

## 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”).<sup>1</sup> 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. 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 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 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 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 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;

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<sup>1</sup> The Parties recall that paragraph 5 of this ILO Declaration states that labor standards should not be used for protectionist trade purposes.

- (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 fees 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.
8. For greater certainty, decisions by each Party's judicial tribunals, quasi-judicial tribunals, or administrative tribunals, of general, labor, or other specific jurisdiction, as well as related proceedings, shall not be subject to revision or reopened under this Chapter.

#### ARTICLE 16.4: INSTITUTIONAL ARRANGEMENTS

1. The Joint Committee established under Chapter Nineteen (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 16.5. The Joint Committee shall, at the request of either Party, 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. Meetings of the Subcommittee shall include, unless the Parties agree otherwise, a session where members of the Subcommittee have an opportunity to meet with the public to discuss matters related to the operation of this Chapter.

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 communications from the public 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. Any formal decision of the Parties concerning the implementation of this Chapter shall be made public, unless the Parties agree otherwise.

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

#### ARTICLE 16.5: LABOR COOPERATION

Recognizing that cooperation provides enhanced opportunities to promote respect for core labor standards embodied in the ILO Declaration and *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.

#### 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 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 Article 16.4.2.

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 to consider the matter. 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 Article 16.4.2, 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 Article 16.2.1(a), the Party may request consultations under paragraph 1 or pursuant to Article 20.5 (Consultations).

- (a) If a Party requests consultations pursuant to Article 20.5 (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 20.5 (Consultations), no consultations on the same matter may be entered into under this Article.

- (b) If a Party requests consultations pursuant to Article 20.5 (Consultations) more than 60 days after 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 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:

**internationally recognized labor rights** means:

- (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 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; and

**labor law** means:

- (a) for the United States, an act of Congress or a regulation promulgated pursuant to an act of Congress that is directly related to internationally recognized labor rights and is enforceable by action of the federal government; and
- (b) for Oman, a Sultani Decree or Decision, or a regulation, ministerial decision, local order, local circular, or other legislation promulgated pursuant to a Sultani Decree or Decision that is directly related to internationally recognized labor rights.