

CHAPTER 16

LABOR

ARTICLE 16.1: CONTEXT AND OBJECTIVES

1. The Parties recognize that this Chapter enshrines a cooperative approach based on common values and interests, taking into account the differences in their levels of development.
2. The Parties recognize that it is not their intention in this Chapter to harmonize their labor standards, but to strengthen their trade relations and cooperation in a way that promotes sustainable development.
3. The objectives of this Chapter are to:
 - (a) promote the common aspiration that free trade and investment should lead to job creation, and decent work, with terms and conditions of employment that adhere to the principles in International Labor Organization Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998) (hereinafter referred to as the “ILO Declaration”);
 - (b) encourage and achieve better understanding of each Party’s labor systems, sound labor policies and practices, and the improved capacity of each Party, including their relevant stakeholders, through increased cooperation and dialogue;
 - (c) promote the improvement of working conditions within the respective Parties' territories and protect, enhance and enforce fundamental rights of workers; and
 - (d) enable the discussion and exchange of views on labor issues of mutual interest without undermining the labor laws of each Party.

ARTICLE 16.2: GENERAL PRINCIPLES AND COMMITMENTS

1. The Parties reaffirm their obligations as members of the International Labor Organization (hereinafter referred to as the “ILO”) and their commitments under the ILO Declaration. Each Party shall strive to adopt and maintain in its laws, regulations, and practices thereunder, the following rights as stated in the ILO Declaration:
 - (a) the 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; and

- (d) the elimination of discrimination in respect of employment and occupation.

2. Each Party shall respect the other Party's sovereign right to set its own policies and national priorities and to set, administer and enforce its own labor laws, regulations and practices according to its policies and priorities.

3. The Parties shall not fail to effectively enforce their labor laws, including those they adopt or maintain in accordance with paragraph 1, through a sustained or recurrent action or inaction, in a manner affecting trade or investment between the Parties. The Parties recognize that each Party retains the right to exercise discretion with respect to the distribution of enforcement resources and to make decisions regarding the allocation of enforcement resources.

4. Neither Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its laws or regulations implementing paragraph 1, in a manner affecting trade or investment between the Parties, where the waiver and derogation would be inconsistent with the principles set out in paragraph 1.

5. Each Party shall ensure that its labor laws, regulations, policies and practices shall not be used for trade protectionist purposes.

ARTICLE 16.3: 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.

3. Each Party shall promote public awareness of its labor laws, regulations, policies and practices domestically, and may develop mechanisms as appropriate to inform its public of activities undertaken pursuant to this Chapter, in accordance with its laws, regulations, policies and practices.

4. The Parties recognize the desirability of clear, well understood and broadly consulted labor laws, regulations, policies and practices.

ARTICLE 16.4: INSTITUTIONAL ARRANGEMENTS

Contact Points

1. Each Party shall designate a contact point for labor matters within its labor ministry or other relevant ministries to facilitate communication between the Parties. After the date of entry into force of this Agreement, the Parties shall provide their contact information and notify of any changes of its contact point in due time.

Labor Committee

2. The Parties hereby establish a Labor Committee (hereinafter referred to as the “Committee”). The Committee shall comprise appropriate senior officials from the labor ministry and other ministries of each Party.

3. The Committee shall:

- (a) establish an agreed work program of cooperative activities;
- (b) oversee and evaluate the agreed cooperative activities;
- (c) serve as a forum for dialogue on labor matters of mutual interest;
- (d) review the operation and outcomes of this Chapter; and
- (e) take any other action it decides appropriate for the implementation of this Chapter.

4. Unless the Parties otherwise agree, the Committee shall meet within one year after the date of entry into force of this Agreement, and thereafter as necessary, to discuss matters of common interest and oversee the implementation of this Chapter, including the cooperative activities set out in Article 16.6. Meetings may be conducted in person or by any technological means available to the Parties.

Public Participation

5. The Committee may consult or seek the advice of relevant stakeholders or experts over matters relating to the implementation of this Chapter.

ARTICLE 16.5: CONSULTATION

1. Any matter arising related to the interpretation or implementation of this Chapter shall be resolved amicably and *bona fide* by the Parties through direct dialogue, consultations, and cooperation.

2. A Party may request consultations with the other Party by delivering a written request to the contact point designated under Article 16.4.1. The consultation shall begin promptly after delivery of the request.

3. If the Parties fail to resolve the matter through their contact points, the requesting Party may request that the Committee be convened to consider the matter. The Committee shall convene promptly and endeavor to resolve the matter expeditiously.

4. The Committee shall produce a report providing conclusions and recommendations on resolving the matter, and both Parties shall strive to implement the conclusions and recommendations of the Committee as soon as practicable.

5. Neither Party shall have recourse to Chapter 22 (Dispute Settlement) for any matter arising under this Chapter.

ARTICLE 16.6: COOPERATION

1. The Parties commit to establish close relationship through cooperative activities in areas of mutual interest as set out in paragraphs 2 and 3, in order to promote the objectives of this Chapter and enhance better understanding on the other Party's labor system.

2. The areas of cooperation between the Parties pursuant to this Chapter may include, but are not limited to:

- (a) labor policies of mutual interest;
- (b) labor management relations;
- (c) working conditions;
- (d) occupational safety and health;
- (e) vocational training and human resource development;
- (f) labor statistics; and
- (g) such other labor matters as the Parties may agree in accordance with their labor legislations.

3. Cooperative activities may be implemented through a variety of means, which may include, but should not be limited to:

- (a) arranging study visits and other exchanges between government delegations, professionals, students and specialists;
- (b) exchanging information on labor legislation and best practices;
- (c) organizing joint conferences, seminars, workshops, meetings, training sessions, and outreach and education programs;
- (d) developing collaborative projects or demonstrations;
- (e) engaging in joint research projects, studies, and reports, including through engagement of independent experts with recognized expertise; and

- (f) other forms of technical exchanges or cooperation to which the Parties may agree.

4. Any cooperative activities agreed to pursuant to paragraph 3 shall take into consideration each Party's labor priorities and needs, as well as the resource available. Any specific activity or project launched by mutual determination may also be documented in a separate arrangement.

5. Each Party may, as appropriate, invite the participation of its unions and employers or other persons and organizations of its country in identifying potential areas for cooperation, and undertaking cooperative activities.