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CHAPTER XX LABOUR

Article XX.1: Definitions

For the purposes of this Chapter:

ILO Declaration means the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998);

labour laws means statutes and regulations, or provisions of statutes and regulations, of a Party that are directly related to the following internationally recognised labour rights:

- 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, a prohibition on the worst forms of child labour and other labour protections for children and minors;
- d) the elimination of discrimination in respect of employment and occupation; and
- e) acceptable conditions of work with respect to minimum wages , hours of work, and occupational safety and health;

Article XX.2: Objectives:

The objectives of the Chapter shall be to:

- a) promote better understanding of each Party's labour systems and labour policies and practices and improve the capacities and capabilities of the Parties, including non-government sectors;
- b) provide a forum to discuss and exchange views on labour issues of interest or concern with a view to reaching consensus on those issues amongst the involved Parties;
- c) promote better understanding and observance of the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998) and the ILO Declaration on Social Justice for a Fair Globalization of 2008;
- d) support the commitments made by the Parties in this Chapter with a view to improve the working conditions and quality of work life amongst employees in their respective countries;

- e) improve the development and management of human capital for enhanced employability, business excellence, and greater productivity for the benefit of both the workers and enterprise; and
- f) facilitate co-operation and dialogue in order to strengthen the broader relationship between the Parties .

Article XX.3: Statement of Shared Commitment

1. The Parties affirm their obligations as members of the ILO, including those stated in the ILO Declaration, regarding labour rights within their territories.
2. Recognizing the right of each Party to establish its own domestic labour standard and policies, and to adopt and modify accordingly its labour laws and policies, each Party shall strive to ensure that its laws and policies provide for labour standards consistent with the internationally recognized labour rights set forth in article XX (labour rights) and shall strive to improve those standard in that light.
3. The Parties recognize that, as stated in paragraph 5 of the ILO Declaration, labour standards should not be used for protectionist trade purposes.
4. The Parties shall promote the implementation of United Nations Guiding Principles in Business and Human Rights.

Article XX.4: Labour Rights

1. Each Party shall adopt and maintain in its statutes and regulations, and practices thereunder, the following rights as stated in the ILO Declaration:¹
 - 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, for the purposes of this Agreement, a prohibition on the worst forms of child labour; and
 - d) the elimination of discrimination in respect of employment and occupation.
2. Each Party shall adopt and maintain statutes and regulations, and practices thereunder, governing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health².

Article XX.5: Non Derogation

¹ To establish a violation of an obligation under Article XX.4.1 (Labour Rights) or Article XX.4.2, a Party must demonstrate that the other Party has failed to adopt or maintain a statute, regulation or practice in a manner affecting trade or investment between the Parties.

² For greater certainty, this obligation relates to the establishment by a Party in its statutes, regulations and practices thereunder, of acceptable conditions of work as determined by that Party

The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's labour laws. Accordingly, no Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its statutes or regulations:

- a) implementing Article XX.4 (Labour Rights), if the waiver or derogation would be inconsistent with a right set out in that paragraph; or
- b) implementing Article XX.4.1 (Labour Rights) or Article XX.4.2 (Labour Rights), if the waiver or derogation would weaken or reduce adherence to a right set out in Article XX.4.1 or to a condition of work referred to in Article XX.4.2 (Labour Rights), in a special trade or customs area, such as an export processing zone or foreign trade zone, in the Party's territory, in a manner affecting trade or investment between the Parties.

Article XX.6: Enforcement of Labour Laws

1. No Party shall fail to effectively enforce its labour laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment between the Parties after the date of entry into force of this Agreement.
2. If a Party fails to comply with an obligation under this Chapter, a decision made by that Party on the provision of enforcement resources shall not excuse that failure. Each Party retains the right to exercise reasonable enforcement discretion and to make bona fide decisions with regard to the allocation of enforcement resources between labour enforcement activities among the fundamental labour rights and acceptable conditions of work enumerated in Article XX.4 (Labour Rights 4) provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.
3. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake labour law enforcement activities in the territory of another Party.

Article XX.7: Forced or Compulsory Labour

1. Each Party recognises the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour.
2. Consequently, the Parties agree to identify opportunities for cooperation sharing information, experiences and good practices related to this matter.

Article XX.8: Corporate Social Responsibility

Each Party shall endeavour to encourage enterprises to voluntarily adopt corporate social responsibility initiatives on labour issues that have been endorsed or are supported by that Party.

Article XX.9: Youth

[Chile will provide a proposal on youth article]

Article XX 10: Immigrants

[Chile will provide a proposal on immigrants article]

Article XX.11: Cooperation

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' wellbeing and quality of life and the principles and rights stated in the ILO Declaration.

2. In undertaking cooperative activities, the Parties shall be guided by the following principles:

- a) consideration of each Party's priorities, level of development and available resources;
- b) broad involvement of, and mutual benefit to, the Parties;
- c) relevance of capacity and capability-building activities, including technical assistance between the Parties to address labour protection issues and activities to promote innovative workplace practices;
- d) generation of measurable, positive and meaningful labour outcomes;
- e) resource efficiency, including through the use of technology, as appropriate, to optimize resources used in cooperative activities;
- f) complementarity with existing regional and multilateral initiatives to address labour issues; and
- g) transparency and public participation.

3. Each Party shall invite the views and, as appropriate, participation of its stakeholders, including worker and employer representatives, in identifying potential areas for cooperation and undertaking cooperative activities. Subject to the agreement of the Parties involved, cooperative activities may occur through bilateral or plurilateral engagement and may involve relevant regional or international organizations, such as the ILO, and non-Parties.

4. The funding of cooperative activities undertaken within the framework of this Chapter shall be decided by the Parties involved on a case-by-case basis.

5. In addition to the cooperative activities outlined in this Article, the Parties shall, as appropriate, caucus and leverage their respective membership in regional and multilateral fora to further their common interests in addressing labour issues.

6. Areas of cooperation may include, among other, without being exhaustive: job creation and the promotion of productive, quality employment, including policies to generate job-rich growth and promote sustainable enterprises and entrepreneurship;

creation of productive, quality employment linked to sustainable growth and skills development for jobs in emerging industries, including environmental industries; United Nations Guiding Principles in Business and Human Rights ; human capital development and the enhancement of employability, including through lifelong learning, continuous education, training and the development and upgrading of skills; promotion of improvements in business and labour productivity, particularly in respect of SMEs; remuneration systems; promotion of the awareness of and respect for the principles and rights as stated in the ILO Declaration and for the concept of Decent Work as defined by the ILO; occupational safety and health; collection and use of labour statistics; labour inspection, for example, improving compliance and enforcement mechanisms; 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; and (iii) protection of vulnerable workers, including migrant workers, and low-waged, casual or contingent workers; best practice for labour relations, for example, improved labour relations, including promotion of best practice in alternative dispute resolution; social dialogue, including tripartite consultation and partnership; corporate social responsibility; and other areas as the Parties may decide.

7. Parties may undertake activities in the areas of cooperation in paragraph 6 through:

- a. workshops, seminars, dialogues and other fora to share knowledge, experiences and best practices, including online fora and other knowledge-sharing platforms;
- b. study trips, visits and research studies to document and study policies and practices;
- c. collaborative research and development related to best practices in subjects of mutual interest;
- d. specific exchanges of technical expertise and assistance, as appropriate; and
- e. other forms as the Parties may decide.

Article XX.12: Public Awareness and Procedural Guarantees

1. Each Party shall promote public awareness of its labour laws, including by ensuring that information related to its labour laws and enforcement and compliance procedures is publicly available.

2. Each Party shall ensure that persons with a recognized interest under its law in a particular matter have appropriate access to impartial and independent tribunals for the enforcement of the Party's labour laws. These tribunals may include administrative tribunals, quasi-judicial tribunals, judicial tribunals or labour tribunals, as provided for in each Party's law.

3. Each Party shall ensure that proceedings before these tribunals for the enforcement of its labour laws: are fair, equitable and transparent; comply with due process of law; and do not entail unreasonable fees or time limits or unwarranted delays. Any hearing in these proceedings shall be open to the public, except when the administration of justice otherwise requires and the closing of the hearing is in accordance with the Party's laws and procedures.

4. Each Party shall provide that parties to these proceedings have the right to seek review or appeal, as appropriate under its law.

5. Each Party shall provide procedures to effectively enforce the final decisions of its tribunals in these proceedings.

6. For greater certainty, and without prejudice to whether a tribunal's decision is inconsistent with a Party's obligations under this Chapter, nothing in this Chapter shall be construed to require a tribunal of a Party to reopen a decision that it has made in a particular matter.

Article XX.13: Public Submissions

1. Each Party, through its contact point designated under Article XX (Contact Points), shall provide for the receipt and consideration of written submissions from persons or organization of a Party on matters related to this Chapter in accordance with its domestic procedures. Each Party shall make readily accessible and publicly available its procedures, including timelines, 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 or organization 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. Each Party shall:

- a. consider matters raised by the submission and provide a timely response to the submitter, including in writing as appropriate; and
- b. make the submission and the results of its consideration available to the other Parties and the public, as appropriate, in a timely manner.

4. A Party may request from the person or organization that made the submission additional information that is necessary to consider the substance of the submission.

Article XX.14: Public Engagement

1. In conducting its activities, including meetings, the Labour Council, established at article xxx shall provide a means for receiving and considering the views of interested persons or organization on matters related to this Chapter.

2. Each Party shall establish or maintain, and consult, a national labour consultative or advisory body, or similar mechanism, for members of its public, including representatives of its labour and business organizations, to provide views on matters regarding this Chapter.

Article XX.15: Institutional Arrangements

1. Each Party shall designate an office or official within its Labour Ministry or equivalent entity as a Contact Point to address matters related to this Chapter within 6 months of the date of entry into force of this Agreement for that Party. Each Party shall notify the other Party promptly in the event of any change to its contact point.

2. The contact points shall:

- a. facilitate regular communication and coordination between the Parties;
- b. assist the Council;
- c. report to the Council, as appropriate;
- d. act as a channel for communication with the public in their respective territories; and
- e. work together, including with other appropriate agencies of their governments, to develop and implement cooperative activities.

3. Contact points may develop and implement specific cooperative activities.

4. Contact points may communicate and coordinate activities in person or through electronic or other means of communication.

5. The Parties hereby establish a Labour Council (Council) comprising cabinet-level or equivalent representatives of the Parties, or their designees, responsible of trade and labour matters. The Council shall meet as often as it considers necessary to oversee the implementation of and review progress under this Chapter, including the cooperation activities.

Article XX.16: Labour Consultations

1. The Parties shall make every effort through cooperation and consultation based on the principle of mutual respect to resolve any matter arising under this Chapter.

2. A Party (requesting Party) may, at any time, request labour consultations with another Party (responding Party) regarding any matter arising under this Chapter by delivering a written request to the responding Party's contact point. The requesting Party shall include information that is specific and sufficient to enable the responding Party to respond, including identification of the matter at issue and an indication of the legal basis of the request under this Chapter.

3. The responding Party shall, unless agreed otherwise with the requesting Party, reply to the request in writing no later than seven days after the date of its receipt.

4. The requesting Party and the responding Party (the consulting Parties) shall begin labour consultations no later than 30 days after the date of receipt by the responding Party of the request.

5. In the labour consultations:

- a. each Party shall provide sufficient information to enable a full examination of the matter; and
- b. each Party shall treat any confidential information exchanged in the course of the consultations on the same basis as the Party providing the information.

6. Labour consultations may be held in person or by any technological means available to the consulting Parties. If labour consultations are held in person, they shall be held in the capital of the responding Party, unless the consulting Parties agree otherwise.

7. The consulting Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter through labour consultations under this Article, taking into account opportunities for cooperation related to the matter. The consulting Parties may request advice from an independent expert or experts chosen by the consulting Parties to assist them. The consulting Parties may have recourse to such procedures as good offices, conciliation or mediation.

8. In labour consultations under this Article, a consulting Party may request to the other Party to make available personnel of its government agencies or other regulatory bodies with expertise in the matter that is the subject of the labour consultations.

9. If the consulting Parties are unable to resolve the matter 90 days after initiated the labour consultations, any consulting Party may request that the Council representatives convene to consider the matter by delivering a written request to the other consulting Party through its contact point. The Council representatives of the consulting Parties shall convene no later than 30 days after the date of receipt of the request, unless the consulting Parties agree otherwise, and shall seek to resolve the matter, including, if appropriate, by consulting independent experts and having recourse to such procedures as good offices, conciliation or mediation.

10. If the consulting Parties have failed to resolve the matter under the Council, the requesting Party may request to the relevant Ministers of the consulting Parties who shall seek to resolve the matter.

11. Consultations shall be confidential. The Parties shall produce a report by consensus that reflects the results of the consultations that were held and commit to implement the conclusions and recommendations thereof, as soon as possible.

Article XX.17: Dispute Settlement

The Parties shall not have recourse to dispute settlement under Chapter [DISPUTE SETTLEMENT] of this Agreement for matters arising under this Chapter.