

CHAPTER FIFTEEN

LABOR

ARTICLE 15.1: STATEMENT OF SHARED COMMITMENT

1. The Parties reaffirm their obligations as members of the International Labor Organization (“ILO”) and their commitments under the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998)* (“ILO Declaration”). Each Party shall strive to ensure that such labor principles and the internationally recognized labor rights set forth in Article 15.7 are recognized and protected by its law.
2. Recognizing the right of each Party to establish its own domestic labor standards, and to adopt or modify accordingly its labor laws, each Party shall strive to ensure that its laws provide for labor standards consistent with the internationally recognized labor rights set forth in Article 15.7 and shall strive to improve those standards in that light.

ARTICLE 15.2: APPLICATION AND ENFORCEMENT OF LABOR LAWS

1.
 - (a) Neither Party shall fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties, after the date of entry into force of this Agreement.
 - (b) The Parties recognize that each Party retains the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor matters determined to have higher priority. Accordingly, the Parties understand that a Party is in compliance with subparagraph (a) where a course of action or inaction reflects a reasonable exercise of such discretion, or results from a *bona fide* decision regarding the allocation of resources.
2. Each Party recognizes that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in domestic labor laws. Accordingly, each Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws in a manner that weakens or reduces adherence to the internationally recognized labor rights referred to in Article 15.7 as an encouragement for trade with the other Party, or as an encouragement for the establishment, acquisition, expansion, or retention of an investment in its territory.

ARTICLE 15.3: 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 tribunals for 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 and, to this end, each Party shall provide that:
 - (a) such proceedings comply with due process of law;

- (b) any hearings in such proceedings are open to the public, except where the administration of justice otherwise requires;
 - (c) the parties to such proceedings are entitled to support or defend their respective positions, including by presenting information or evidence; and
 - (d) such proceedings do not entail unreasonable charges or time limits or unwarranted delays.
3. Each Party shall provide that final decisions on the merits of the case in such proceedings are:
- (a) in writing and state the reasons on which the decisions are based;
 - (b) made available without undue delay to the parties to the proceedings and, consistent with its law, to the public; and
 - (c) based on information or evidence in respect of which the parties were offered the opportunity to be heard.
4. Each Party shall provide, as appropriate, that parties to such proceedings have the right to seek review and, where warranted, correction of final decisions issued in such proceedings.
5. Each Party shall ensure that tribunals that conduct or review such proceedings are impartial and independent and do not have any substantial interest in the outcome of the matter.
6. Each Party shall provide that the parties to such proceedings may seek remedies to ensure the enforcement of their rights under its labor laws. Such remedies may include, as appropriate, orders, compliance agreements, fines, penalties, imprisonment, injunctions, or emergency workplace closures.
7. Each Party shall promote public awareness of its labor laws, including by:
- (a) ensuring that information related to its labor laws and enforcement and compliance procedures is publicly available; and
 - (b) encouraging education of the public regarding its labor laws.

ARTICLE 15.4: INSTITUTIONAL ARRANGEMENTS

1. The Joint Committee established under Chapter Eighteen (Administration of the Agreement) shall consider issues and review activities related to the operation of this Chapter, including the Labor Cooperation Mechanism established under Article 15.5, and the pursuit of the labor objectives of this Agreement. The Joint Committee may establish a Subcommittee on Labor Affairs comprising officials of the labor ministry and other appropriate agencies or ministries of each Party. The Subcommittee shall meet at such times as it deems appropriate to discuss matters related to the operation of this Chapter, and each meeting shall include a public session, unless the Parties agree otherwise.
2. Each Party shall designate an office within its labor ministry that shall serve as a contact point with the other Party and with the public for purposes of implementing this Chapter. Each Party's contact point shall provide for the submission, receipt, and consideration of public communications on matters related to this Chapter and shall make such communications available to the other Party and,

as appropriate, to the public. Each Party shall review such communications, as appropriate, in accordance with domestic procedures.

3. Each Party may convene a national labor advisory committee comprising members of its public, including representatives of its labor and business organizations and other persons, to advise it on the implementation of this Chapter.

4. Each formal decision of the Parties concerning the implementation of this Chapter shall be made public, unless the Parties agree otherwise.

5. The Parties, when they consider it appropriate, shall jointly prepare reports on matters related to the implementation of this Chapter and shall make such reports public.

ARTICLE 15.5: LABOR COOPERATION

Recognizing that cooperation provides enhanced opportunities to promote respect for core labor standards embodied in the ILO Declaration and compliance with *ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)* (“ILO Convention 182”), and to further advance other common commitments regarding labor matters, the Parties hereby establish a Labor Cooperation Mechanism, as set out in Annex 15-A.

ARTICLE 15.6: LABOR 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 other Party’s contact point. Unless the Parties agree otherwise, consultations shall commence within 30 days after a Party delivers a request for consultations to the other Party’s contact point designated pursuant to paragraph 2 of Article 15.4.

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 deem appropriate.

3. If the consultations fail to resolve the matter, either Party may request that the Subcommittee on Labor Affairs be convened. The Subcommittee shall convene within 30 days after a Party delivers a request to convene the Subcommittee to the other Party’s contact point designated pursuant to paragraph 2 of Article 15.4, unless the Parties agree otherwise. If the Joint Committee has not established the Subcommittee as of the date a Party delivers a request, it shall do so during the 30-day period described in this paragraph. The Subcommittee shall endeavor to resolve the matter expeditiously, including, where appropriate, by consulting governmental or non-governmental experts and having recourse to such procedures as good offices, conciliation, or mediation.

4. If a Party considers that the other Party has failed to carry out its obligations under paragraph 1(a) of Article 15.2, the Party may request consultations under paragraph 1 or pursuant to Article 19.5 (Consultations).

- (a) If a Party requests consultations pursuant to Article 19.5 (Consultations) at a time when the Parties are engaged in consultations on the same matter under paragraph 1 or the Subcommittee is endeavoring to resolve the matter under paragraph 3, the Parties shall discontinue their efforts to resolve the matter under this Article. Once consultations have begun under Article 19.5 (Consultations), no consultations on the same matter may be entered into under this Article.

- (b) If a Party requests consultations pursuant to Article 19.5 (Consultations) more than 60 days after the delivery of a request for consultations under paragraph 1, the Parties may agree at any time to refer the matter to the Joint Committee pursuant to Article 19.6 (Referral to the Joint Committee).

5. Neither Party may have recourse to dispute settlement under this Agreement for any matter arising under any provision of this Chapter other than paragraph 1(a) of Article 15.2.

ARTICLE 15.7: DEFINITIONS

For purposes of this Chapter:

labor laws means a Party's statutes or regulations,¹ or provisions thereof, that are directly related to the following internationally recognized labor rights:

- (a) the right of association;
- (b) the right to organize and bargain collectively;
- (c) a prohibition on the use of any form of forced or compulsory labor;
- (d) labor protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labor; and
- (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

¹ For the United States, **statutes or regulations** means acts of Congress or regulations promulgated pursuant to an act of Congress that are enforceable by action of the federal government.

ANNEX 15-A
LABOR COOPERATION MECHANISM

Establishment of a Labor Cooperation Mechanism

1. Recognizing that cooperation provides enhanced opportunities for the Parties to improve labor standards and to further advance common commitments with respect to labor matters, including the ILO Declaration and ILO Convention 182, the Parties have established a Labor Cooperation Mechanism.

Principal Functions and Organization

2. The contact points established under Article 15.4.2 shall serve as the contact points for the Labor Cooperation Mechanism.

3. Officials of each Party's ministry of labor and other appropriate agencies and ministries shall carry out the work of the Labor Cooperation Mechanism by cooperating to:

- (a) establish priorities for cooperative activities on labor matters;
- (b) develop specific cooperative activities in accord with such priorities;
- (c) exchange information regarding labor law and practice in each Party;
- (d) exchange information on ways to improve labor law and practice, including best labor practices;
- (e) advance understanding of, respect for, and effective implementation of the principles reflected in the ILO Declaration; and
- (f) develop recommendations of actions to be taken by each Party for consideration by the Joint Committee.

Cooperative Activities

4. The Parties may undertake cooperative activities through the Labor Cooperation Mechanism on any labor matter they consider appropriate, including:

- (a) **fundamental rights and their effective application:** legislation and practice related to the core elements of the ILO Declaration (freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labor, the effective abolition of child labor, and the elimination of discrimination in respect of employment and occupation);
- (b) **social safety net programs:** unemployment assistance and worker adjustment programs;
- (c) **working conditions:** occupational safety and health, prevention of and compensation for work-related injuries and illness, and minimum standards for wages and benefits;
- (d) **non-national workers:** procedures for admitting, regulating, and protecting foreign workers;

- (e) **labor-management relations:** alternative forms of cooperation among workers, management, and government, including the processes of collective bargaining, dispute resolution, and economic actions by workers and employers;
- (f) **gender-related issues:** elimination of discrimination with respect to employment and occupation and other gender-related issues; and
- (g) **labor statistics:** development of methods for the Parties to generate comparable labor market statistics in a timely manner.

Implementation of Cooperative Activities

5. The Parties may carry out cooperative activities undertaken by the Labor Cooperation Mechanism through any form they consider appropriate, including by:

- (a) arranging study visits and other exchanges between government delegations, professionals, and specialists;
- (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 or demonstrations; and
- (e) engaging in such other forms of technical exchange or cooperation that may be decided.

6. In identifying areas for labor cooperation, and in conducting cooperative activities, each Party shall seek the views and participation of its worker and employer representatives, as well as other members of the public.