

## **CHAPTER SIXTEEN LABOR**

### ARTICLE 16.1: 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 16.7 are recognized and protected by its law.
2. The Parties recognize the right of each Party to adopt or modify its labor laws and standards. Each Party shall strive to ensure that it provides for labor standards consistent with the internationally recognized labor rights set forth in Article 16.7 and shall strive to improve those standards in that light.

### ARTICLE 16.2: 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 priorities. 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 16.7 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 16.3: PROCEDURAL GUARANTEES AND PUBLIC AWARENESS

1. Each Party shall provide for appropriate access by persons with a legally recognized interest in a particular matter to impartial and independent administrative, quasi-judicial, or judicial tribunals for the enforcement of its labor laws.
2. Each Party shall provide for fair, equitable, and transparent proceedings for the enforcement of its labor laws. To this end, each Party shall provide that such proceedings comply with due process of law, are open to the public, except where the administration of justice otherwise requires, and do not entail unwarranted delays.
3. Each Party shall provide that final decisions on the merits of the case in such proceedings are in writing and state the reasons on which the decisions are based; made available without undue delay to the parties to the proceedings and, consistent with its law, to the public; based on information or evidence in respect of which the parties were offered the opportunity to be heard; and subject to review and, where warranted, correction, in accordance with domestic law.
4. Each Party shall provide that the parties to such proceedings may seek remedies (such as orders, compliance agreements, fines, penalties, injunctions, or emergency workplace closures) to ensure the enforcement of their rights under its labor laws.
5. 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 16.4: INSTITUTIONAL ARRANGEMENTS

1. Each Party shall designate an office within its labor ministry that shall serve as a contact point with the other Party and 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, the public. Each Party shall review such communications, as appropriate, in accordance with domestic procedures.
2. 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.

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

4. 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 16.5: LABOR COOPERATION

1. 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 16-A.

2. The Parties may undertake cooperative activities under the Labor Cooperation Mechanism relating to labor matters of common interest, such as: promoting fundamental rights and their effective application; eliminating the worst forms of child labor; enhancing labor-management relations; improving working conditions; developing unemployment assistance programs and other social safety net programs; encouraging human-resource development and life-long learning; and utilizing labor statistics.

#### ARTICLE 16.6: 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 contact point that the other Party has designated pursuant to Article 16.4.1. The Parties shall begin consultations promptly after delivery of the request.

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, and if a subcommittee on labor affairs has been established pursuant to Article 19.2 (Joint Committee), either Party may refer the matter to the subcommittee by delivering a written notification to the other Party’s contact point. The subcommittee shall convene within 30 days after a Party delivers a notification, unless the Parties agree otherwise. If the Parties have not established a subcommittee by the date a Party delivers a notification, they 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 Article 16.2.1(a), the Party may request consultations pursuant to paragraph 1 or Article 20.5 (Consultations).

- (a) If a Party requests consultations pursuant to Article 20.5 at a time when the Parties are engaged in consultations on the same matter pursuant to paragraph 1 or the subcommittee is endeavoring to resolve the matter pursuant to paragraph 3, the Parties shall discontinue their efforts to resolve the matter under this Article. Once consultations have begun pursuant to Article 20.5, no consultations on the same matter may be entered into pursuant to this Article.
- (b) If a Party requests consultations pursuant to Article 20.5 more than 60 days after the delivery of a request for consultations pursuant to paragraph 1, the Parties may agree at any time to refer the matter to the Joint Committee pursuant to Article 20.6 (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 Article 16.2.1(a).

#### ARTICLE 16.7: DEFINITIONS

For purposes of this Chapter:

**labor laws** means a Party's statutes or regulations, 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.

For greater certainty, nothing in this Agreement shall be construed to impose obligations on either Party with regard to establishing the level of minimum wages.

**statutes or regulations** means:

- (a) for Morocco, *dahirs*, acts of the Moroccan Parliament, decrees, or administrative regulations; and
- (b) for the United States, acts of Congress or regulations promulgated pursuant to an act of Congress that are enforceable by action of the federal government.

**ANNEX 16-A**  
**LABOR COOPERATION MECHANISM**

*Establishment of a Labor Cooperation Mechanism*

1. Recognizing that bilateral 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. Officials of the Parties' labor ministries and other appropriate agencies and ministries shall carry out the work of the Labor Cooperation Mechanism by developing and pursuing cooperative activities on labor matters, including by working jointly 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;
- (f) promote full compliance with ILO Convention 182;
- (g) seek support from international organizations and agencies, in advancement of common commitments with respect to labor matters; and
- (h) develop recommendations of actions to be taken by each Party for consideration by the Joint Committee.

3. The contact points designated under Article 16.4.1 shall support the work of the Labor Cooperation Mechanism.

*Cooperative Activities*

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

- (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) **worst forms of child labor:** legislation and practice related to compliance with ILO Convention 182;
- (c) **labor relations:** forms of cooperation among workers, management, and governments, including the resolution of disputes;
- (d) **working conditions:** hours of work, minimum wages, and overtime; occupational safety and health; prevention of and compensation for work-related injuries and illness; and employment conditions;
- (e) **unemployment assistance programs and other social safety net programs;**
- (f) **human resource development and life-long learning:** workforce development and employment training; worker adjustment programs; programs, methodologies, and experiences regarding productivity improvement; and use of technologies; 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;
- (e) undertaking joint research projects, studies, and reports, including by

engaging independent experts;

- (f) drawing on the expertise of academic and other institutions in their territories in developing and implementing cooperative programs and by encouraging cooperation between these institutions on technical labor issues; and
- (g) engaging in technical exchanges and cooperation.

6. In identifying areas for cooperation and carrying out cooperative activities, the Parties shall consider views of their respective worker and employer representatives.