

CHAPTER 15

LABOUR

Article 15.1 : Objectives

The objectives of this Chapter are to:

- (a) promote the common aspiration that free trade and investment should lead to job creation, decent work and meaningful jobs for workers, with terms and conditions of employment that adhere to the principles in the International Labour Organization (hereinafter referred to as the “ILO”) *Declaration of Fundamental Principles and Rights at Work and its Follow-Up, 1998* (hereinafter referred to as the “ILO Declaration”), and the ILO *Declaration on Social Justice for a Fair Globalization, 2008*;
- (b) promote and achieve better understanding of each Party’s labour systems, sound labour policies and practices, and the improved capacity and capability of each Party, including their relevant stakeholders, through increased co-operation and dialogue;
- (c) promote the improvement of working conditions and living standards within the respective Parties’ territories and protect, enhance and enforce basic workers’ rights; and
- (d) enable the discussion and exchange of views on labour issues of mutual interest or concern with a view to reaching consensus on those issues.

Article 15.2 : General Principles

1. The Parties reaffirm their obligations as members of the ILO and their commitments under the ILO Declaration. Each Party shall strive to adopt and maintain in its laws, regulations, policies and practices thereunder, the following principles embodied in the ILO Declaration:

- (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 respect the other Party’s sovereign right to set its own policies and national priorities and to set, administer and enforce its own labour laws, regulations and practices according to those policies and priorities.

3. The Parties shall not fail to effectively enforce their labour 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 recognise 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 resources to enforcement.

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 or derogation would be inconsistent with the principles set out in paragraph 1.

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

Article 15.3 : Procedural Guarantees and Public Awareness

1. Each Party shall ensure that the processes and institutions for the operation and enforcement of its labour laws, regulations, policies and practices, including administrative, quasi-judicial, or judicial tribunals, are appropriately accessible by persons with a recognised interest under its law, transparent, fair and equitable.

2. Each Party shall promote public awareness of its labour 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.

3. The Parties recognise the desirability of clear, well understood and broadly consulted labour laws, regulations, policies and practices.

Article 15.4 : Institutional Arrangements

Contact Points

1. Each Party shall designate a contact point for labour matters within its labour ministry to facilitate communication between the Parties.

Labour Committee

2. The Parties hereby establish a Labour Committee (hereinafter referred to as “the Committee”). The Committee shall include appropriate senior officials or their designates from the labour ministry and other appropriate agencies and ministries of each Party.

3. The Committee shall:
- (a) establish an agreed work programme of co-operative activities;
 - (b) oversee and evaluate the agreed co-operative activities;
 - (c) serve as a forum for dialogue on labour 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. The Committee shall meet within one year after the date this Agreement enters into force, and thereafter as necessary, to discuss matters of common interest and oversee the implementation of this Chapter, including the co-operative activities set out in Article 15.5.

Public Participation

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

Article 15.5: Co-operation

1. Recognising the importance of co-operating on trade-related aspects of labour policies in order to achieve the objectives of this Agreement, the Parties commit to establishing close co-operation through co-operative activities in areas of mutual interest as set out in paragraphs 2 and 3.
2. The Parties have established the following indicative list of areas of potential co-operation, which may be pursued at bilateral, regional or multilateral levels. The areas of co-operation may include, but are not limited to:
- (a) legislation and practice related to the principles and rights contained in the ILO Declaration;
 - (b) labour-management relations;
 - (c) working conditions;
 - (d) occupational safety and health;
 - (e) human resources development;
 - (f) labour statistics;
 - (g) programmes, methodologies and experience regarding productivity

improvement; and

(h) such other matters as the Parties may agree.

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

- (a) exchanges of delegations, experts, scholars, teachers and instructors, including study visits and other technical exchanges;
- (b) exchanges of information on standards, regulations and procedures and best practices to enhance mutual understanding of labour laws and institutions of the Parties;
- (c) organisation of joint conferences, seminars, workshops, meetings, training sessions and outreach and education programmes;
- (d) development of collaborative projects or demonstrations;
- (e) joint research projects, studies and reports;
- (f) co-operation within international fora such as the ILO on labour-related issues; and
- (g) other forms of technical exchanges or co-operation to which the Parties may agree.

4. To facilitate co-operation, the Parties shall, as a first step after entry into force of this Agreement, exchange lists of their initial priorities, or areas of interest.

5. Any co-operative activities agreed to pursuant to paragraph 3 shall take into consideration each Party's labour priorities and needs as well as the resources available. Any specific activity or project launched by mutual determination may also be documented in a separate arrangement.¹

6. Each Party may, as appropriate, invite the participation of its unions and employers or other persons and organisations of its country in identifying potential areas for co-operation, and undertaking co-operative activities.

Article 15.6: Consultation

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every attempt through dialogue, consultation and co-operation to resolve any issue that might affect its operation. The Parties may seek advice

¹ A separate arrangement may include for example a project or activity undertaken in conjunction with an international organisation or institution.

or assistance from any person or body they consider appropriate.

2. A Party may request consultations with the other Party regarding any matter arising under this Chapter through the contact point. Unless the Parties otherwise agree, consultations shall commence within 30 days of a Party's acknowledged receipt of a request for consultations submitted to the contact point of the other Party.
3. The Parties shall decide a timeframe for consultation which shall not exceed 180 days, unless mutually agreed.
4. If a Party considers that the matter needs further discussion, the Party may request that the Committee be convened to consider the matter by delivering a written request to the contact point of the other Party. The Committee shall convene, unless otherwise agreed, no later than 90 days following the request, and endeavour to agree on a resolution of the matter.
5. The Committee shall produce a report providing conclusions and recommendations on resolving the issue.
6. The Parties shall implement the conclusions and recommendations of the Committee as soon as practicable.
7. If the Committee under paragraph 4 fails to resolve the issue, the requesting Party may refer the issue to the Joint Commission.
8. Neither Party shall have recourse to dispute settlement under this Agreement for any matter arising under this Chapter.