitigation and Adaptation) that has not been resolved in accordance with the Dispute Prevention mechanism in Part A above to the satisfaction of the Host or Home State may be resolved according to the Dispute Settlement provisions of this Part.
2. The Parties shall strive to enter into an agreement with the World Trade Organization (WTO) to rely upon the facilities available there.

Article 17: Establishment of a Panel

1. A Party may request by means of a written notice addressed to the responding Party, the establishment of a panel if the consulting Parties fail to resolve the matter in accordance with Part A of this Chapter (the "Complaining Party").
2. The Complaining Party shall circulate the request concurrently to all Parties through the National Focal Points.
3. The Complaining Party shall include in the request to establish a panel an identification of the measure or other matter at issue and a brief summary of the legal basis of the complaint sufficient to present the problem clearly.
4. A panel shall be established upon delivery of the request in accordance with this Part.
5. If a panel has been established regarding a matter and another Party requests the establishment of a panel regarding the same matter, a single panel should be established to examine those complaints whenever feasible.

Article 18: Terms of Reference

Unless the Disputing Parties agree otherwise, no later than 20 days after the date of delivery of the request for the establishment of a panel, the terms of reference shall be to:

- a) examine, in the light of the relevant provisions of Chapter 4 of this Agreement, the matter referred to in the request for the establishment of a panel; and
- b) make findings and determinations, and any jointly requested recommendations, together with its reasons therefore, in a report in accordance with this Part.

Article 19: Composition of Panels

1. A panel shall be composed of five members.

2. Unless the disputing Parties agree otherwise, the following procedures shall apply to compose a panel:
 - a) Within a period of 20 days after the date of delivery of the request for the establishment of a panel, the complaining Party or Parties, on the one hand, and the responding Party or Parties, on the other, shall each appoint a panelist and notify each other of those appointments.

 - b) If a responding Party fails to appoint a panelist within the period specified in subparagraph (a), the complaining Party or Parties shall select the panelist not yet appointed from the roster of panelists established under Article 21 (Roster of Panelists) no later than 30 days after the date of delivery of the request for the establishment of a panel.

 - c) For appointment of the other three members of the panel, one of whom shall serve as Chair:
 - i. the disputing Parties shall endeavor to agree on the appointment of the other three members;
 - ii. if the disputing Parties fail to appoint the other three members within 30 days of appointment of the two panelists, the two panelists appointed shall, by agreement, appoint them from the roster established under Article 21 (Roster of Panelists); and
 - iii. if the two panelists do not agree on the appointment of the other three members within 10 days, then the matter shall be referred to the President of the International Court of Justice (ICJ) who shall make the appointments.

3. Unless the disputing Parties agree otherwise, the chair shall not be a national of any of the disputing Parties or a Third Party.

4. If a panelist selected under paragraph 2 is unable to serve on the panel, the complaining Party, the responding Party, or the disputing Parties, as the case may be, shall, no later than seven days after learning that the panelist is unavailable, select another panelist in accordance with the same method of selection that was used to select the panelist who is unable to serve, unless the disputing Parties agree otherwise.

5. If a disputing Party believes that a panelist is in violation of the Code of Conduct referred to in Article 23 the disputing Parties shall consult and, if they agree, the panelist shall be removed and a new panelist shall be selected in accordance with this Article.

Article 20: Qualifications of Panelists

All panelists shall:

- a) have expertise or experience in environmental law or practice, or other matters covered by this Agreement, or the resolution of disputes arising under international agreements;
- b) be chosen strictly on the basis of their objectivity, reliability and sound judgment;
- c) be independent of, and not affiliated with or take instructions from, any Party; and
- d) comply with the Code of Conduct.

Article 21: Roster of Panelists

1. No later than 120 days after the date of entry into force of this Agreement, those Parties for which this Agreement has come into force under Article 3 (Entry into Force) of Chapter 6 shall establish a roster to be used for the selection of panelists. Until such time that the Roster is created, the Parties shall attempt to amicably select Panelists failing which the matter shall be referred to the President of the ICJ who can make the appropriate appointments.

2. The roster shall consist of at least 15 individuals, unless the Parties agree otherwise.

3. Each Party may nominate up to three individuals for the roster and may include up to one national of that Party. Each Member nominated shall have a term of seven years, renewable for one further seven year period.

Article 22: Function of Panels

1. A panel's function is to make an objective assessment of the matter before it, which includes an examination of the facts and the applicability of and conformity with this Agreement, and to make the findings, determinations and recommendations as are called for in its terms of reference and necessary for the resolution of the dispute.

2. Unless the disputing Parties agree otherwise, the panel shall perform its functions and conduct its proceedings in a manner consistent with this Chapter and the Rules of Procedure.

3. A panel shall take its decisions by consensus, except that, if a panel is unable to reach consensus, it may take its decisions by majority vote.

Article 23: Rules of Procedure for Panels and Code of Conduct for Panelists

The Rules of Procedure and Code of Conduct for Panelists, established under this Agreement shall ensure that:

- a) disputing Parties have the right to at least one hearing before the panel at which each may present views orally;

- b) subject to subparagraph (e), any hearing before the panel shall be open to the public, unless the disputing Parties agree otherwise;
- c) each disputing Party has an opportunity to provide an initial and a rebuttal written submission;
- d) subject to subparagraph (e), each disputing Party shall release to the public its written submissions, written version of an oral statement and written response to a request or question from the panel, if any, as soon as possible after those documents are filed
- e) confidential information is protected;
- f) the panel shall consider requests from non-governmental entities to provide written views regarding the dispute that may assist the panel in evaluating the submissions and arguments of the disputing Parties; and
- g) the International Bar Association (IBA) Guidelines on Conflicts of Interest in Party Representation shall assist in preparing the Code of Conduct for Panelists.

Article 24: Non-Disputing Party Participation

A Party that is not a disputing Party and that considers it has an interest in the matter before the panel shall, on delivery of a written notice to the disputing Parties, be entitled to attend all hearings, make written submissions, present views orally to the panel, and receive written submissions of the disputing Parties. The Party shall provide written notice no later than 10 days after the date of circulation of the request for the establishment of the panel.

Article 25: Amicus Submission and Third Party Participation

1. The panel shall have the authority to accept and consider amicus curiae submissions from a person or entity that is not a disputing party. Since the dispute may relate to matters concerning climate change or the environment, the Panel shall allow such requests, wherever possible.

2. The panel may decide to adopt the Rules under the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration to permit third party participation and transparent proceedings, where possible.

Article 26: Role of Experts

At the request of a disputing Party, or on its own initiative, a panel may seek information and technical advice from any person or body that it deems appropriate.

Article 27: Report of the Panel

1. The panel shall present a report to the disputing Parties within 90 days, including any separate opinions on matters not unanimously agreed, unless the disputing Parties agree otherwise. After taking any steps to protect confidential information, and no later than 15 days after the presentation of the final report, the disputing Parties shall release the final report to the public.

2. The panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the disputing Parties and any third Parties, and on any information or advice put before it under Article 26 (Role of Experts).

3. No panel shall disclose which panelists are associated with majority or minority opinions.

Article 28: Implementation of Report or Appellate Body Report

1. If the panel determines in a report that is not appealed, or the Appellate Body in its report, determines that the measure at issue is inconsistent with a Party's obligations in this Agreement or a Party has otherwise failed to carry out its obligations in this Agreement, the responding Party shall, eliminate the non-conformity or the nullification or impairment.

2. The responding Party shall have a reasonable period of time in which to eliminate the non-conformity or nullification or impairment if it is not practicable to do so immediately.

Article 29: Non-Implementation

1. The responding Party shall, if requested by the complaining Party or Parties, enter into negotiations with the complaining Party or Parties no later than 15 days after receipt of that request, with a view to developing a mutually agreeable solution, if:

- a) the responding Party has not eliminated the non-conformity or the nullification or impairment; or
- b) following the expiry of a reasonable period of time, there is disagreement between the disputing Parties as to whether the responding Party has eliminated the non-conformity or the nullification or impairment.

2. If the responding Party considers that it has eliminated the non-conformity or the nullification or impairment that the panel has determined to exist it may request that the panel be reconvened to consider the matter. The responding Party shall deliver its request in writing to the complaining Party. The panel shall reconvene as soon as possible after the date of delivery of the request and shall present its determination to the disputing Parties no later than 90 days after it reconvenes to review such request.

3. If the Panel determines that the responding Party has not eliminated the non-conformity or the nullification or impairment, the Panel may decide by majority vote that the responding Party shall pay a one-off or ongoing assessment into a fund designated for appropriate initiatives to further the objectives of this Agreement, including by further reducing carbon emissions or by assisting the responding Party to carry out its obligations under this Agreement.

4. The payment of a monetary assessment shall be a temporary measure and shall not be preferred to implementation through elimination of the non-conformity or the nullification or impairment. The payment of a monetary assessment shall only be applied until the

responding Party has eliminated the non-conformity or the nullification or impairment, or until a mutually satisfactory solution is reached.

Article 30: Adoption of Panel Reports

Within 60 days after the date of circulation of a panel report to the Parties, the report shall be adopted by them unless a disputing party formally notifies the Appellate Body of its decision to appeal.

Article 31: Standing Appellate Body

1. A standing Appellate Body shall be established. The Appellate Body shall hear appeals from panel cases. It shall be composed of seven persons, three of whom shall serve on any one case. Persons serving on the Appellate Body shall serve in rotation. Such rotation, and the terms of appointment of members of the Appellate Body, shall be determined in the working procedures of the Appellate Body.

2. The Appellate Body shall comprise persons of recognized authority, with demonstrated expertise or experience in environmental law or practice, and the subject matter of the Agreement generally. They shall be unaffiliated with any government. The Appellate Body membership shall be broadly representative of the Parties to the Agreement. All persons serving on the Appellate Body shall be available at all times and on short notice, and shall stay abreast of developments relevant to the subject matter of the Agreement. They shall not participate in the consideration of any disputes that would create a direct or indirect conflict of interest.

3. Only parties to the dispute, not third parties, may appeal a panel report. Third parties which have notified their substantial interest in the matter may make written submissions to, and be given an opportunity to be heard by, the Appellate Body.

4. The proceedings shall not exceed 60 days from the date a disputing Party formally notifies its decision to appeal to the date the Appellate Body circulates its report.

5. An appeal shall be limited to issues of law covered in the panel report and legal interpretations developed by the panel.

Article 32: Procedures for Appellate Review

1. Working procedures shall be drawn up by the Appellate Body in consultation with the Parties, and communicated to the Parties for their information.

2. The proceedings of the Appellate Body shall be confidential. The reports of the Appellate Body shall be drafted without the presence of the disputing parties and in the light of the information provided and the statements made.

3. Opinions expressed in the Appellate Body report by individuals serving on the Appellate Body shall be anonymous.

4. The Appellate Body shall address each of the issues raised in accordance with Article 31(5) (Standing Appellate Body) during the appellate proceeding.
5. The Appellate Body may uphold, modify or reverse the legal findings and conclusions of the panel.

Article 33: Adoption of Appellate Body Reports

An Appellate Body report shall be unconditionally accepted by the disputing parties unless they decide by consensus not to adopt the Appellate Body report within 30 days following its circulation to them and the other Parties to the Agreement.

Article 34: Periodic Review of Dispute Settlement Developments

1. The Parties shall regularly, or upon request of one third of the Parties, convene a meeting of experts to review the appropriateness of the dispute settlement mechanisms set out in this treaty, including in light of developments such as the potential establishment of a Multilateral Investment Court.
2. The experts may develop recommendations in this regard and submit them to the Parties for decision.
3. Such decision is to be taken by consensus or, if efforts to reach consensus are not successful, by a 2/3 majority of parties.

Chapter 6:

Final Provisions

Article 1: Depository

The Stockholm Chamber of Commerce shall be the Depository of this Agreement.

Article 2: Signature, Ratification, Acceptance or Approval

1. This Agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations that are Parties to any International Agreement Dealing with Climate Change. It shall be open for signature at the Stockholm Chamber of Commerce from 1 July 2018 to 31 December 2018. Thereafter, this Agreement shall be open for accession. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depository.

2. Any regional economic integration organization that becomes a Party to this Agreement without any of its member States being a Party shall be bound by all the obligations under this Agreement. In the case of regional economic integration organizations with one or more member States that are Parties to this Agreement, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Agreement. In such cases, the organization and the member States shall not be entitled to exercise rights under this Agreement concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Agreement. These organizations shall also inform the Depository, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 3: Entry into Force

This Agreement shall enter into force on the thirtieth day after the date on which at least three States deposit their instruments of ratification, acceptance, approval or accession with the Depository.

Article 4: Amendments

Any Party wishing to propose an amendment to this Agreement shall circulate it to the Parties through the National Focal Points.

Article 5: Periodic Review of the Agreement

Without prejudice to its regular meetings, and the specific review mechanisms in this Agreement, after 10 years of entering into force of this Agreement, the Joint Committee will undertake a general review of its implementation and make further recommendations to Parties if necessary.

Article 6: Decision Making

1. Parties shall make every effort to take all decisions by consensus. If consensus cannot be achieved, decisions can be taken by a two-thirds majority vote of the Parties.

2. Each Party shall have one vote.

3. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Article 7: Withdrawal

1. At any time after three years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from this Agreement by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.