

## CHAPTER 20 LABOUR

### Article 20.1 Definitions

For the purposes of this Chapter:

“**ILO**” means the International Labour Organization;

“**ILO Centenary Declaration for the Future of Work**” means the *ILO Centenary Declaration for the Future of Work* done at Geneva on 21 June 2019;

“**ILO Constitution**” means the *Constitution of the International Labour Organization* adopted by the Peace Conference at Versailles on 1 April 1919;

“**ILO Declaration on Fundamental Principles and Rights at Work**” means the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* done at Geneva on 18 June 1998, as amended in 2022;

“**ILO Declaration on Social Justice for a Fair Globalization**” means the *ILO Declaration on Social Justice for a Fair Globalization* done at Geneva on 10 June 2008, as amended in 2022;

“**ILO Guidelines for a Just Transition**” means the *Guidelines for a just transition towards environmentally sustainable economies and societies for all* adopted by the Tripartite Meeting of Experts in Geneva on 5 to 9 October 2015; and

“**labour laws**” means laws and regulations of a Party that are directly related to the fundamental rights and principles in the *ILO Declaration on Fundamental Principles and Rights at Work*.<sup>1</sup>

### Article 20.2 Statement of Shared Commitment

1. The Parties affirm their commitment to encourage mutually supportive trade and labour policies and practices, including the promotion of adherence to internationally recognised labour rights and decent work, and cooperation and dialogue between the Parties.
2. The Parties affirm their obligations as members of the ILO, and the commitments stated in the ILO Declaration on Fundamental Principles and Rights at Work, the ILO Declaration on Social Justice for a Fair Globalization,

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<sup>1</sup> For India, “laws and regulations” means an Act of the Parliament of India or delegated legislation framed pursuant to an Act of the Parliament of India, which is enforceable at the central level of government.

and the ILO Centenary Declaration for the Future of Work, regarding labour rights within their territories.

3. The Parties recall the ILO Declaration on Social Justice for a Fair Globalization, and recognise that the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage and that labour standards should not be used for protectionist trade purposes. The Parties also recognise that the comparative advantage of Parties must in no way be called into question.
4. The Parties recognise the important role of workers' and employers' organisations in protecting internationally recognised labour rights.
5. The Parties also recognise the goal of eliminating forced labour to promote inclusive and sustainable economic growth, productive employment, and decent work for all.
6. The Parties also recognise that the obligations under this Chapter related to labour rights and cooperation consider the different national circumstances, capacities, needs and levels of development, and respective national policies and priorities.

### **Article 20.3** **Trade and Labour**

1. The Parties recognise the sovereign right of each Party to determine and establish its own levels of domestic labour protection and its own labour priorities, and to establish, adopt, or modify its labour laws and policies accordingly, as appropriate, in a manner consistent with its international labour commitments, including those referred to in this Chapter.
2. Each Party shall strive to ensure that its labour laws and policies provide for and encourage sufficient levels of labour protection and shall strive to continue to improve those laws and policies with the goal of providing sufficient levels of labour protection.
3. In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work, each Party shall respect, promote, and realise in its laws, in good faith, the principles concerning the fundamental rights at work.
4. Each Party shall endeavour to adopt or maintain laws and regulations, and practices thereunder, which provide labour protections consistent with the ILO Decent Work Agenda, as set out in the ILO Declaration on Social Justice for a Fair Globalization, with respect to wages, hours of work, and healthy and safe working conditions.
5. To establish non-compliance with respect to an obligation under paragraphs 3 or 4, a Party shall demonstrate that the other Party has failed to adopt or maintain a law, regulation, or practice to encourage trade or investment.

6. Each Party reaffirms its commitment to effectively implement in its laws and regulations, and practices thereunder, in its territory, the fundamental ILO Conventions that each Party has ratified respectively. Recalling the ILO Centenary Declaration for the Future of Work, each Party recognises the importance of working towards the ratification and implementation of the fundamental ILO Conventions, in accordance with its national conditions, circumstances, and priorities. The Parties shall, on request of a Party, exchange information, as appropriate, on their respective situations and advances regarding the ratification of the fundamental, governance, and other ILO Conventions, that are classified as up to date by the ILO.
7. Without prejudice to the sovereign right of each Party to determine and establish its own levels of domestic labour protection and its own domestic labour priorities, the Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protection afforded in their respective labour laws. Accordingly, the Parties shall not waive or otherwise derogate from, or offer to waive or otherwise derogate from, their respective labour laws in a manner that weakens or reduces the protection afforded in those laws in order to encourage trade or investment between the Parties.
8. Neither Party shall, through a sustained or recurring course of action or inaction, fail to effectively enforce its labour laws to encourage trade or investment between the Parties.
9. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake labour law enforcement activities in the territory of the other Party.

#### **Article 20.4 Decent Work**

Recalling the ILO Decent Work Agenda as expressed in the ILO Declaration on Social Justice for a Fair Globalization, the Parties recognise the importance of decent work, and each Party shall, with due regard to national conditions, circumstances and priorities, endeavour to promote and cooperate in promoting through its laws and regulations, policies, and practices the objectives of the ILO Decent Work Agenda, with respect to labour protection. The Parties shall also consider, where relevant, their specific ILO Decent Work Country Programmes in furtherance of this provision.

#### **Article 20.5 Forced Labour**

Each Party recognises the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour. Accordingly, each Party shall promote steps to discourage, through initiatives it considers appropriate, practices involving forced and compulsory labour, including forced and compulsory child labour.

**Article 20.6**  
**Non-Discrimination and Gender Equality in the Workplace**

1. The Parties acknowledge the importance of promoting gender equality and eliminating discrimination in employment and occupation for sustainable, equitable, and inclusive growth. Accordingly, each Party affirms its commitments to non-discrimination in employment, occupations, and places of work, and to take measures to advance anti-discrimination practices and address discriminatory practices, including those related to workplace sexual harassment, gender-based violence, gender pay gaps, and flexible working arrangements, as well as improve women's access to decent work.
2. The Parties agree to share information on their respective domestic approaches and cooperate, as appropriate, on activities to address discriminatory practices, promote equality of opportunity, and improve women's access to decent work and the benefits of trade or investment. The Parties recognise the importance of carrying out cooperation activities with the inclusive participation of women. Areas of cooperation may include those listed in Article 20.9 (Cooperative Activities).

**Article 20.7**  
**Corporate Social Responsibility**

1. The Parties recognise the importance of responsible business conduct and corporate social responsibility practices.
2. In light of paragraph 1, each Party shall:
  - (a) encourage enterprises to adopt corporate social responsibility initiatives including on labour issues that have been endorsed or are supported by that Party; and
  - (b) consider supporting the promotion of relevant international instruments and initiatives such as the *ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* done at Geneva on 16 November 1977, as practicable.
3. In accordance with Article 20.9 (Cooperative Activities), the Parties shall endeavour to strengthen their cooperation on corporate social responsibility and responsible business conduct bilaterally and in international fora, as appropriate.

**Article 20.8**  
**Public Awareness and Procedural Guarantees**

1. Each Party shall promote public awareness of its labour laws, including by making publicly available information related to its labour laws in accordance with its domestic procedures.

2. Each Party shall provide, in accordance with its domestic laws and regulations, appropriate access to impartial and independent tribunals for the enforcement of its labour laws. These tribunals may include administrative tribunals, quasi-judicial tribunals, or labour tribunals, as provided for in each Party's law.
3. Each Party shall strive to ensure the availability of, and access to, its administrative, judicial, and labour tribunal proceedings for the enforcement of its labour laws which are fair, accessible, and transparent, and permit effective action against infringements of labour rights referred to in this Chapter, including appropriate remedies, as provided for in each Party's law.

### **Article 20.9** **Cooperative Activities**

1. The Parties recognise the importance of cooperation as a mechanism for effective implementation of this Chapter, to enhance opportunities to improve labour standards and to further advance common commitments regarding labour matters, including workers' well-being and quality of life and the principles and rights stated in the ILO Declaration on Fundamental Principles and Rights at Work, and agree to cooperate to further advance this Chapter's commitments through actions which may include:
  - (a) promotion of the awareness of, and respect for, principles and rights as stated in the ILO Declaration on Fundamental Principles and Rights at Work and the concept of Decent Work as defined by the ILO in the ILO Declaration on Social Justice for a Fair Globalization;
  - (b) promotion of labour laws and practices, including the effective implementation of the principles and rights as stated in the ILO Declaration on Fundamental Principles and Rights at Work;
  - (c) addressing violence against workers, including for trade union activity;
  - (d) promotion of safe and healthy working conditions, including the prevention of occupational injuries and illnesses;
  - (e) studying the impact of labour law and standards on trade and investment, or the impact of trade and investment law on labour;
  - (f) promotion of, and sharing best practice of, latest labour policy, including, for example, improving compliance and enforcement mechanisms;
  - (g) promotion of social dialogue, including tripartite consultation and partnership;
  - (h) promotion of productive, quality employment and green entrepreneurship linked to sustainable growth, support for workers as part of a just transition in line with the ILO Guidelines for a Just Transition, and skill development for jobs in emerging industries, including environmental industries;

- (i) addressing the challenges and opportunities of a diverse multigenerational workforce including:
    - (i) promotion of equality and elimination of discrimination in respect of employment and occupation for migrant workers, or in the areas of age, disability, and other characteristics not related to merit or the requirements of employment;
    - (ii) promotion of equality of, elimination of discrimination against, and the employment interests of, women;
    - (iii) promotion of labour practices that facilitate the integration, retention, and progression of women in the job market, and seek to build the capacity and skills of women workers; and
    - (iv) protection of vulnerable workers, including migrant workers, and low-waged, casual, or contingent workers;
  - (j) collection and use of labour statistics as per available resources, including information and statistics on online platforms operating out of or from the territory of a Party, engaging workers in the territory of the other Party;
  - (k) assessment of skill and occupational gaps on a periodic basis, and promotion of skilling, upskilling, reskilling, and life-long learning;
  - (l) standards and skill sets and skill development in their respective territories;
  - (m) capacity building, skill and human resources development, and life-long learning, specifically for low- and medium-skilled workers;
  - (n) development and implementation of apprenticeship programmes in their respective territories;
  - (o) opportunities for skilling, upskilling, and reskilling to facilitate a just transition and decent work in accordance with the ILO Guidelines on a Just Transition and the Decent Work Agenda;
  - (p) opportunities for information sharing on skill availability and skill gaps in jobs in their respective territories; and
  - (q) any other areas as agreed by the Parties.
2. The Parties shall consider, as appropriate, any views provided by the representatives of workers, employers, and interested persons when identifying areas of cooperation, and carrying out cooperative activities.
  3. The Parties may establish cooperative arrangements with the ILO and other competent international organisations to draw on their expertise and resources to further advance this Chapter's commitments.

**Article 20.10**  
**Public Submissions**

1. Each Party shall endeavour to provide for the receipt and consideration of written submissions from persons of that Party regarding suggestions on the implementation of this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures for the receipt and consideration of written submissions.
2. A Party may provide in its procedures that, to be eligible for consideration, a submission should, at a minimum:
  - (a) raise an issue directly relevant to this Chapter;
  - (b) clearly identify the person making the submission; and
  - (c) explain, to the degree possible, how and to what extent the issue raised affects trade or investment between the Parties.
3. Upon receiving a submission, the receiving Party shall consider matters raised in the submission and provide a timely response, including in writing, as appropriate.

**Article 20.11**  
**Institutional Arrangements**

The Sustainability Subcommittee shall consider any matter under this Chapter related to cooperation and support any cooperation activities.

**Article 20.12**  
**Consultations between the Parties**

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Chapter, and shall make every effort through cooperation, dialogue, consultations, and exchange of information to address any matter arising under this Chapter.
2. A Party may request consultations with the other Party regarding any matter arising under this Chapter by delivering a written request to the responding Party's contact point. The requesting Party shall set out the reasons for the request, including identification of the measure or other matter at issue and an indication of the legal basis for the request.
3. The responding Party shall respond to the request in writing no later than 90 days after the date of receipt of the request. The period for responding to the request may be extended by a further 30 days on request of the responding Party.

4. Unless the Parties agree otherwise, they shall enter into consultations promptly and no later than 120 days after the date of receipt of the request by the responding Party.
5. The Parties shall make every effort to arrive at a mutually agreed solution to the matter, which may include appropriate cooperative activities. The Parties may seek advice or assistance from any person or body they deem appropriate in order to examine the matter.

#### **Article 20.13** **Joint Committee Consultations**

1. If the Parties have failed to resolve the matter under Article 20.12 (Consultations between the Parties), either Party may request that the Joint Committee convene to consider the matter by delivering a written request to the contact point of the other Party.
2. The Joint Committee shall promptly convene following the delivery of the request, and shall seek to resolve the matter including, if appropriate, by gathering relevant information from the ILO, governmental agencies or sources, or other mutually agreed sources or agencies.

#### **Article 20.14** **Ministerial Consultations**

If the Parties have failed to resolve the matter under Article 20.13 (Joint Committee Consultations), either Party may refer the matter to the relevant Ministers of the Parties who shall seek to resolve the matter.

#### **Article 20.15** **Consultation Procedures**

1. Consultations pursuant to Article 20.12 (Consultations between the Parties), Article 20.13 (Joint Committee Consultations) or Article 20.14 (Ministerial Consultations) may be held in person or by any technological means available as agreed by the Parties.
2. Consultations pursuant to Article 20.12 (Consultations between the Parties), Article 20.13 (Joint Committee Consultations), or Article 20.14 (Ministerial Consultations), and in particular, the outcomes and positions taken by the Parties during consultations, shall be confidential and without prejudice to the rights of a Party in any further or other proceedings.
3. Notwithstanding paragraph 2, the outcome of consultations pursuant to Article 20.14 (Ministerial Consultations) shall be made public, unless the Parties agree otherwise. Where the outcome of Ministerial consultations is published, this shall be through a jointly agreed report.

**Article 20.16**  
**Non-Application of Dispute Settlement**

Neither Party shall have recourse to dispute settlement under Chapter 29 (Dispute Settlement) for any matter arising under this Chapter.