

2. The Civil Society Forum shall be convened once a year unless otherwise agreed by the Parties. The Parties shall promote a balanced representation of relevant interests, including independent representative employers, unions, labour and business organisations, environmental groups, as well as other relevant civil society organisations as appropriate. The Parties may also facilitate participation by virtual means.

CHAPTER TWENTY-THREE

Trade and labour

Article 23.1

Context and objectives

1. The Parties recognise the value of international cooperation and agreements on labour affairs as a response of the international community to economic, employment and social challenges and opportunities resulting from globalisation. They recognise the contribution that international trade could make to full and productive employment and decent work for all and commit to consulting and cooperating as appropriate on trade-related labour and employment issues of mutual interest.

2. Affirming the value of greater policy coherence in decent work, encompassing core labour standards, and high levels of labour protection, coupled with their effective enforcement, the Parties recognise the beneficial role that those areas can have on economic efficiency, innovation and productivity, including export performance. In this context, they also recognise the importance of social dialogue on labour matters among workers and employers, and their respective organisations, and governments, and commit to the promotion of such dialogue.

Article 23.2

Right to regulate and levels of protection

Recognising the right of each Party to set its labour priorities, to establish its levels of labour protection and to adopt or modify its laws and policies accordingly in a manner consistent with its international labour commitments, including those in this Chapter, each Party shall seek to ensure those laws and policies provide for and encourage high levels of labour protection and shall strive to continue to improve such laws and policies with the goal of providing high levels of labour protection.

Article 23.3

Multilateral labour standards and agreements

1. Each Party shall ensure that its labour law and practices embody and provide protection for the fundamental principles and rights at work which are listed below. The Parties affirm their commitment to respect, promote and realise those principles and rights in accordance with the obligations of the members of the International Labour Organization (the 'ILO') and the commitments under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up of 1998 adopted by the International Labour Conference at its 86th Session:

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

2. Each Party shall ensure that its labour law and practices promote the following objectives included in the ILO Decent Work Agenda, and in accordance with the ILO Declaration on Social Justice for a Fair Globalization of 2008 adopted by the International Labour Conference at its 97th Session, and other international commitments:

- (a) health and safety at work, including the prevention of occupational injury or illness and compensation in cases of such injury or illness;
- (b) establishment of acceptable minimum employment standards for wage earners, including those not covered by a collective agreement; and,
- (c) non-discrimination in respect of working conditions, including for migrant workers.

3. Pursuant to subparagraph 2(a), each Party shall ensure that its labour law and practices embody and provide protection for working conditions that respect the health and safety of workers, including by formulating policies that promote basic principles aimed at preventing accidents and injuries that arise out of or in the course of work, and that are aimed at developing a preventative safety and health culture where the principle of prevention is accorded the highest priority. When preparing and implementing measures aimed at health protection and safety at work, each Party shall take into account existing relevant scientific and technical information and related international standards, guidelines or recommendations, if the measures may affect trade or investment between the Parties. The Parties acknowledge that in case of existing or potential hazards or conditions that could reasonably be expected to cause injury or illness to a natural person, a Party shall not use the lack of full scientific certainty as a reason to postpone cost-effective protective measures.

4. Each Party reaffirms its commitment to effectively implement in its law and practices in its whole territory the fundamental ILO Conventions that Canada and the Member States of the European Union have ratified respectively. The Parties shall make continued and sustained efforts to ratify the fundamental ILO Conventions if they have not yet done so. The Parties shall exchange information on their respective situations and advances regarding the ratification of the fundamental as well as priority and other ILO Conventions that are classified as up to date by the ILO.

Article 23.4

Upholding levels of protection

1. The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the levels of protection afforded in their labour law and standards.
2. A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour law and standards, to encourage trade or the establishment, acquisition, expansion or retention of an investment in its territory.
3. A Party shall not, through a sustained or recurring course of action or inaction, fail to effectively enforce its labour law and standards to encourage trade or investment.

Article 23.5

Enforcement procedures, administrative proceedings and review of administrative action

1. Pursuant to Article 23.4, each Party shall promote compliance with and shall effectively enforce its labour law, including by:
 - (a) maintaining a system of labour inspection in accordance with its international commitments aimed at securing the enforcement of legal provisions relating to working conditions and the protection of workers which are enforceable by labour inspectors; and
 - (b) ensuring that administrative and judicial proceedings are available to persons with a legally recognised interest in a particular matter who maintain that a right is infringed under its law, in order to permit effective action against infringements of its labour law, including appropriate remedies for violations of such law.

2. Each Party shall, in accordance with its law, ensure that the proceedings referred to in subparagraph 1(b) are not unnecessarily complicated or prohibitively costly, do not entail unreasonable time limits or unwarranted delays, provide injunctive relief, if appropriate, and are fair and equitable, including by:

- (a) providing defendants with reasonable notice when a procedure is initiated, including a description of the nature of the proceeding and the basis of the claim;
- (b) providing the parties to the proceedings with a reasonable opportunity to support or defend their respective positions, including by presenting information or evidence, prior to a final decision;
- (c) providing that final decisions are made in writing and give reasons as appropriate to the case and based on information or evidence in respect of which the parties to the proceeding were offered the opportunity to be heard; and
- (d) allowing the parties to administrative proceedings an opportunity for review and, if warranted, correction of final administrative decisions within a reasonable period of time by a tribunal established by law, with appropriate guarantees of tribunal independence and impartiality.

Article 23.6

Public information and awareness

1. In addition to its obligations under Article 27.1 (Publication), each Party shall encourage public debate with and among non-state actors as regards the development and definition of policies that may lead to the adoption of labour law and standards by its public authorities.

2. Each Party shall promote public awareness of its labour law and standards, as well as enforcement and compliance procedures, including by ensuring the availability of information and by taking steps to further the knowledge and understanding of workers, employers and their representatives.

Article 23.7

Cooperative activities

1. The Parties commit to cooperate to promote the objectives of this Chapter through actions such as:

- (a) the exchange of information on best practices on issues of common interest and on relevant events, activities, and initiatives;
- (b) cooperation in international fora that deal with issues relevant for trade and labour, including in particular the WTO and the ILO;
- (c) the international promotion and the effective application of fundamental principles and rights at work referred to in Article 23.3.1, and the ILO Decent Work Agenda;
- (d) dialogue and information-sharing on the labour provisions in the context of their respective trade agreements, and the implementation thereof;
- (e) the exploration of collaboration in initiatives regarding third parties; and
- (f) any other form of cooperation deemed appropriate.

2. The Parties will consider any views provided by representatives of workers, employers, and civil society organisations when identifying areas of cooperation, and carrying out cooperative activities.

3. The Parties may establish cooperative arrangements with the ILO and other competent international or regional organisations to draw on their expertise and resources to achieve the objectives of this Chapter.

*Article 23.8***Institutional mechanisms**

1. Each Party shall designate an office to serve as the contact point with the other Party for the implementation of this Chapter, including with regard to:
 - (a) cooperative programmes and activities in accordance with Article 23.7;
 - (b) the receipt of submissions and communications under Article 23.9; and
 - (c) information to be provided to the other Party, the Panels of Experts and the public.
2. Each Party shall inform the other Party, in writing, of the contact point referred to in paragraph 1.
3. The Committee on Trade and Sustainable Development established under Article 26.2.1(g) (Specialised committees) shall, through its regular meetings or dedicated sessions comprising participants responsible for matters covered under this Chapter:
 - (a) oversee the implementation of this Chapter and review the progress achieved under it, including its operation and effectiveness; and
 - (b) discuss any other matter within the scope of this Chapter.
4. Each Party shall convene a new or consult its domestic labour or sustainable development advisory groups, to seek views and advice on issues relating to this Chapter. Those groups shall comprise independent representative organisations of civil society in a balanced representation of employers, unions, labour and business organisations, as well as other relevant stakeholders as appropriate. They may submit opinions and make recommendations on any matter related to this Chapter on their own initiative.
5. Each Party shall be open to receive and shall give due consideration to submissions from the public on matters related to this Chapter, including communications on implementation concerns. Each Party shall inform its respective domestic labour or sustainable development advisory groups of those communications.
6. The Parties shall take into account the activities of the ILO so as to promote greater cooperation and coherence between the work of the Parties and the ILO.

*Article 23.9***Consultations**

1. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the contact point of the other Party. The Party shall present the matter clearly in its request, identify the questions at issue and provide a brief summary of any claims under this Chapter. Consultations must commence promptly after a Party delivers a request for consultations.
2. During consultations, each Party shall provide the other Party with sufficient information in its possession to allow a full examination of the matters raised, subject to its law regarding confidential personal and commercial information.
3. If relevant, and if both Parties consent, the Parties shall seek the information or views of any person, organisation or body, including the ILO, that may contribute to the examination of the matter that arises.
4. If a Party considers that further discussion of the matter is required, that Party may request that the Committee on Trade and Sustainable Development be convened to consider the matter by delivering a written request to the contact point of the other Party. The Committee on Trade and Sustainable Development shall convene promptly and endeavour to resolve the matter. If appropriate, it shall seek the advice of the Parties' domestic labour or sustainable development advisory groups through the consultative mechanisms referred to in Article 23.8.

5. Each Party shall make publicly available any solution or decision on a matter discussed under this Article.

Article 23.10

Panel of Experts

1. For any matter that is not satisfactorily addressed through consultations under Article 23.9, a Party may, 90 days after the receipt of a request for consultations under Article 23.9.1, request that a Panel of Experts be convened to examine that matter, by delivering a written request to the contact point of the other Party.
2. Subject to the provisions of this Chapter, the Parties shall apply the Rules of Procedure and Code of Conduct set out in Annexes 29-A and 29-B, unless the Parties decide otherwise.
3. The Panel of Experts is composed of three panellists.
4. The Parties shall consult with a view to reaching an agreement on the composition of the Panel of Experts within 10 working days of the receipt by the responding Party of the request for the establishment of a Panel of Experts. Due attention shall be paid to ensuring that proposed panellists meet the requirements set out in paragraph 7 and have the expertise appropriate to the particular matter.
5. If the Parties are unable to decide on the composition of the Panel of Experts within the period of time specified in paragraph 4, the selection procedure set out in paragraphs 3 through 7 of Article 29.7 (Composition of the arbitration panel) applies in respect of the list established in paragraph 6.
6. The Committee on Trade and Sustainable Development shall, at its first meeting after the entry into force of this Agreement, establish a list of at least nine individuals chosen for their objectivity, reliability and sound judgment, who are willing and able to serve as panellists. Each Party shall name at least three individuals to the list to serve as panellists. The Parties shall also name at least three individuals who are not nationals of either Party and who are willing and able to serve as chairperson of a Panel of Experts. The Committee on Trade and Sustainable Development shall ensure that the list is always maintained at this level.
7. The experts proposed as panellists must have specialised knowledge or expertise in labour law, other issues addressed in this Chapter, or in the resolution of disputes arising under international agreements. They must be independent, serve in their individual capacities and not take instructions from any organisation or government with regard to the matter in issue. They must not be affiliated with the government of either Party, and must comply with the Code of Conduct referred to in paragraph 2.
8. Unless the Parties decide otherwise, within five working days of the date of the selection of the panellists, the terms of reference of the Panel of Experts are as follows:

‘to examine, in the light of the relevant provisions of Chapter Twenty-Three (Trade and Labour), the matter referred to in the request for the establishment of the Panel of Experts, and to deliver a report, in accordance with Article 23.10 (Panel of Experts) of Chapter Twenty-Three (Trade and Labour), that makes recommendations for the resolution of the matter.’
9. In respect of matters related to multilateral agreements as set out in Article 23.3, the Panel of Experts should seek information from the ILO, including any pertinent available interpretative guidance, findings or decisions adopted by the ILO ⁽¹⁾.
10. The Panel may request and receive written submissions or any other information from persons with relevant information or specialised knowledge.

⁽¹⁾ The Parties shall apply this provision in accordance with rule 42 of the Rules of Procedure for Arbitration set out in Annex 29-A.

11. The Panel of Experts shall issue to the Parties an interim report and a final report setting out the findings of fact, its determinations on the matter including as to whether the responding Party has conformed with its obligations under this Chapter and the rationale behind any findings, determinations and recommendations that it makes. The Panel of Experts shall deliver to the Parties the interim report within 120 days after the last panellist is selected, or as otherwise decided by the Parties. The Parties may provide comments to the Panel of Experts on the interim report within 45 days of its delivery. After considering these comments, the Panel of Experts may reconsider its report or carry out any further examination that it considers appropriate. The Panel of Experts shall deliver the final report to the Parties within 60 days of the submission of the interim report. Each Party shall make the final report publicly available within 30 days of its delivery.

12. If the final report of the Panel of Experts determines that a Party has not conformed with its obligations under this Chapter, the Parties shall engage in discussions and shall endeavour, within three months of the delivery of the final report, to identify appropriate measures or, if appropriate, to decide upon a mutually satisfactory action plan. In these discussions, the Parties shall take into account the final report. The responding Party shall inform in a timely manner its labour or sustainable development advisory groups and the requesting Party of its decision on any actions or measures to be implemented. Furthermore, the requesting Party shall inform in a timely manner its labour or sustainable development advisory groups and the responding Party of any other action or measure it may decide to take, as a follow-up to the final report, to encourage the resolution of the matter in a manner consistent with this Agreement. The Committee on Trade and Sustainable Development shall monitor the follow-up to the final report and the recommendations of the Panel of Experts. The labour or sustainable development advisory groups of the Parties and the Civil Society Forum may submit observations to the Committee on Trade and Sustainable Development in this regard.

13. If the Parties reach a mutually agreed solution to the matter following the establishment of a Panel of Experts, they shall notify the Committee on Trade and Sustainable Development and the Panel of Experts of that solution. Upon that notification, the panel procedure shall be terminated.

Article 23.11

Dispute resolution

1. For any dispute that arises under this Chapter, the Parties shall only have recourse to the rules and procedures provided in this Chapter.

2. The Parties shall make every attempt to arrive at a mutually satisfactory resolution of a dispute. At any time, the Parties may have recourse to good offices, conciliation, or mediation to resolve that dispute.

3. The Parties understand that the obligations included under this Chapter are binding and enforceable through the procedures for the resolution of disputes provided in Article 23.10. Within this context, the Parties shall discuss, through the meetings of the Committee on Trade and Sustainable Development, the effectiveness of the implementation of the Chapter, policy developments in each Party, developments in international agreements, and views presented by stakeholders, as well as possible reviews of the procedures for the resolution of disputes provided for in Article 23.10.

4. In the case of disagreement under paragraph 3, a Party may request consultations according to the procedures established in Article 23.9 in order to review the provisions for the resolution of disputes provided for in Article 23.10, with a view to reaching a mutually agreed solution to the matter.

5. The Committee on Trade and Sustainable Development may recommend to the CETA Joint Committee modifications to relevant provisions of this Chapter, in accordance with the amendment procedures established in Article 30.2 (Amendments).