

CHAPTER EIGHTEEN

LABOR

ARTICLE 18.1: FUNDAMENTAL LABOR RIGHTS

The Parties, in accordance with their obligations as members of the International Labor Organization (hereinafter referred to as the “ILO”) and the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up* (1998) (hereinafter referred to as the “ILO Declaration”), shall endeavor to adopt and maintain in their legislation and practices thereunder, the principles as stated in the ILO Declaration.

ARTICLE 18.2: APPLICATION AND ENFORCEMENT OF LABOR LAW

1. A Party shall not fail to effectively enforce its labor laws and regulations, including those it adopts or maintains in accordance with Article 18.1, through a sustained or recurring course of action or inaction, in a manner substantially affecting trade or investment between the Parties.

2. The Parties shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, their laws or regulations implementing Article 18.1, in a manner substantially affecting trade or investment between the Parties, where the waiver or derogation would be inconsistent with the principles as stated in the ILO Declaration.

ARTICLE 18.3: PROCEDURE GUARANTEE AND PUBLIC AWARENESS

1. Each Party shall ensure that persons with a recognized interest under its labor laws or regulations in a particular matter have appropriate access to tribunals for the enforcement of the Party’s labor laws and regulations. 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 and regulations are fair, equitable, and transparent.

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

4. Each Party shall promote public awareness of its labor laws and regulations.

ARTICLE 18.4: INSTITUTIONAL MECHANISM

1. The Parties hereby establish a Labor Affairs Council comprising representatives of each Party’s Labor Ministry and other competent authorities responsible for labor affairs.

2. The Council shall meet within one year following the date of entry into force of this Agreement and thereafter as necessary, to discuss the matters of mutual interest, and to

oversee the implementation of this Chapter, including the cooperative activities on labor under Article 18.5.

3. Each Party shall designate and maintain an office within its administration that shall serve as a contact point with the other Party and assist the Council in carrying out its work, including coordination of cooperative activities on labor under Article 18.5.

ARTICLE 18.5: LABOR 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 cooperative activities as set out in Annex 18A.

ARTICLE 18.6: LABOR CONSULTATIONS

1. A Party may request consultations with the other Party in writing regarding any matter of mutual interest arising under this Chapter. The Parties shall commence consultations promptly after a Party delivers such request to the contact point of the other Party.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter and may seek advice or assistance from any person or body they consider appropriate.

3. If a Party deems that the matter needs further discussion, the Party may request that the Council be convened to consider the matter by delivering a written request to the contact point of the other Party. The Council shall convene promptly and endeavor to agree on a resolution of the matter.

ARTICLE 18.7: DISPUTE SETTLEMENT

Neither Party shall have recourse to Chapter Twenty-Three (Dispute Settlement) for any matter arising under this Chapter.

ANNEX 18A

COOPERATION

1. Officials of the Labor Ministry and other competent authorities responsible for labor affairs will cooperate to:
 - (a) establish priorities for cooperative activities on labor matters;
 - (b) develop specific cooperative activities in accordance with such priorities;
 - (c) exchange information on labor laws, regulations, and practices in each Party; and
 - (d) exchange information on ways to improve labor practices, including best labor practices, and implementation of the principles reflected in the ILO Declaration.
2. Cooperative activities between the Parties may include the following subjects:
 - (a) policy issues of mutual interest and their effective application: laws, regulations, practices, and implementation regarding freedom of association and collective bargaining, non-discrimination in employment, child labor, forced labor, occupational health and safety, compensation for work-related injuries or illnesses, employment standards, and migrant workers;
 - (b) labor-management relations: forms of cooperation and dispute settlement among labor, management, and government;
 - (c) social safety net programs: social programs for workers and their families and unemployment assistance programs;
 - (d) human resources development and management: technical and vocational training, including training of related instructors and development of training programs, training programs to strengthen the institutional and technical capacity of labor administrations and tribunals, and development of training curricular as normally required in the Parties;
 - (e) migrant workers: dissemination of information on labor rights of migrant workers in each Party's territory;
 - (f) technical issues: programs, methodologies, and experiences regarding productivity improvement, encouragement of best labor practices, and the effective use of technologies;
 - (g) exchange of labor statistics and labor market information to enhance worker's and employer's awareness of labor demand and supply; and
 - (h) other matters as the Parties may agree, including further facilitation of partnership initiatives regarding labor.

3. Cooperative activities in paragraph 2 may be carried out through:
 - (a) exchanges of delegations, experts, scholars, teachers, and instructors, including study visits;
 - (b) exchanges of information, standards, regulations, procedures, and best practices, including publications and monographs;
 - (c) encouragement of dialogues between their respective government agencies and educational institutions;
 - (d) organization of joint conferences, seminars, workshops, meetings, training sessions and outreach, and education programs;
 - (e) development of collaborative projects or demonstrations;
 - (f) joint research projects, studies, and reports, including those involving independent experts with recognized expertise;
 - (g) cooperation on labor-related issues within international fora such as the ILO; and
 - (h) other forms of technical exchanges or cooperation as the Parties may agree.
4. The Parties shall carry out the cooperative activities with due regard for the economic, social, cultural, and legislative differences between them.