

## CHAPTER 18

### LABOUR

#### Article 18.1: Definitions

For the purposes of this Chapter:

**labour laws** means laws and regulations,<sup>1</sup> or provisions of laws 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; and
- (d) the elimination of discrimination in respect of employment and occupation.

#### Article 18.2: Statement of Shared Commitments

The Parties affirm their obligations as members of the International Labour Organization (ILO).

#### Article 18.3: Fundamental Labour Rights

The Parties, in accordance with their obligations as members of the ILO and the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998)* (ILO Declaration), shall endeavor to adopt and maintain in their labour laws and practices thereunder, the principles as stated in the ILO Declaration.

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<sup>1</sup> For Australia, "laws and regulations" and "laws or regulations" means Acts of the Commonwealth Parliament, or regulations made by the Governor-General in Council under delegated authority under an Act of the Commonwealth Parliament. For greater certainty this definition provides coverage for substantially all workers

#### **Article 18.4: Application and Enforcement of Labour Laws**

1. Neither Party shall fail to effectively enforce its labour laws, including those it adopts or maintains in accordance with Article 18.3, through a sustained or recurring course of action or inaction, in a manner substantially affecting trade or investment between the Parties.

2. Neither Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour laws implementing Article 18.3, in a manner substantially affecting trade or investment between the Parties, where the waiver or derogation would be inconsistent with the principles as stated in the ILO Declaration.

#### **Article 18.5: Procedural Guarantees and Public Awareness**

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

2. Each Party shall ensure that proceedings before such tribunals for the enforcement of its labour laws are fair, equitable and transparent. To this end, each Party shall ensure that:

- (a) such proceedings comply with due process of law;
- (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 charges, or time limits, or unwarranted delays.

3. Each Party shall provide that parties to such proceedings may seek existing remedies to ensure the enforcement of their rights under its labour laws.

4. Each Party shall promote public awareness of its labour laws, including by:

- (a) ensuring the availability of public information related to its labour laws and enforcement and compliance procedures; and
- (b) encouraging education of the public regarding its labour laws.

### **Article 18.6: Contact Points**

Each Party shall designate a contact point for labour matters in order to facilitate communication between the Parties. Unless otherwise notified, for the purposes of this paragraph, the contact point shall be:

- (a) for Australia, the Department of Employment, or its successor; and
- (b) for Peru, the Ministry of Labour and Employment Promotion , or its successor.

### **Article 18.7: Labour Cooperation**

1. The Parties recognise that cooperation on labour issues plays an important role in advancing development in the territories of the Parties, enhancing opportunities to improve labour standards and further advancing common commitments regarding labour matters, including the principles 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*, done at Geneva on 17 June, 1999.

2. The Parties may cooperate on labour matters of mutual interest and explore ways to further advance labour standards. Cooperative activities may include work on labour laws and practices in the context of the ILO Declaration, and other matters as mutually agreed between the Parties.