

CHAPTER SIXTEEN LABOR

Article 16.1: Objectives

The objectives of this Chapter are to:

- (a) promote the common aspiration that free trade and investment should lead to job creation, and decent work for workers, with terms and conditions of employment that adhere to the principles in the *International Labor Organization Declaration of Fundamental Principles and Rights at Work and its Follow-Up* (1998) (hereinafter referred to as “ILO Declaration”), and the ILO Declaration on Social Justice for a Fair Globalization, 2008. The Parties endeavor to reflect this objective in their trade relationship;
- (b) promote and achieve a better understanding of each Party’s labor systems, sound labor policies and practices, and the improved capacity and capability of each Party, including their relevant stakeholders, through increased cooperation and dialogue to facilitate the implementation of this Chapter;
- (c) promote the improvement of working conditions and living standards within the respective Parties’ territories and protect, enhance and enforce basic workers’ rights; and
- (d) enable the discussion and exchange of views on labor issues of mutual interest.

Article 16.2: General Principles

1. The Parties reaffirm their obligations as members of the *International Labor Organization* (hereinafter referred to as “ILO”) and their commitments under the ILO Declaration. Each Party shall strive to adopt and maintain in its laws, regulations, and practices there under, the following rights as stated in the ILO Declaration:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labor;
- (c) the effective abolition of child labor; and
- (d) the elimination of discrimination in respect of employment and occupation.

2. The Parties reaffirm each other's sovereign right to establish their own labor legislation, and to adopt and modify accordingly their labor laws, regulations, policies and practices based on their priorities. Each Party shall strive to assure that its labor legislation complies with internationally recognized labor rights.

3. Nothing in this Chapter shall be construed to empower a Party's competent authorities to carry out activities oriented towards the enforcement of labor legislation in the territory of the other Party.

4. The Parties recognize that it is not their intention in this Chapter to harmonize their labor standards, but to strengthen their trade relations and cooperation in a way that promotes sustainable development.

5. The Parties reaffirm their willingness to fulfill their commitments under this Chapter taking into account their own capacities, in particular technical and financial capacities.

6. The Parties shall not fail to effectively enforce their labor laws, including those they adopt or maintain in accordance with this Chapter, through a sustained or recurrent action or inaction, in a manner affecting trade or investment between the Parties. The Parties recognize that each Party retains the right to exercise discretion with respect to the distribution of enforcement resources and to make decisions regarding the allocation of enforcement resources.

7. Neither Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its laws or regulations implementing paragraph 1 in a manner affecting trade or investment between the Parties, where the waiver and derogation would be inconsistent with the principles set out in paragraph 1.

8. Each Party shall ensure that its labor laws, regulations, policies and practices shall not be used for trade protectionist purposes.

Article 16.3: Procedural Guarantees and Public Awareness

1. Each Party shall ensure that persons with a recognized interest under its law in a particular matter have appropriate access to the enforcement of the Party's labor laws. Such tribunals may include administrative, quasi-judicial, judicial, or labor tribunals.

2. Each Party shall ensure that proceedings before such tribunals for the enforcement of its labor laws are fair, equitable, and transparent. The Parties will promote public awareness as the public availability of information and knowledge of its labor laws, regulations, policies and practices domestically, and may develop mechanisms as appropriate to inform the public of activities undertaken pursuant to this Chapter, in accordance with its laws, regulations, policies and practices.

3. Each Party shall provide that parties to such proceedings may seek remedies to ensure the enforcement of their rights under its labor laws and regulations.

Article 16.4: Institutional Arrangements

Labor Committee

The Parties hereby establish the Labor Committee. The Committee shall comprise appropriate senior officials from the labor ministry or other relevant ministries of each Party.

1. The Labor Committee shall:
 - (a) establish an agreed work program of cooperative activities;
 - (b) oversee and evaluate the agreed cooperative activities;

- (c) serve as a forum for dialogue on labor matters of mutual interest;
- (d) review the implementation and outcomes of this Chapter;
- (e) facilitate cooperation through information exchange;
- (f) take any other action it decides appropriate for the implementation of this Chapter, and
- (g) consider any other issues related to this Chapter as determined by the Joint Committee.

2. The Labor Committee shall meet within one year after the date of entry into force of this Agreement, and thereafter as necessary, to discuss matters of common interest and oversee the implementation of this Chapter, including the cooperative activities set out in Annex 16-A. The meetings may be held in person or by any technological means available to the Parties.

3. The Labor Committee may consider any other issues within the scope of this Chapter, and may also identify possible new areas of cooperation.

4. The work of the Labor Committee shall be based on dialogue and effective cooperation, furthering commitments and initiatives under this Chapter and seeking mutually satisfactory solutions to any difficulties that may arise.

5. Decisions of the Labor Committee will be taken by consensus of the Parties.

Contact Points

6. Each Party shall designate a contact point from the labor ministries or other relevant ministries to facilitate communication between the Parties.

7. The contact points shall assist the Labor Committee in carrying out its work, including coordination of cooperative activities on labor under Annex 16-A.

Public Participation

8. The Labor Committee and each Party individually may consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.

Article 16.5: Consultation

1. The Parties shall at all times endeavor to agree on the interpretation and application of this Chapter, and shall make every attempt through dialogue, consultation, exchange of information and cooperation to resolve any issue that might affect its operation in a friendly manner and in good faith.

2. A Party may request consultations with the other Party regarding any matter arising under this Chapter through the contact point. Unless the Parties otherwise agree, consultations shall commence within 60 days of a Party's acknowledged receipt of a request for consultations submitted to the contact point of the other Party. The Parties may seek advice or assistance from a person or body they consider appropriate.

3. The Parties shall decide a timeframe for consultation which shall not exceed 180 days, unless mutually agreed upon.

4. If a Party considers that the matter needs further discussion after the first consultation, the Party may request that the Labor Committee be convened to consider the matter by delivering a written request to the contact point of the other Party. This Committee shall convene, unless otherwise agreed, no later than 90 days following the request, and endeavor to agree on a resolution of the matter.

5. The Labor Committee shall produce a report providing conclusions and recommendations on resolving the issue, and both Parties shall endeavor to implement the conclusions and recommendations of the Committee as soon as practicable, which may include appropriate cooperative activities.

6. If the Labor Committee under paragraph 4 fails to resolve the issue, the requesting Party may refer the issue to the Joint Committee.

7. Each Party shall maintain the confidentiality of any information provided as confidential by the other Party under this Article. The consultation shall be held in a place mutually agreed upon.

8. Neither Party shall have recourse to the dispute settlement under this Agreement for any matter arising under this Chapter.

Article 16.6: Cooperation

Recognizing the importance of cooperation on trade-related aspects of labor policies in order to achieve the objectives of this Chapter, the Parties commit to initiating and developing cooperative activities as set out in Annex 16-A.

Annex 16-A
Labor Cooperation

1. The areas of cooperation between the Parties pursuant to this Chapter may include, but are not limited to:

- (a) policy areas of mutual interest and their effective application;
- (b) labor-management relations;
- (c) working conditions;
- (d) occupational safety and health;
- (e) vocational training and human resource development and management;
- (f) public employment services;
- (g) labor statistics; or
- (h) such other matters as the Parties may agree.

2. Cooperative activities may be implemented through a variety of means, which may include, but should not be limited to:

- (a) exchanging government delegations, professionals, experts, scholars, and instructors, including study visits;
- (b) exchanging information on standards, regulations, procedures, and best practices, including through the exchange of pertinent publications and monographs;
- (c) organizing joint conferences, seminars, workshops, meetings, training sessions and outreach and education programs;
- (d) developing collaborative projects and demonstrations, including technical tools;

- (e) engaging in joint research projects, studies, and reports, including through the engagement of independent experts with recognized expertise; or
- (f) other forms of technical exchanges or cooperation to which the Parties may agree.

3. Any cooperative activities agreed under paragraph 2 shall be taken into consideration for each Party's labor priorities and needs as well as the resources available. Any specific activity or project launched by mutual determination may also be documented in a separate arrangement.

4. Each Party may, as appropriate, invite the participation of its unions and employers or other persons and organizations of its country in identifying potential areas for cooperation and undertaking cooperative activities.

5. The Parties shall carry out cooperative activities with due regard for the economic, social, cultural, and legislative differences between them.