

## **IPEF Should Be a Template for Climate-Friendly Trade**

The Indo-Pacific Economic Framework (IPEF) presents an opportunity to establish a new, climate-friendly template for trade. Below are key provisions related to the environment and climate that IPEF must include in order to begin to build a new model of trade that is good for people and the planet.

### **Pillar 1: Fair and Resilient Trade**

- The Environment Chapter of the trade pillar must include binding commitments (eg “shall” obligations) for Parties to:
  - “Adopt, maintain, and implement” the laws, regulations, and all other measures to fulfill Parties’ obligations under the seven multilateral environmental agreements (MEAs) established in the May 10<sup>th</sup> 2007 agreement; other MEAs to which a majority of IPEF countries are a Party; and in any climate pact or other Multilateral Environmental Agreement a Party signs in the future.
  - Adopt, maintain and implement the laws, regulations and all other measures to fulfill Parties’ obligations under the Paris climate agreement.
  - Enforce all of environmental and climate laws and regulations, and not alter, waive, or derogate from existing environmental and climate laws and regulations or offer to do so in order to attract trade or investment. This obligation must not be limited to scenarios of a “sustained or recurring course of action or inaction.”
  - Refrain from using dispute settlement mechanisms in trade agreements to challenge each others’ climate mitigation and/or clean energy transition measures. (Given the need to ensure that climate mitigation does not come at the expense of worker rights and other forms of environmental protection, both the labor and environmental chapters of trade agreements and frameworks must be exempt from the scope of this commitment.)
  - Protect forests, wildlife, and marine habitats, including through:
    - A legally enforceable prohibition on trade in illegally sourced timber, wildlife, and marine resources;
    - Legally binding commitments to address illegal, unreported and unregulated (IUU) fishing;

- Legally binding rules to prohibit subsidies that contribute to overcapacity and overfishing; and
  - Legally binding prohibitions on shark finning and associated trade and commercial whaling.
- IPEF Parties must agree to specific enforcement mechanisms to ensure environmental obligations are met,<sup>1</sup> including enforcement provisions that:
  - Enable members of the public to initiate claims of environmental violations, which would then trigger an independent investigation within a set time period and, where appropriate, adjudication with binding remedies.
  - Include facility-specific enforcement tools, building off the best practices for labor enforcement set in the US-Mexico-Canada Agreement.
  - Not include any requirement that breaches in environmental standards be "sustained" and/or "recurring" or shown to have occurred in a "manner affecting trade" in order to be actionable.
- The Good Regulatory Practices Chapter of the trade pillar, insofar as there is one at all, should refer only to best practices and must not include binding commitments (eg "shall" obligations) for Parties to create advisory groups, conduct regulatory impact assessments, use specific statistical models, carry out retrospective reviews of regulations or any other provisions that give corporations roles and/or rights in regulatory policymaking that could serve to slow, weaken or stop future environmental and other public interest regulations.

## **Pillar 2. Supply Chain**

The Supply Chain pillar must include binding commitments for Parties to:

- Meet all environmental obligations outlined for the trade pillar (regardless of whether a country is a signatory of the trade pillar);<sup>2</sup>
- Ensure traceability and adhere to transparency requirements in commodity supply chains; and
- Meet additional project-specific environmental obligations for any specific projects facilitated by the various mechanisms created by the Supply Chain pillar.

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<sup>1</sup> Even without market access, these obligations can still be enforced through, for example, fines (as is done in the USMCA), sanctions, or punitive tariffs. It is important to note that NAFTA already had zeroed out tariffs between the USMCA parties. The use of tariffs in the Rapid Response facility specific mechanism in USMCA applies punitive tariffs and is not reliant on new tariff cuts and thus snapbacks.

<sup>2</sup> Binding environmental standards with strong enforcement mechanisms must be cross-cutting across all IPEF pillars. The non-trade pillars, insofar as they provide Parties with specific benefits (ie, technical assistance, finance, funding, investment commitments, etc.), should also include "snap back" provisions as additional enforcement tools for failure to meet environmental obligations.

### **Pillar 3. Clean Energy, Decarbonization, and Infrastructure (Commerce)**

- The “Clean Economy” pillar must include commitments for Parties to:
  - Meet all environmental obligations outlined for the trade pillar (regardless of whether a country is a signatory of the trade pillar).
  - Ensure that any Party which receives any technical or other assistance related to infrastructure projects or other components of the Clean Economy pillar must adopt and maintain environmental standards and protections related to those projects.
  - Protect and encourage domestic procurement preferences that incentivize cleaner energy and materials in government procurement and federally assisted programs. More specifically, IPEF should require that Parties include a preference for goods and services with low life-cycle greenhouse gas emissions in procurement decisions. Developing countries, or countries with low historic emissions, should have longer to implement this requirement, which should also be contingent on the transfer of technology and financing from high historical emitters.
  - Establish a space for collaboration on carbon accounting in energy-intensive traded goods to inform future policies, such as those related to procurement, that rely on standardized and verifiable data on embodied emissions. Encourage and support Parties, including through technical and financial assistance as necessary, to use a high-quality, transparent reporting mechanism such as an Environmental Product Declaration (EPD) to aid in data verification.
  - Protect the use of domestic content preferences in government procurement and federally assisted programs related to clean energy, decarbonization, and infrastructure.
  - Explicitly allow Parties to restrict trade and use of fossil fuels and energy intensive goods (noting that “energy intensive” would need to be defined).
  - Commit developed countries to provide additional technical assistance and financial support to support developing countries in their decarbonization and clean energy transition.