

## CHAPTER 4: LABOR

### Article 4.1: Statement of Shared Commitments

1. The Parties affirm their obligations as members of the ILO, including those stated in the ILO Declaration on Rights at Work and the ILO *Declaration on Social Justice for a Fair Globalization* (2008).
2. The Parties recognize the important role of workers' and employers' organizations in protecting internationally recognized labor rights.
3. The Parties also recognize the goal of trading only in goods produced in compliance with this Chapter.

### Article 4.2: Labor Rights

1. Each Party shall adopt and maintain in its statutes and regulations, and practices thereunder, the following rights, as stated in the ILO Declaration on Rights at Work:<sup>1</sup>
  - (a) freedom of association<sup>2</sup> 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, for the purposes of this Agreement, a prohibition on the worst forms of child labor; and
  - (d) the elimination of discrimination in respect of employment and occupation.
2. Each Party shall adopt and maintain statutes and regulations, and practices thereunder, governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

### Article 4.3: Non-Derogation

The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's labor laws. Accordingly, no Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labor laws in a

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<sup>1</sup> For purposes of dispute settlement, a panel shall refer to ILO conventions, reports, and recommendations for guidance as to the level of protection required.

<sup>2</sup> For greater certainty, the right to strike is linked to the right to freedom of association, which cannot be realized without protecting the right to strike.

manner that weakens or reduces the protection afforded in those laws to encourage trade or investment.

#### **Article 4.4: Enforcement of National Labor Laws**

1. No Party shall fail to effectively enforce its labor laws.
2. Each Party shall promote compliance with its labor laws through appropriate government action, such as by:
  - (a) appointing and training inspectors;
  - (b) monitoring compliance and investigating suspected violations, including through unannounced on-site inspections, and giving due consideration to requests to investigate an alleged violation of its labor laws;
  - (c) seeking assurances of voluntary compliance;
  - (d) requiring record keeping and reporting;
  - (e) encouraging the establishment of labor-management committees to address labor regulation of the workplace;
  - (f) providing or encouraging mediation, conciliation, and arbitration services;
  - (g) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labor laws; and
  - (h) implementing remedies and sanctions imposed for noncompliance with its labor laws, including timely collection of fines and reinstatement of workers.

#### **Article 4.5: Forced or Compulsory Labor**

1. Each Party shall prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.
2. To assist in the implementation of paragraph 1, the Parties shall establish cooperation for the identification and movement of goods produced by forced labor as provided for under Article 4.11.5(c)(Cooperation).

#### **Article 4.6: Violence Against Workers**

The Parties recognize that violence, threats, and intimidation are common tactics deployed to deprive of workers and labor organizations of the ability to exercise the rights set out in Article 4.2 (Labor Rights). Accordingly, no Party shall fail to address violence or threats of violence

against workers related to exercising or attempting to exercise the rights set out in Article 4.2 (Labor Rights).

#### **Article 4.7: Migrant Workers**

The Parties recognize the vulnerability of migrant workers with respect to labor protections. Accordingly, each Party shall ensure that migrant workers receive protection under its labor laws, whether they are nationals or non-nationals of the Party.

#### **Article 4.8: Discrimination in the Workplace**

Each Party shall implement policies to

- (a) protect workers against employment discrimination on the basis of sex (including with regard to sexual harassment), pregnancy, sexual orientation, gender identity, and caregiving responsibilities;
- (b) provide job-protected leave for birth or adoption of a child and care of family members; and
- (c) protect against wage discrimination.

#### **Article 4.9: Public Awareness and Procedural Guarantees**

1. Each Party shall promote public awareness of its labor laws, including by ensuring that information related to its labor laws and enforcement and compliance procedures is publicly available.

2. Each Party shall ensure that a person with a recognized interest under its law in a particular matter has appropriate access to tribunals for the enforcement of its labor laws. These tribunals may include administrative tribunals, quasi-judicial tribunals, judicial tribunals, or labor tribunals, as provided for in each Party's law.

3. Each Party shall ensure that proceedings before these tribunals for the enforcement of its labor laws:

- (a) are fair, equitable and transparent;
- (b) comply with due process of law;
- (c) do not entail unreasonable fees or time limits or unwarranted delay; and
- (d) that any hearings in these proceedings are open to the public, except where the administration of justice otherwise requires, and in accordance with its applicable laws.

4. Each Party shall ensure that:
  - (a) the parties to these proceedings are entitled to support or defend their respective positions, including by presenting information or evidence; and
  - (b) final decisions on the merits of the case:
    - (i) are based on information or evidence in respect of which the parties were offered the opportunity to be heard;
    - (ii) state the reasons on which they are based; and
    - (iii) are available in writing without undue delay to the parties to the proceedings and, consistent with its law, to the public.
5. Each Party shall provide, as appropriate, that parties to these proceedings have the right to seek review and, if warranted, correction of decisions issued in these proceedings.
6. Each Party shall ensure that tribunals that conduct or review these proceedings are impartial and independent.
7. Each Party shall ensure that the parties to these proceedings have access to remedies under its law for the effective enforcement of their rights under its labor laws and that these remedies are executed in a timely manner.
8. Each Party shall provide procedures to effectively enforce the final decisions of its tribunals in these proceedings.
9. For greater certainty, and without prejudice to whether a tribunal's decision is inconsistent with a Party's obligations under this Chapter, nothing in this Chapter shall be construed to require a tribunal of a Party to reopen a decision that it has made in a particular matter.
10. Each Party shall ensure that other types of proceedings within its labor bodies for the implementation of its labor laws:
  - (a) are fair and equitable;
  - (b) are conducted by officials who meet appropriate guarantees of impartiality;
  - (c) do not entail unreasonable fees or time limits or unwarranted delay; and
  - (d) document and communicate decisions to persons directly affected by these proceedings.

#### **Article 4.10: Public Submissions**

1. Each Party, through its contact point designated under Article 4.14 (Contact Points), shall provide for the receipt and consideration of written submissions from persons of a Party on matters related to this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures, including timelines, for the receipt and consideration of written submissions.
2. Each Party shall:
  - (a) consider matters raised by the submission and provide a timely response to the submitter, including in writing as appropriate; and
  - (b) make the submission and the results of its consideration available to the other Parties and the public, as appropriate, in a timely manner.
3. A Party may request from the person or organization that made the submission additional information that is necessary to consider the substance of the submission.

#### **Article 4.11: Cooperation**

1. The Parties recognize the importance of cooperation as a mechanism for effective implementation of this Chapter, to enhance opportunities to improve labor standards, and to further advance common commitments regarding labor matters, including the principles and rights stated in the ILO Declaration on Rights at Work.
2. The Parties may, commensurate with the availability of resources, cooperate through:
  - (a) exchanging of information and sharing of best practices on issues of common interest, including through seminars, workshops, and online fora;
  - (b) study trips, visits, and research studies to document and study policies and practices;
  - (c) collaborative research and development related to best practices in subjects of mutual interest;
  - (d) specific exchanges of technical expertise and assistance, as appropriate; and 23-8
  - (e) other forms as the Parties may decide.
3. In undertaking cooperative activities, the Parties shall consider each Party's priorities and complementarity with initiatives in existence, with the aim to achieve mutual benefits and measurable labor outcomes.
4. Each Party shall invite the views and, as appropriate, participation of its stakeholders, including worker and employer representatives, in identifying potential areas for cooperation and undertaking cooperative activities.

5. The Parties may develop cooperative activities in the following areas:
- (a) labor laws and practices, including the promotion and effective implementation of the principles and rights as stated in the ILO Declaration on Rights at Work;
  - (b) labor laws and practices related to compliance with ILO Convention No. 182 *Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*;
  - (c) identification and movement of goods produced by forced labor;
  - (d) combatting forced labor and human trafficking, including on fishing vessels;
  - (e) addressing violence against workers, including for trade union activity;
  - (f) occupational safety and health, including the prevention of occupational injuries and illnesses;
  - (g) institutional capacity of labor administrative and judicial bodies;
  - (h) labor inspectorates and inspection systems, including methods and training to improve the level and efficiency of labor law enforcement, strengthen labor inspection systems, and help ensure compliance with labor laws;
  - (i) remuneration systems and mechanisms for compliance with labor laws pertaining to hours of work, minimum wages and overtime, and employment conditions;
  - (j) addressing gender-related issues in the field of labor and employment, including:
    - (i) elimination of discrimination on the basis of sex in respect of employment, occupation, and wages,
    - (ii) developing analytical and enforcement tools related to equal pay for equal work or work of equal value,
    - (iii) promotion of labor practices that integrate and retain women in the job market, and building the capacity and skills of women workers, including on workplace challenges and in collective bargaining,
    - (iv) consideration of gender issues related to occupational safety and health and other workplace practices, including advancement of child care, nursing mothers, and related policies and programs, and in the prevention of occupational injuries and illnesses, and
    - (v) prevention of gender-based workplace violence and harassment;

- (k) promotion of productivity, innovation, competitiveness, training and human capital development in workplaces, particularly in respect to SMEs;
- (l) addressing the opportunities of a diverse workforce, including:
  - (i) promotion of equality and elimination of employment discrimination in the areas of age, disability, race, ethnicity, religion, sexual orientation, gender identity, and other characteristics not related to merit or the requirements of employment, and
  - (ii) promotion of equality, elimination of employment discrimination, and protection of migrant workers and other vulnerable workers, including low-waged, casual, or temporary workers;
- (m) collection and use of labor statistics, indicators, methods, and procedures, including on the basis of sex;
- (n) social protection issues, including workers' compensation in case of occupational injury or illness, pension systems, and employment assistance schemes;
- (o) labor relations, including forms of cooperation and dispute resolution to improve labor relations among workers, employers, and governments;
- (p) apprenticeship programs;
- (q) social dialogue, including tripartite consultation and partnership;
- (r) with respect to labor relations in multi-national enterprises, promoting information sharing and dialogue related to conditions of employment by enterprises operating in two or more Parties with representative worker organizations in each of the cooperating Parties; and
- (s) other areas as the Parties may decide.

6. The Parties may establish cooperative arrangements with the ILO or other international and regional organizations to draw on their expertise and resources to further the purposes of this Chapter.

#### **Article 4.12: Cooperative Labor Dialogue**

1. A Party may request dialogue with another Party on any matter arising under this Chapter at any time by delivering a written request to the contact point that the other Party has designated under Article 4.14 (Contact Points).

2. The requesting Party shall include information that is specific and sufficient to enable the receiving Party to respond, including identification of the matter at issue, an indication of the

basis of the request under this Chapter and, when relevant, how trade or investment between the Parties is affected.

3. Unless the requesting and receiving Parties (the dialoguing Parties) decide otherwise, dialogue must commence within 30 days of a Party's receipt of a request for dialogue. The dialoguing Parties shall engage in dialogue in good faith. As part of the dialogue, the dialoguing Parties shall provide a means for receiving and considering the views of interested persons on the matter.

4. Dialogue may be held in person or by any technological means available to the dialoguing Parties.

5. The dialoguing Parties shall address all the issues raised in the request. If the dialoguing Parties resolve the matter, they shall document the outcome, including, if appropriate, specific steps and timelines that they have decided upon. The dialoguing Parties shall make the outcome available to the public, unless they decide otherwise.

6. In developing an outcome pursuant to paragraph 5, the dialoguing Parties should consider all available options and may jointly decide on a course of action they consider appropriate, including:

- (a) the development and implementation of an action plan in a form that they find satisfactory, which may include specific and verifiable steps, such as on labor inspection, investigation, or compliance action, and appropriate timeframes;
- (b) the independent verification of compliance or implementation by individuals or entities, such as the ILO, chosen by the dialoguing Parties; and
- (c) appropriate incentives, such as cooperative programs and capacity building, to encourage or assist the dialoguing Parties to identify and address labor matters.

#### **Article 4.13: Labor Council**

1. The Parties hereby establish a Labor Council composed of senior governmental representatives at the ministerial or other level from trade and labor ministries, as designated by each Party.

2. The Labor Council shall meet within one year of the date of entry into force of this Agreement and thereafter every two years, unless the Parties decide otherwise.

3. The Labor Council may consider any matter within the scope of this Chapter and perform other functions as the Parties may decide.

4. In conducting its activities, including meetings, the Labor Council shall provide a means for receiving and considering the views of interested persons on matters related to this Chapter.



If practicable, meetings will include a public session or other means for Council members to meet with the public to discuss matters relating to the implementation of this Chapter.

5. During the fifth year after the date of entry into force of this Agreement, or as otherwise decided by the Parties, the Labor Council shall review the operation and effectiveness of this Chapter and thereafter may undertake subsequent reviews as decided by the Parties.

6. Labor Council decisions and reports shall be made by consensus and be made publicly available, unless the Council decides otherwise.

7. The Labor Council shall issue a joint summary report or statement on its work at the end of each Council meeting.

#### **Article 4.14: Contact Points**

1. Each Party shall designate, within 60 days of the date of entry into force of this Agreement, an office or official within its labor ministry or equivalent entity as a contact point to address matters related to this Chapter. Each Party shall notify the other Parties in writing promptly in the event of a change to its contact point.

2. The contact points shall:

- (a) facilitate regular communication and coordination between the Parties, including responding to requests for information and providing sufficient information to enable a full examination of matters related to this Chapter;
- (b) assist the Labor Council;
- (c) report to the Labor Council, as appropriate;
- (d) act as a channel for communication with the public in their respective territories; and
- (e) work together, including with other appropriate agencies of their governments, to develop and implement cooperative activities, guided by the priorities of the Labor Council, areas of cooperation identified in Article 4.11.5 (Cooperation), and the needs of the Parties.

3. Contact points may communicate and coordinate activities in person or through electronic or other means of communication.

4. Each Party's contact point, in carrying out its responsibilities under this Chapter, shall regularly consult and coordinate with its trade ministry.

#### **Article 4.15: Public Engagement**

Each Party shall establish or maintain, and consult with, a national labor consultative or advisory body or similar mechanism, for members of its public, including representatives of its labor and business organizations, to provide views on matters regarding this Chapter.

#### **Article 4.20: Definitions**

For the purposes of this Chapter:

**ILO Declaration on Rights at Work** means the International Labor Organization (ILO) *Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998)*;

**labor laws** means statutes and regulations, or provisions of statutes and regulations, of a Party that are directly related to the following internationally recognized labor rights:

- (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, a prohibition on the worst forms of child labor, and other labor protections for children and minors;
- (d) the elimination of discrimination in respect of employment and occupation; and
- (e) acceptable conditions of work with respect to minimum wages,<sup>3</sup> hours of work, and occupational safety and health.

Each Party shall identify such laws in Annex 4 to this Chapter.

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<sup>3</sup> For greater certainty, a Party's labor laws regarding "acceptable conditions of work with respect to minimum wages" include requirements under that Party's labor laws to provide wage-related benefit payments to, or on behalf of, workers, such as those for profit sharing, bonuses, retirement, and healthcare.

## **Annex 4: Labor Laws**

[The Parties will identify their labor laws.]