

CHAPTER EIGHTEEN

LABOUR

十八章

劳动

Article 18.1: Statement of Shared Commitments

The Parties affirm their obligations as members of the International Labour Organization (hereinafter referred to as the “ILO”), including those in the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up* (1998) (hereinafter referred to as the “ILO Declaration”).

第18.1条： 共同承诺的声明

缔约方重申其作为国际劳工组织（以下简称“国际劳工组织”）成员的义务，包括《关于工作中基本原则和权利的宣言及其后续行动（1998）》（以下简称“《国际劳工组织宣言》”）中的义务。

Section A – Obligations

A部分 – 义务

Article 18.2: General Obligations

Affirming full respect for each Party’s Constitution and labour law and recognising the right of each Party to establish its own labour standards in its territory, adopt or modify accordingly its labour law, and set its priorities in the execution of its labour policies, each Party shall ensure that its labour law embodies and provides protection for the principles concerning the following internationally recognised labour rights¹:

第18.2条： 一般义务

确认充分尊重每一方的宪法和劳动法，并承认每一方有权在其领土上建立自己的劳动标准，相应地采用或修改其劳动法，并设定其劳动政策的优先事项，每一方应确保其劳动法体现并保护以下国际公认劳动权利的原则¹:

- (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 a prohibition on the worst forms of child labour;
- (d) the elimination of discrimination in respect of employment and occupation;

- (a) 结社自由和有效承认集体谈判权； (b) 消除一切形式的强迫劳动； (c) 有效废除童工，禁止最恶劣形式的童工； (d) 消除就业和职业中的歧视；

¹ To establish a violation of an obligation under this Article, a Party must demonstrate that the other Party has failed to ensure its labour law embodies and provides protection for the principles concerning the internationally-recognised labour rights referred to in this Article in a matter related to trade or investment.

¹ 为确立违反本条项下义务的行为，一方必须证明另一方未能确保其劳动法体现并保护本条所述的国际公认劳动权利的原则， 该事项与贸易或投资相关。

- (e) acceptable minimum employment standards, such as minimum wages and overtime pay, for wage earners, including those not covered by collective agreements;
- (f) the prevention of occupational injuries and illnesses;
- (g) compensation in cases of occupational injuries or illnesses; and
- (h) non-discrimination in respect of working conditions for migrant workers.

Article 18.3: Non-derogation

A Party shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, that Party’s labour law implementing Article 18.2 in a matter related to trade or investment, if the waiver or derogation would be inconsistent with the rights set out in that Article.

Article 18.4: Government Enforcement Action²

1. Each Party shall effectively enforce its labour law through appropriate government action, such as:
- (a) appointing and training inspectors;
 - (b) monitoring compliance and investigating suspected violations;
 - (c) requiring record keeping and reporting;
 - (d) encouraging the establishment of worker-management committees to address labour regulation of the workplace;
 - (e) providing or encouraging mediation, conciliation and arbitration services; and

² To establish a violation under this Article, a Party must demonstrate that the other Party has failed to effectively enforce its labour law through a sustained or recurring course of action or inaction in a matter related to trade or investment, and that the matter of dispute is covered by mutually-recognised labour law.

(e) 工资收入者（包括未受集体协议覆盖者）的可接受的最低就业标准，例如最低工资和加班费； (f) 预防职业伤害和疾病； (g) 职业伤害或疾病情况下的赔偿； 以及 (h) 移民工人工作条件方面的非歧视。

第十八条3款：非克减

一方不得放弃或以其他方式克减，或提议放弃或以其他方式克减其依据第十八条2款实施劳动法的劳动法，如果放弃或克减与该条文中规定的权利不一致。

第十八条4款：政府执法行动²

1. 每一方应通过适当的政府行动有效执行其劳动法，例如：
- (a) 任命和培训检查员； (b) 监督合规和调查涉嫌违规行为； (c) 要求记录保存和报告； (d) 鼓励建立工人-管理层委员会以解决工作场所的劳动法规； (e) 提供或鼓励调解、和解和仲裁服务； 以及

² 为依据本条文的建立违规，一方必须证明另一方未能通过持续或反复的行动或不作为，在贸易或投资相关事项中有效执行其劳动法，并且争议事项受相互承认的劳动法约束。

(f) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labour law.

2. Each Party shall ensure that its competent authorities give due consideration, in accordance with that Party’s domestic law, to a request by an employer, employee or their representatives, or another interested person, for an investigation of an alleged violation of the Party’s labour law.

Article 18.5: Private Action

Each Party shall ensure that a person with a legally-recognised interest under that Party’s domestic law has appropriate access to proceedings before a tribunal that can:

- (a) enforce the Party’s labour law and give effect to such person’s labour rights; and
- (b) remedy breaches of the Party’s labour law or rights.

Article 18.6: Procedural Guarantees

1. Each Party shall ensure that investigations or proceedings referred to in Articles 18. 4.1(b), 18.4.1(f), and 18.5:

- (a) are fair, equitable and transparent and to this end that they comply with the due process of law;
- (b) are open to the public except if it is not appropriate for the proper administration of these proceedings; and
- (c) do not entail unreasonable fees, delays or time limits.

2. Each Party shall provide that final decisions on the merits of the case in proceedings referred to in paragraph 1 are in writing, preferably state the reasons on which the decisions are based, and are made available to the parties to the proceedings in a timely manner and, in accordance with its domestic law, to the public.

(f) 及时启动程序，寻求对其劳动法违反行为的适当制裁或补救措施。

2. 每一缔约方应确保其主管当局根据该缔约方法律，对雇主、雇员或其代表，或另一利益相关者提出的涉嫌违反该缔约方法律的请求给予适当考虑。

第18.5条：私人诉讼

每一缔约方应确保根据该缔约方法律具有合法利益的个人能够适当进入能够：

- (a) 执行该缔约方的劳动法并使该个人的劳动权利得以实现；以及 (
- b) 救济对该缔约方法律或权利的违反。

第18.6条：程序保障

1. 每一缔约方应确保第18.4.1(b)、18.4.1(f)和18.5条中提到的调查或程序：

- (a) 公平、公正、透明，并为此目的符合正当法律程序； (b) 除不适用于这些程序的适当管理外，向公众开放；以及 (c) 不导致不合理的费用、延误或时间限制。

2. 每个缔约方应当规定，在第1段所指的程序中，关于案件实质的最终决定应以书面形式作出，最好说明作出决定所依据的理由，并及时向程序当事人提供，并根据其国内法，向公众提供。

3. Each Party shall provide that parties to those proceedings have the right, as appropriate and in accordance with applicable domestic law, to seek review in accordance with due process and, if warranted, correction of decisions issued in those proceedings.

Article 18.7: Public Information

Each Party shall make available to the public information respecting its labour law, including information related to enforcement and compliance procedures.

Section B – Institutional Mechanisms

Article 18.8: Labour Ministerial Council

1. The Parties hereby establish a Labour Ministerial Council composed of Ministers responsible for labour affairs of the Parties or their designees.
2. The Council shall meet within the first year after the date of entry into force of this Agreement and thereafter as often as it considers necessary to discuss matters of common interest, and to oversee the implementation of and review progress under this Chapter.
3. The Council may consider any matter within the scope of this Chapter and take such other action in the exercise of its functions as the Parties may agree.
4. The Council shall review the operation and effectiveness of the Chapter in the light of experience within five years after the date of entry into force of this Agreement or such other period as may be agreed by the Council.

Article 18.9: National Points of Contact

Each Party shall designate an office within their governmental department responsible for labour affairs that shall serve as a national point of contact (hereinafter referred to as the “NPC”) and provide to the other Party its contact information by diplomatic note.

3. 每个缔约方应当规定，这些程序的当事人有权，根据适当情况并依照适用的国内法，依据正当程序寻求审查，并在必要时纠正这些程序中作出的决定。

第十八条7：公共信息

每一缔约方应当向公众提供其劳动法的有关信息，包括与执法和合规程序相关的信息。

B部分 – 机构机制

第十八条8：劳动部长理事会

1. 缔约方特此设立一个劳动部长理事会，由缔约方的负责劳动事务的部长或其指定代表组成。
2. 理事会应当在本协定生效之日起一年内举行会议，并在此后根据其认为必要时举行会议，讨论共同利益的事项，并监督本章的实施及审查本章的进展。
3. 理事会可以审议本章范围内的任何事项，并在行使职能时采取缔约方可能同意的其他行动。
4. 理事会应当在本协定生效之日起五年内，根据经验审查本章的实施情况和有效性，或理事会另行同意的期限。

第18.9条：国家联系点

每一缔约方应在其政府部门内指定一个负责劳工事务的办公室，该办公室应作为国家联系点（以下简称“全国人民代表大会”），并通过外交照会向另一方提供其联系方式。

Article 18.10: Public Communications

1. Each Party shall provide for the submission and receipt and periodically make available a list of public communications on labour law matters that:
- (a) are raised by a national of the Party or an entity that is established in the territory of the Party;
 - (b) arise in the territory of the other Party; and
 - (c) pertain to obligations under Section A.
2. Each Party shall review such matters, as appropriate, in accordance with domestic procedures pursuant to Annex 18-B.

Article 18.11: Cooperative Activities

The Parties may initiate cooperative labour activities for the promotion of the objectives of this Chapter, enhancement of workers’ welfare and the promotion of better understanding by each Party of the other Party’s labour system, as set out in Annex 18-A.

Article 18.12: General Consultations

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter.
2. A Party may request consultations with the other Party regarding obligations under this Chapter by delivering a written request to the NPC of the other Party. The Parties shall make every attempt, including through cooperation, consultations and the exchange of information, to address a matter that might affect its operation.
3. If the Parties are unable to resolve the matter, the requesting Party may use the procedures provided under Article 18.13.

第18.10条：公共通讯

1. 每一缔约方应规定提交和接收，并定期提供一份关于劳动法事项的公共通讯清单，该清单应：
- (a) 由缔约方国民或在其领土内设立的实体提出； (b) 发生在另一缔约方领土内；以及 (c) 与A部分下的义务相关。
2. 每一缔约方应根据附件18-B规定的国内程序，适当审查此类事项。

第18.11条：合作活动

缔约方可以发起合作劳工活动，以促进本章目标、增强工人福利以及促进每一缔约方对另一方劳工制度的更好理解，如附件18-A所述。

第18.12条：一般磋商

1. 缔约方应始终努力就本章的解释和适用达成一致。
2. 一方可通过向另一方全国人民代表大会提交书面请求，就本章规定的义务与另一方进行磋商。缔约方应尽一切努力，包括通过合作、磋商和信息交换，处理可能影响其运作的事项。
3. 如果缔约方无法解决该问题，请求方可以使用第18.13条规定的程序。

Section C – Procedures for Review of Obligations

Article 18.13: Labour Consultations

1. A Party may request in writing consultations with the other Party at the ministerial level to discuss matters related to obligations in Section A. The Party that is subject to the request shall respond within 60 days.
2. Each Party shall provide the other Party with sufficient information under its control to allow a full examination of the matters raised, subject to a requirement in its domestic law regarding confidentiality of personal and commercial information.
3. To facilitate discussion of the matters under consideration, either Party may call upon one or more independent experts to prepare a report, which shall be made public within 90 days of its receipt by the Ministers. The Parties shall make every effort to agree upon selection of the expert or experts and shall cooperate with the expert or experts in the preparation of the report.
4. Labour consultations shall be concluded no later than 180 days after the request unless the Parties otherwise agree.

Article 18.14: Review Panel^{3, 4}

1. Following the conclusion of labour consultations, the Party that requested the consultations may request that a Review Panel be convened if it considers that:
 - (a) the other Party has failed to comply with its obligations under Section A; and
 - (b) the matter has not been satisfactorily addressed through labour consultations.
2. Unless otherwise agreed by the Parties, the Review Panel shall be established and perform its functions in a manner consistent with this Section.

³ Recognising the principle of reciprocity, prior to the request for a Review Panel, each Party shall consider whether the obligations under this Chapter apply to a reasonably meaningful portion of its own labour force in its own territory.

⁴ A Party should resort to dispute settlement under this Article only in cases with merit that are related to trade or investment.

第C部分 – 义务审查程序

第18.13条：劳工磋商

1. 一方可以书面请求另一方进行部长级磋商，以讨论与A部分义务相关的事项。受请求方应在60天内作出答复。
2. 每个缔约方应根据其国内法中关于个人和商业信息保密性的要求，向另一方提供其控制下的充分信息，以便对提出的事项进行全面审查。
3. 为促进对审议事项的讨论，任何一方可要求一个或多个独立专家准备报告，该报告应在收到部长们通知后的90天内公开。缔约方应尽一切努力就专家或专家的选定达成一致，并与专家或专家合作准备报告。
4. 劳工磋商应在请求之日起不超过180天内结束，除非缔约方另有约定。

第18.14条：审查小组^{3, 4}

1. 劳工磋商结束后，请求磋商的一方如认为：
 - (a) 另一方未履行A部分下的义务；以及(b) 该事项未通过劳工磋商得到令人满意的解决。
2. 除非缔约方另有约定，审查小组应按照本节规定的方式成立并履行其职能。

³ 承认互惠原则，在请求审查小组之前，每一方均应考虑本章下的义务是否适用于其领土内其自身劳动力中一个合理有意义的部分。⁴ 一方应仅在与此类实质性争端相关的案件中诉诸本章规定的争端解决程序。

贸易或投资。

3. The Review Panel shall determine, within 30 days after the last panellist is selected, whether the matter is related to trade or investment and shall cease its functions if it determines that the matter is not related to trade or investment.
4. The review shall be conducted in accordance with the procedures set out in Annex 18-D.

Article 18.15: Panellists

1. A Review Panel shall be composed of three panellists.
2. Panellists shall:
- (a) be chosen on the basis of expertise in labour matters or other appropriate disciplines, objectivity, reliability, and sound judgment;
 - (b) be independent of, and not be affiliated with or take instructions from, either Party; and
 - (c) comply with the Code of Conduct set out in Annex 21-B (Code of Conduct for Members of Panels) which applies *mutatis mutandis*.
3. If either Party believes that a panellist is in violation of the code of conduct, the Parties shall consult and, if they agree, the panellist shall be removed and a new panellist shall be selected in accordance with the procedures set out in Annex 18-D that were used to select the panellist who was removed. The time limits shall run from the date of their agreement to remove the panellist.
4. Individuals shall not serve as panellists with respect to a review in which they have, or a person or organisation with which they are affiliated has, an interest.
5. The chairperson shall not be a national of either Party.
6. Panellists shall be selected in accordance with the procedures set out in Annex 18-D.

3. 审查小组应在最后一名小组成员选定后的30天内确定该事项是否与贸易或投资有关，并在确定该事项与贸易或投资无关时终止其职能。
4. 审查应按照附件18-D中规定的手续进行。

第18.15条：小组成员

1. 审查小组应由三名小组成员组成。
2. 小组成员应：
- (a) 基于在劳工事项或其他适当学科方面的专业知识、客观性、可靠性和健全的判断力进行选择；(b) 与任何一方独立，不得与任何一方关联或接受其指示；以及(c) 遵守附件21-B（小组成员行为准则）中规定的行为准则，该行为准则相应修改适用。
3. 如果任何一方认为小组成员违反了行为准则，双方应协商，如果他们同意，该小组成员应被移除，并根据附件18-D中规定的手续选择新的小组成员，该手续用于选择被移除的小组成员。时间限制应从他们同意移除小组成员之日起计算。
4. 个人不得作为小组成员参与其本人或其关联的个人或组织具有利益关系的审查。
5. 主席不得是缔约方的任何一方国民。
6. 小组成员应根据附件18-D中规定的程序进行选拔。

Article 18.16: Information for the Review Panel

1. The Parties shall be entitled to make written and oral submissions to the Review Panel in accordance with the relevant provisions of Annex 21-C (Model Rules of Procedure) which apply *mutatis mutandis*.
2. The Review Panel may invite or receive and consider written submissions and any other information from organisations, institutions, the public and persons with relevant information or expertise.

Article 18.17: Initial Report

1. Unless the Parties otherwise agree, the Review Panel shall base its report on the submissions and arguments of the Parties and on information before it pursuant to Article 18.16.
2. Unless the Parties otherwise agree, the Review Panel shall, within 180 days after the last panellist is selected, issue to the Parties an initial report containing:
 - (a) findings of fact;
 - (b) its determination as to whether the Party that is subject to the request has failed to comply with its obligations under Section A or any other determination requested in the terms of reference; and
 - (c) its recommendations, if any, for addressing the matter.
3. Panellists may furnish separate opinions on matters that are not the subject of unanimous agreement. The Review Panel, however, shall not disclose which panellists are associated with majority or minority opinions.
4. Either Party may submit written comments to the Review Panel on its initial report within 45 days of presentation of the report.

第十八条第十八条第十六条： 审查小组的信息

1. 缔约方根据附件21-C（程序示范规则）的相关规定，有权向审查小组提交书面和口头陈述，相应修改适用。
2. 审查小组可以邀请或接收并考虑来自组织、机构、公众和具有相关信息或专业知识的人员的书面陈述和任何其他信息。

第十八条第十八条第十七条： 初步报告

1. 除非缔约方另有约定，审查小组应基于缔约方的提交和论点，以及根据第十八条第十六条提交给它的信息来撰写报告。
2. 除非缔约方另有约定，审查小组应在最后一名小组成员选定后180天内，向缔约方发布一份初步报告，其中包含：
 - (a) 事实认定；(b) 关于受请求方是否未履行A部分下的义务或参考条款中请求的任何其他认定的认定；以及(c) 如果有的话，为其解决该问题提出的建议。
3. 小组成员可以对未达成一致同意的事项提供不同意见。然而，审查小组不得披露哪些小组成员与多数意见或少数意见相关联。
4. 任何一方可在报告提交后的45天内向审查小组就其初步报告提交书面意见。

5. After considering such written comments, the Review Panel, on its own initiative or on the request of either Party, may:

- (a) request the views of the Parties;
- (b) reconsider its report; and
- (c) make any further examination that it considers appropriate.

Article 18.18: Final Report

1. The Review Panel shall issue to the Parties a final report, including any separate opinions on matters not unanimously agreed to, within 90 days of the issuance of the initial report, unless the Parties otherwise agree.
2. The Parties shall make the final report available to the public within 120 days after it is issued to the Parties.
3. If, in the final report, the Review Panel determines that the Party that was subject to the request has failed to comply with its obligations under Section A, the Parties may develop, within the following 90 days or such longer period as they may decide, a mutually satisfactory action plan to implement the Review Panel’s recommendations.
4. Following the expiry of the period pursuant to paragraph 3, if the Parties are unable to decide on an action plan or the Party that was subject to the request is failing to implement the action plan according to its terms, the requesting Party may request in writing that the Review Panel be reconvened with a view to determining whether a monetary assessment needs to be set and paid in accordance with Annex 18-E.

Section D – General Provisions

Article 18.19: Enforcement Principle

This Chapter is not to be construed to empower a Party’s authorities to undertake labour law enforcement activities in the territory of the other Party.

5. 在考虑了此类书面意见后，审查小组可应任何一方的要求或自行决定：

- (a) 请求缔约方的意见； (b) 重新审议其报告； 以及 (c) 进行其认为适当的任何进一步审查。

第18.18条：最终报告

1. 审查小组应当在初步报告发布之日起**90**天内向缔约方提交最终报告，包括对未达成一致的事项的不同意见，除非缔约方另有约定。
2. 缔约方应当在最终报告提交给缔约方后**120**天内将其向公众公开。
3. 如果在最终报告中，审查小组认定被请求的缔约方未履行**A**部分下的义务，缔约方可以在接下来的**90**天内或他们决定的其他更长期间内，制定一个双方均满意的行动计划以实施审查小组的建议。
4. 在第3段规定的期限届满后，如果缔约方无法就行动计划达成一致或被请求的缔约方未按照其条款实施行动计划，请求方可以书面请求审查小组重新召开会议，以确定是否需要根据附件**18-E**设定并支付货币评估。

第 D 部分 – 一般规定

第十八条第十九条：执法原则

本章不得解释为授权一方当局在一方领土内进行劳动法执法活动。

Article 18.20: Private Rights

A Party shall not provide for a right of action under its domestic law against the other Party on the ground that the other Party has acted in a manner inconsistent with this Chapter.

Article 18.21: Security of Domestic Procedures

The decisions by each Party’s tribunals, or pending decisions, as well as related proceedings, shall not be subject to revision or be reopened under this Chapter.

Article 18.22: Protection of Information

1. A Party that receives information identified by the other Party as confidential or proprietary information shall protect such information as confidential or proprietary.
2. Confidential or proprietary information provided to the Review Panel under this Chapter shall be treated in accordance with paragraph 32 of Annex 21-C (Confidentiality) which applies *mutatis mutandis*.

Article 18.23: Cooperation with International and Regional Organisations

The Parties may, as appropriate and by agreement, seek the assistance of the International Labour Office or any other competent international and regional organisation that has the necessary expertise and resources to enhance cooperation under this Chapter.

Article 18.24: Dispute Settlement

A Party shall not have recourse to Chapter Twenty-One (Dispute Settlement) for any matter arising under this Chapter, except as otherwise provided in this Chapter.

第18.20条：私人权利

一方不得依据另一方行为与本章节不一致为由，在其国内法中规定对另一方提起诉讼的权利。

第18.21条：国内程序安全

每一方法庭作出的决定，或未决裁决，以及相关诉讼程序，不得根据本章进行复审或重新审理。

第18.22条：信息保护

1. 接收另一方认定为机密或专有信息的任何一方，应将该信息作为机密或专有信息予以保护。
2. 向审查小组根据本章提供的机密或专有信息应根据附件21-C第32段（保密性）的规定进行处理，相应修改。

第18.23条：与国际和区域组织的合作

缔约方可以，在适当且经协商的情况下，寻求国际劳工局或任何其他具备必要专业知识和资源的有资质的国际和区域组织的协助，以加强本章项下的合作。

第18.24条：争端解决

一方不得就本章项下事项援引第二十一章（争端解决），除非本章另有规定。

Article 18.25: Definitions

For the purposes of this Chapter:

due process means that proceedings are conducted by decision-makers who are impartial and independent and do not have an interest in the outcome of the matter, that the parties to the proceedings are entitled to support or defend their respective positions and to present information or evidence, and that the decision is based on such information or evidence;

forced or compulsory labour does not include compulsory military service, certain civic obligations, prison labour not for private purposes and work exacted in cases of emergency;

labour law means laws, regulations, and, where applicable, jurisprudence that implement and protect the labour principles and rights set out in Article 18.2;

mutually-recognised labour law means labour law that addresses the same general subject matter in a manner in both Parties that provides rights, protections or standards, although for greater certainty the law of a Party need not be substantially similar to the law of the other Party in order to constitute a mutually-recognised labour law; and

person means a natural person, an enterprise, or an organisation of employers or workers.

第十八条第25条：定义

本章规定如下：

正当程序是指，程序由公正且独立的决策者进行，且决策者对事项结果无利益关系；程序当事人有权支持或维护其各自立场，并呈交信息或证据；且决策基于此类信息或证据；

强迫劳动或强制劳动不包括兵役、某些公民义务、非为私人目的的监禁劳动以及紧急情况下的劳动；

劳动法是指实施和保护第十八条第2条规定的劳动原则和权利的法律、法规，以及适用的判例法；

相互承认的劳动法是指在一方和另一方中，以提供权利、保护或标准的方式处理相同一般主题的劳动法；而自然人是指自然人、企业或雇主或工人组织。

Annex 18-A

Cooperative Activities

1. The NPCs established under Article 18.9 shall serve as the contact points for cooperative labour activities.
2. Officials of the labour ministries and other appropriate agencies and ministries shall cooperate to:
 - (a) establish priorities for cooperative activities on labour matters;
 - (b) develop specific cooperative activities in accordance with such priorities;
 - (c) exchange information regarding labour law and practices in each Party;
 - (d) exchange information on ways to improve labour law and practices, including best labour practices; and
 - (e) advance understanding of, respect for, and effective implementation of the principles reflected in the ILO Declaration.
3. Cooperative activities between the Parties may include the following subjects:
 - (a) policy issues of common interest and their effective application: legislation, practice, and implementation related to freedom of association and collective bargaining, non-discrimination in employment, child labour, forced labour, occupational health and safety, compensation for work-related injury or illness, employment standards, work benefits, and migrant workers;
 - (b) labour-management relations: forms of cooperation and dispute resolution among workers, management and governments;
 - (c) social safety net programs: social programs for workers and their families and unemployment assistance programs;

附件18-A

劳动事务合作活动

1. 根据第18.9条设立的全国人民代表大会应当作为合作劳工活动的联系点。
2. 劳动部官员和其他相关机构官员应合作：
 - (a) 确定劳动事务合作活动的优先事项；(b) 根据这些优先事项制定具体合作活动；(c) 交流各缔约方劳动法和实践方面的信息；(d) 交流改进劳动法和实践的方法，包括最佳劳动实践；以及(e) 推进对《国际劳工组织宣言》所反映的原则的理解、尊重和有效实施。
3. 缔约方之间的合作活动可包括以下主题：
 - (a) 共同利益的政策问题及其有效应用：与结社自由和集体谈判、就业中的非歧视、童工、强迫劳动、职业健康与安全、工伤或职业病赔偿、就业标准、工作福利以及移民工人相关的立法、实践和实施；(b) 劳资关系：工人、管理层和政府之间的合作形式和争议解决；(c) 社会安全网计划：为工人及其家庭提供的社会项目以及失业援助计划；

- (d) human resource development and management: skills development and life-long learning and training;
- (e) programs, methodologies and experience regarding productivity improvement;
- (f) labour statistics; and
- (g) such other matters as the Parties may agree.

4. Cooperative activities agreed upon under paragraph 3 may be implemented through:

- (a) exchanges of delegations, professionals and specialists, including study visits and other technical exchanges;
- (b) exchange of information, standards, regulations and procedures, and best practices, including publications and monographs;
- (c) organisation of joint conferences, seminars, workshops, meetings, training sessions and outreach and education programs;
- (d) development of collaborative projects or demonstrations;
- (e) joint research projects, studies and reports, including through engagement of independent experts with recognised expertise;
- (f) cooperation within international fora such as the ILO on labour-related issues; and
- (g) other forms of technical exchanges or cooperation to which the Parties may agree.

5. In identifying areas for cooperation and carrying out cooperative activities, the Parties shall consider the views of their respective worker and employer representatives. The Parties shall carry out the cooperative activities with due regard for the economic, social cultural, and legislative differences between them.

(d) 人力资源发展和管理：技能发展、终身学习和培训；(e) 关于生产力提升的项目、方法和经验；(f) 劳动统计；以及 (g) 缔约方可能同意的其他事项。

4. 根据第3段达成的合作活动可以通过以下方式实施：

(a) 交流代表团、专业人员和专家，包括考察访问和其他技术交流；(b) 交换信息、标准、法规和程序，以及最佳实践，包括出版物和专著；(c) 组织联合会议、研讨会、工作坊、会议、培训课程和推广及教育项目；(d) 合作项目的开发或示范；(e) 联合研究项目、研究和报告，包括通过让具有公认专业知识独立专家参与；(f) 在国际劳工组织等国际场合就劳动相关事项进行合作；以及(g) 缔约方可能同意的其他形式的技术交流或合作。

5. 在确定合作领域和开展合作活动时，缔约方应当考虑其各自工人和雇主代表的意见。缔约方在开展合作活动时，应当适当顾及它们之间的经济、社会文化及法律差异。

Annex 18-B

Public Communications

Public communication procedures of each Party regarding the right of a person to submit a public communication to the NPC shall indicate, *inter alia*:

- (a) the requirements regarding the acceptance of communications, including that:
 - (i) except in exceptional circumstances, relief before domestic tribunals has been pursued and that matters pending before such tribunals will not be accepted, provided that the tribunal’s proceedings conform to Article 18.5;
 - (ii) except in exceptional circumstances, matters pending before an international body will not be accepted;
 - (iii) communications that are trivial, frivolous, or vexatious will not be accepted; and
 - (iv) communication must be substantially different from previous communications or include new or supplemental information not available in previous communications;
- (b) that there will be early consultation with the other Party;
- (c) that the final report will consider relevant information, including that provided by the submitter, the other Party and other interested persons, as well as indicate how to obtain access to that information; and
- (d) that the public notification of the acceptance for review and of the release of the final report will indicate how to obtain access to any response of the other Party.

附件18-B

公共通讯

各缔约方关于个人向全国人民代表大会提交公共通讯的权利的公共通讯程序，应当包括但不限于以下内容：

- (a) 有关接受通讯的要求，包括：接受通讯的规定，包括：
 - (i) 除特殊情况外，不得在国内法庭寻求救济，且此类法庭悬而未决的事项将不被接受，前提是该法庭的程序符合第18.5条；
 - (ii) 除特殊情况外，国际机构悬而未决的事项将不被接受；
 - (iii) 琐碎、荒谬或烦扰的通讯将不被接受；以及
 - (iv) 通讯必须与之前的通讯实质上不同，或包含在之前的通讯中未提供的新的或补充信息；
- (b) 将与另一方进行早期磋商；
- (c) 最终报告将考虑相关信息，包括提交者、另一方和其他有关人员提供的信息，并说明如何获取该信息；以及
- (d) 公共通知应明确说明如何获取另一方回应的途径，包括审查接受通知和最终报告的发布通知。

Annex 18-C

Extent of Obligations

- 1. At the time of entry into force of this Agreement, Canada shall provide to Korea through diplomatic channels a written declaration with a list of any provinces for which Canada is to be bound in respect of matters within their jurisdiction. The declaration shall be effective on delivery to Korea, and shall carry no implication as to the internal distribution of powers within Canada. Canada shall notify Korea six months in advance of any modification to its declaration.
- 2. Canada shall not request consultations, or the establishment of a Review Panel, under Section C at the instance, or primarily for the benefit, of the government of a province not included in the declaration made under paragraph 1.
- 3. Korea shall not request the establishment of a Review Panel, under Section C, concerning a matter related to a labour law of a province unless that province is included in the declaration made under paragraph 1.
- 4. Canada shall, no later than the date on which the Review Panel is convened pursuant to Article 18.14 respecting a matter within the scope of paragraph 3, notify Korea in writing of whether any recommendation of the Review Panel in a final report under Article 18.18 or monetary assessment determined pursuant to Annex 18-E with respect to Canada shall be addressed to Her Majesty in right of Canada or Her Majesty in right of the province concerned.
- 5. Canada shall use its best efforts to make this Chapter applicable to as many of its provinces as possible.

附件18-C

义务范围

- 1. 本协议生效时，加拿大应通过外交渠道向韩国提供一份书面声明，列明加拿大应承担其管辖范围内任何省份的事务清单。该声明自交付韩国时生效，且不涉及加拿大内部权力的分配。加拿大应在声明修改前六个月通知韩国。
- 2. 加拿大女王陛下不得在相关省份女王陛下未包含在第1段声明中的省份政府的要求或主要利益下，根据第C部分请求磋商或设立审查小组。
- 3. 韩国不得在根据第C部分，关于与相关省份劳动法相关的事项请求设立审查小组，除非该省份包含在第1段声明中。
- 4. 加拿大应在根据第18.14条关于第3段所述范围内的事项召集审查小组的日期之前，书面通知韩国，审查小组在第18.18条最终报告中的任何建议或根据附件18-E确定的针对加拿大的货币评估是否应提交给加拿大女王陛下或相关省份女王陛下。
- 5. 加拿大应尽其所能使本章适用于其尽可能多的省份。

Procedures Related to Review Panels

Review Panel Selection Procedures

1. For the purposes of selecting a panellist, the following procedures shall apply:
- (a) within 20 days of the receipt of the request for the establishment of a Review Panel, each Party shall select one panellist;
 - (b) if a Party fails to select its panellist within such period, the other Party shall select the panellist from among qualified individuals who are nationals of the Party that has failed to select its panellist; and
 - (c) the following procedures apply to the selection of the chairperson:
 - (i) the Party that is subject to the request shall provide the Party that made the request with the names of three individuals who are qualified to be the chairperson. The names shall be provided no later than 20 days after the receipt of the request for the establishment of a Review Panel;
 - (ii) the Party that made the request may choose one of the individuals to be the chairperson or, if the names were not provided or none of the individuals is acceptable, provide the Party that is subject to the request with the names of three individuals who are qualified to be the chairperson. Those names shall be provided no later than five days after receiving the names under sub-subparagraph (i) or 25 days after the receipt of the request for the establishment of a Review Panel; and
 - (iii) the Party that is subject to the request may choose one of the three individuals to be the chairperson, no later than five days after receiving the names under sub-subparagraph (ii), in default of which the Parties shall immediately request the Director General of the International Labour Office to appoint a chairperson within 25 days.

与审查小组相关的程序

审查小组遴选程序

1. 为选择小组成员，应适用以下程序：
- (a) 在收到设立审查小组的请求之日起20日内，每一方应选择一名小组成员；(b) 如果一方在该期限内未能选择其小组成员，另一方应从符合资格且为未能选择其小组成员的一方国民的人员中选派小组成员；以及(c) 主席的选择适用以下程序：
- (i) 受请求方应向提出请求的一方提供三名有资格担任主席的人员的姓名。姓名应在收到设立审查小组的请求之日起20日内提供；
- (ii) 受请求方可以从中选择一名个人担任主席，或者，如果未提供姓名或所列个人均不可接受，则应向受请求方提供三名有资格担任主席的个人姓名。这些姓名应在收到第(i)款下项(i)款项下提供的姓名后五日内或收到设立审查小组请求后25日内提供；和
- (iii) 受请求方可以任选三人中的一人担任主席，最迟应在收到第(ii)款下项的名称后五天内作出选择；如未作出选择，缔约方应立即请求国际劳工局局长在25天内任命一名主席。

Rules of Procedure

2. The rules of procedure under Article 21.8 (Rules of Procedure) apply *mutatis mutandis* to Review Panel proceedings under this Chapter.
3. The Parties shall agree on a separate budget for each set of Review Panel proceedings under this Chapter. The Parties shall contribute equally to the budget, unless they agree otherwise.

Terms of Reference of Panels

4. Unless the Parties otherwise agree within 30 days after the Review Panel is convened, the terms of reference shall be:
- “To examine, in light of the relevant provisions of this Chapter, whether the Party that was subject to the request has failed to comply with its obligations under Section A, and to make findings, determinations and recommendations in accordance with Articles 18.17.1 and 18.17.2.”

议事规则

2. 第21.8条（程序规则）的规定经相应修改后，适用于本章规定的审查小组程序。
3. 缔约方应就本章规定的每一审查小组程序另行商定预算。除非另有约定，缔约方应平均分摊该预算。

小组参考条款

4. 除非缔约方在审查小组成立后30天内另有约定，否则参考条款应为：
- 根据本章相关条款，审查受请求的缔约方是否未能履行A部分下的义务，并依据第18.17.1条和第18.17.2条作出认定、决定和建议。

Annex 18-E

Monetary Assessments

1. The Review Panel shall be reconvened as soon as possible after delivery of the request pursuant to Article 18.18.4. Within 90 days after being reconvened, the Review Panel shall determine whether the terms of the action plan have been implemented or the non-compliance otherwise remedied.
2. In the event of a negative determination pursuant to paragraph 1 and at the request of the complaining Party, the Review Panel shall assess an annual monetary assessment equivalent to the degree of adverse trade effects related to the non-compliance within the meaning of Article 18.14.1 or the non-compliance with the action plan and the Review Panel may adjust the assessment to reflect:
- (a) mitigating factors, such as good faith efforts made by the Party to begin remedying such non-compliance after the final report of the Review Panel, *bona fide* reasons for the Party’s failure to comply with such obligations; and
 - (b) aggravating factors, such as the pervasiveness and duration of the Party’s failure to comply with its obligations.
3. Monetary assessments shall be paid into an interest-bearing fund designated by the Council and shall be expended at the direction of the Council to implement the action plan or other appropriate measures.
4. 90 days from the date on which the Review Panel determines the amount of the monetary assessment pursuant to paragraph 2, or at any time thereafter, the complaining Party may provide notice in writing to the other Party demanding payment of the monetary assessment. The monetary assessment shall be paid in equal, quarterly instalments beginning 120 days after the requesting Party provides such notice and ending upon decision of the Parties or upon the date of the Review Panel determination pursuant to paragraph 5.
5. If the Party that was subject to the review considers that it has eliminated the non-compliance, it may refer the matter to the Review Panel by providing written notice to the other Party. The Review Panel shall be reconvened within 60 days of that notice and issue its report within 90 days thereafter.

附件18-E

货币评估

- 审查小组应自根据第18.18.4条提交请求之日起尽快重新召集。重新召集后90天内，审查小组应确定行动计划条款是否已得到实施或非合规问题是否已得到其他补救。
2. 如根据第1段作出否定认定且投诉方提出请求，审查小组应评估相当于与第18.14.1条所述不合规相关的贸易不利影响程度的年度货币评估，或与行动计划相关的不合规，审查小组可调整评估以反映：
- (a) 减轻因素，例如缔约方在审查小组最终报告后为纠正此类不合规所做的善意努力，以及缔约方未能履行此类义务的真实原因；以及 (b) 加重因素，例如缔约方未能履行其义务的普遍性和持续时间。
3. 货币评估应存入理事会指定的计息基金，并应按照理事会的指示用于实施行动计划或其他适当措施。
4. 自审查小组根据第2段认定货币评估金额之日起90日内，或之后任何时间，投诉方可以书面通知另一方要求支付货币评估。货币评估应自请求方提供此类通知后120天起以相等的、按季分期付款的方式支付，并至缔约方决定之日或根据第5段审查小组认定之日终止。
5. 如果被审查的缔约方认为它已经消除了不合规，它可以向审查小组提交书面通知给另一方。审查小组应在收到该通知后的60天内重新召开，并在之后90天内发布其报告。

6. In Canada, the procedure for enforcement of the monetary assessment is the following:
- (a) Korea may file in a court of competent jurisdiction a certified copy of a Review Panel determination under paragraph 2 above only if Canada has failed to comply with the terms of a notice provided under paragraph 4 within 180 days of the notice being provided;
 - (b) when filed, the Review Panel determination, for purposes of enforcement, becomes an order of the court;
 - (c) Korea may take proceedings for the enforcement of a Review Panel determination that is made an order of the court, in that court, against the person in Canada against whom the Review Panel determination is addressed in accordance with paragraph 4 of Annex 18-C;
 - (d) proceedings to enforce a Review Panel determination that has been made an order of the court are to be conducted in Canada by way of summary proceedings, provided that the court shall promptly refer a question of fact or a question of interpretation of the Review Panel determination to the Review Panel that made the determination, and the decision of the Review Panel shall be binding on the court;
 - (e) a Review Panel determination that has been made an order of the court is not subject to domestic review or appeal; and
 - (f) an order made by the court in proceedings to enforce a Review Panel determination that has been made an order of the court is not subject to review or appeal.
7. Korea shall provide for the enforcement of the monetary assessment in its territory.

6. 在加拿大，货币评估的执法程序如下：

- (a) 韩国 **may** 在有管辖权的法院提交根据上述第2段提交的审查小组认定书的副本，前提是加拿大未能在通知根据第4段提供后的180天内遵守该通知的条款；(b) 当提交时，审查小组认定书，就执行而言，成为法院的命令；(c) 韩国 **may** 在附件18-C第4段规定的加拿大针对该审查小组认定书所指的个人，在该法院提起执行审查小组认定书的程序；(d) 执行已成为法院命令的审查小组认定的程序应通过简易程序在加拿大进行，前提是法院应迅速将事实问题或审查小组认定书的解释问题提交给作出该认定的审查小组，并且审查小组的决定对法院具有约束力；(e) 已成为法院命令的审查小组认定不受国内审查或上诉；以及(f) 在执行已成为法院命令的审查小组认定程序中，法院作出的命令不受审查或上诉。

7. 韩国 应在其领土内提供货币评估的执法。