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Subject to Legal Review for Accuracy, Clarity, and Consistency
March 31, 2004

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*. 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 domestic law.
2. The Parties recognize the right of each Party to adopt or modify its own domestic 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 sub-paragraph (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. The Parties recognize 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.

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ARTICLE 16.3: PROCEDURAL GUARANTEES AND PUBLIC AWARENESS

1. Each Party shall provide for appropriate access by persons with a legally recognized interest under its law in a particular matter to impartial and independent administrative, quasi-judicial, or judicial tribunals for the enforcement of the Party's labor laws.
2. Each Party's proceedings for the enforcement of its labor laws shall be fair, equitable, and transparent. To this end, such proceedings shall comply with due process of law; be open to the public, except where the administration of justice otherwise requires; and not entail unwarranted delays.
3. Each Party shall provide that final decisions in such proceedings are in writing and preferably 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; and based on information or evidence in respect of which the parties were offered the opportunity to be heard. Parties to such proceedings shall have the right, in accordance with domestic law, to seek review and, where warranted, correction of final decisions issued in such proceedings.
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 labor rights.
5. Each Party shall promote public awareness of its labor laws, including by:
 - (a) ensuring that public information is available related to its labor laws and enforcement and compliance procedures; and
 - (b) promoting public education 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 with 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 the provisions of 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.

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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 decide 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 on Fundamental Principles and Rights at Work and its Follow-up* and compliance with *ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*, and to further advance other common commitments, the Parties 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 designated by the other Party for this purpose. The Parties shall consult 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. The subcommittee shall convene within 30 days of a Party's delivery of a request for consultations to the other Party's contact point designated pursuant to Article 16.4.1, unless the Parties agree otherwise. The subcommittee shall endeavor to resolve the matter

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expeditiously, including, where appropriate, by consulting governmental or outside 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 2.1(a), the Party may request consultations pursuant to Article 20.5 (Consultations) or under paragraph 1 of this Article.

- (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 under paragraph 1 of this Article 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, no consultations on the same matter may be entered into under 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 under paragraph 1, the Parties may agree at any time to refer the matter to the Joint Committee pursuant to Article 20.6 (Joint Committee).

5. Articles 20.2 (Scope of Application) and 20.5 (Consultations) shall not apply to a matter arising under any provisions of this Chapter other than Article 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

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

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ANNEX 16-A
UNITED STATES-MOROCCO 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, including the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* and *ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*, the Parties have established a Labor Cooperation Mechanism.

Principal Functions and Organization

2. The Parties shall develop and pursue cooperative activities on labor matters through the Labor Cooperation Mechanism, 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 on Fundamental Principles and Rights at Work and its Follow-up*;
- (f) promote full compliance with *ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*;
- (g) seek support from international organizations and agencies, in advancement of common commitments; and
- (h) develop recommendations of actions to be taken by each Party for consideration by the Joint Committee.

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3. The contact points designated under Article 16.4.1 shall serve as points of contact to support the work of the Labor Cooperation Mechanism.
4. Officials of the labor ministries and other appropriate agencies and ministries of the Parties shall conduct the activities of the Labor Cooperation Mechanism.

Cooperative Activities

5. The Parties may undertake cooperative activities under the Labor Cooperation Mechanism on any labor matter they consider appropriate, such as:
 - (a) **fundamental rights and their effective application:** legislation, practice, and implementation related to the core elements of the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* (freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labor, abolition of child labor, and elimination of employment discrimination);
 - (b) **worst forms of child labor:** legislation, practice, and implementation related to compliance with *ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*;
 - (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.**

Implementation of Cooperative Activities

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6. The Parties may carry out cooperative activities agreed under the Labor Cooperation Mechanism through any form they consider appropriate, including by:
- (a) exchanging government delegations, professionals and specialists, including through study visits;
 - (b) sharing information, 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 with relevant expertise;
 - (f) drawing on the expertise of academic and other institutions in their territories in developing and implementing cooperative programs and by encouraging relationships between such institutions on technical labor issues; and
 - (g) engaging in technical exchanges and cooperation.
7. In identifying areas for cooperation and carrying out cooperative activities, the Parties shall consider views of their respective worker and employer representatives.