

## CHAPTER 23

### LABOR

#### Article 23.1: Definitions

For the purposes of this Chapter:

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

**labor laws** means statutes and regulations, or provisions of statutes and regulations, of a Party that are directly related to the following internationally recognized labor 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 labor;
- (c) the effective abolition of child labor, a prohibition on the worst forms of child labor, and other labor 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,<sup>1</sup> hours of work, and occupational safety and health;

**statutes and regulations** and **statutes or regulations** means:<sup>2</sup>

- (a) for Mexico, Acts of Congress or regulations and provisions promulgated pursuant to Acts of Congress and, for the purposes of this Chapter, includes the Constitution of the United Mexican States; and
- (b) for the United States, Acts of Congress or regulations promulgated pursuant to Acts of Congress and, for the purposes of this Chapter, includes the Constitution of the United States.

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<sup>1</sup> For greater certainty, a Party's labor laws regarding "acceptable conditions of work with respect to minimum wages" include requirements under that Party's labor laws to provide wage-related benefit payments to, or on behalf of, workers, such as those for profit sharing, bonuses, retirement, and healthcare.

<sup>2</sup> For greater certainty, for each Party setting out a definition, which has a federal form of government, its definition provides coverage for substantially all workers.

### **Article 23.2: Statement of Shared Commitments**

1. The Parties affirm their obligations as members of the ILO, including those stated in the ILO Declaration on Rights at Work and the ILO *Declaration on Social Justice for a Fair Globalization* (2008).
2. The Parties recognize the important role of workers' and employers' organizations in protecting internationally recognized labor rights.
3. The Parties also recognize the goal of trading only in goods produced in compliance with this Chapter.

### **Article 23.3: Labor 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 on Rights at Work:<sup>3, 4</sup>
  - (a) freedom of association<sup>5</sup> and the effective recognition of the right to collective bargaining;<sup>6</sup>
  - (b) the elimination of all forms of forced or compulsory labor;
  - (c) the effective abolition of child labor and, for the purposes of this Agreement, a prohibition on the worst forms of child labor; and
  - (d) the elimination of discrimination in respect of employment and occupation.

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<sup>3</sup> The obligations set out in this Article, as they relate to the ILO, refer only to the ILO Declaration on Rights at Work.

<sup>4</sup> To establish a violation of an obligation under paragraphs 1 or 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. For greater certainty, a failure is "in a manner affecting trade or investment between the Parties" if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

<sup>5</sup> For greater certainty, the right to strike is linked to the right to freedom of association, which cannot be realized without protecting the right to strike.

<sup>6</sup> Annex 23-A (Worker Representation in Collective Bargaining in Mexico) sets out obligations with regard to worker representation in collective bargaining.

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 health.

#### **Article 23.4: Non-Derogation**

The Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's labor 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 23.3.1 (Labor Rights), if the waiver or derogation would be inconsistent with a right set out in that paragraph; or
- (b) implementing Article 23.3.1 or Article 23.3.2 (Labor Rights), if the waiver or derogation would weaken or reduce adherence to a right set out in Article 23.3.1 (Labor Rights), or to a condition of work referred to in Article 23.3.2 (Labor 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.<sup>7</sup>

#### **Article 23.5: Enforcement of Labor Laws**

1. No Party shall fail to effectively enforce its labor laws through a sustained or recurring course of action or inaction<sup>8</sup> in a manner affecting trade or investment between the Parties<sup>9</sup> after the date of entry into force of this Agreement.

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<sup>7</sup> For greater certainty, a waiver or derogation is "in a manner affecting trade or investment between the Parties" if it involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

<sup>8</sup> For greater certainty, a "sustained or recurring course of action or inaction" is "sustained" if the course of action or inaction is consistent or ongoing, and is "recurring" if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

<sup>9</sup> For greater certainty, a "course of action or inaction" is "in a manner affecting trade or investment between the Parties" if the course involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

2. Each Party shall promote compliance with its labor laws through appropriate government action, such as by:

- (a) appointing and training inspectors;
- (b) monitoring compliance and investigating suspected violations, including through unannounced on-site inspections, and giving due consideration to requests to investigate an alleged violation of its labor laws;
- (c) seeking assurances of voluntary compliance;
- (d) requiring record keeping and reporting;
- (e) encouraging the establishment of labor-management committees to address labor regulation of the workplace;
- (f) providing or encouraging mediation, conciliation, and arbitration services;
- (g) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labor laws; and
- (h) implementing remedies and sanctions imposed for noncompliance with its labor laws, including timely collection of fines and reinstatement of workers.

3. 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 labor enforcement activities among the fundamental labor rights and acceptable conditions of work enumerated in Article 23.3.1 and Article 23.3.2 (Labor Rights), provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

4. Nothing in this Chapter shall be construed to empower a Party's authorities to undertake labor law enforcement activities in the territory of another Party.

#### **Article 23.6: Forced or Compulsory Labor**

1. The Parties recognize the goal of eliminating all forms of forced or compulsory labor, including forced or compulsory child labor. Accordingly, each Party shall prohibit, through measures it considers appropriate, the importation of goods into its territory from other sources

produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.<sup>10</sup>

2. To assist in the implementation of paragraph 1, the Parties shall establish cooperation for the identification and movement of goods produced by forced labor as provided for under Article 23.12.5(c) (Cooperation).

### **Article 23.7: Violence Against Workers**

The Parties recognize that workers and labor organizations must be able to exercise the rights set out in Article 23.3 (Labor Rights) in a climate that is free from violence, threats, and intimidation, and the imperative of governments to effectively address incidents of violence, threats, and intimidation against workers. Accordingly, no Party shall fail to address cases of violence or threats of violence against workers, directly related to exercising or attempting to exercise the rights set out in Article 23.3 (Labor Rights), through a sustained or recurring course of action or inaction<sup>11</sup> in a manner affecting trade or investment between the Parties.<sup>12</sup>

### **Article 23.8: Migrant Workers**

The Parties recognize the vulnerability of migrant workers with respect to labor protections. Accordingly, in implementing Article 23.3 (Labor Rights), each Party shall ensure that migrant workers are protected under its labor laws, whether they are nationals or non-nationals of the Party.

### **Article 23.9: Discrimination in the Workplace**

The Parties recognize the goal of eliminating discrimination in employment and occupation, and support the goal of promoting equality of women in the workplace. Accordingly,

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<sup>10</sup> For greater certainty, nothing in this Article authorizes a Party to take measures that would be inconsistent with its obligations under this Agreement, the WTO Agreement, or other international trade agreements.

<sup>11</sup> For greater certainty, a “sustained or recurring course of action or inaction” is “sustained” if the course of action or inaction is consistent or ongoing, and is “recurring” if the course of action or inaction occurs periodically or repeatedly and when the occurrences are related or the same in nature. A course of action or inaction does not include an isolated instance or case.

<sup>12</sup> For greater certainty, a “course of action or inaction” is “in a manner affecting trade or investment between the Parties” if the course involves: (i) a person or industry that produces a good or supplies a service traded between the Parties or has an investment in the territory of the Party that has failed to comply with this obligation; or (ii) a person or industry that produces a good or supplies a service that competes in the territory of a Party with a good or a service of another Party.

each Party shall implement policies<sup>13</sup> that it considers appropriate to protect workers against employment discrimination on the basis of sex (including with regard to sexual harassment), pregnancy, sexual orientation, gender identity, and caregiving responsibilities; provide job-protected leave for birth or adoption of a child and care of family members; and protect against wage discrimination.

#### **Article 23.10: Public Awareness and Procedural Guarantees**

1. Each Party shall promote public awareness of its labor laws, including by ensuring that information related to its labor laws and enforcement and compliance procedures is publicly available.
2. Each Party shall ensure that a person with a recognized interest under its law in a particular matter has appropriate access to tribunals for the enforcement of its labor laws. These tribunals may include administrative tribunals, quasi-judicial tribunals, judicial tribunals, or labor tribunals, as provided for in each Party's law.
3. Each Party shall ensure that proceedings before these tribunals for the enforcement of its labor laws:
  - (a) are fair, equitable and transparent;
  - (b) comply with due process of law;
  - (c) do not entail unreasonable fees or time limits or unwarranted delay; and
  - (d) that any hearings in these proceedings are open to the public, except where the administration of justice otherwise requires, and in accordance with its applicable laws.
4. Each Party shall ensure that:
  - (a) the parties to these proceedings are entitled to support or defend their respective positions, including by presenting information or evidence; and
  - (b) final decisions on the merits of the case:

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<sup>13</sup> The United States' existing federal agency policies regarding the hiring of federal workers are sufficient to fulfill the obligations set forth in this Article. The Article thus requires no additional action on the part of the United States, including any amendments to Title VII of the Civil Rights Act of 1964, in order for the United States to be in compliance with the obligations set forth in this Article.

- (i) are based on information or evidence in respect of which the parties were offered the opportunity to be heard,
- (ii) state the reasons on which they are based, and
- (iii) are available in writing without undue delay to the parties to the proceedings and, consistent with its law, to the public.

5. Each Party shall provide, as appropriate, that parties to these proceedings have the right to seek review and, if warranted, correction of decisions issued in these proceedings.

6. Each Party shall ensure that tribunals that conduct or review these proceedings are impartial and independent.

7. Each Party shall ensure that the parties to these proceedings have access to remedies under its law for the effective enforcement of their rights under its labor laws and that these remedies are executed in a timely manner.

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

9. 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.

10. Each Party shall ensure that other types of proceedings within its labor bodies for the implementation of its labor laws:

- (a) are fair and equitable;
- (b) are conducted by officials who meet appropriate guarantees of impartiality;
- (c) do not entail unreasonable fees or time limits or unwarranted delay; and
- (d) document and communicate decisions to persons directly affected by these proceedings.

### **Article 23.11: Public Submissions**

1. Each Party, through its contact point designated under Article 23.15 (Contact Points), shall provide for the receipt and consideration of written submissions from persons 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. 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.

3. 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 23.12: Cooperation**

1. The Parties recognize the importance of cooperation as a mechanism for effective implementation of this Chapter, to enhance opportunities to improve labor standards, and to further advance common commitments regarding labor matters, including the principles and rights stated in the ILO Declaration on Rights at Work.

2. The Parties may, commensurate with the availability of resources, cooperate through:

- (a) exchanging of information and sharing of best practices on issues of common interest, including through seminars, workshops, and online fora;
- (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.

3. In undertaking cooperative activities, the Parties shall consider each Party's priorities and complementarity with initiatives in existence, with the aim to achieve mutual benefits and measurable labor outcomes.

4. 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.



5. The Parties may develop cooperative activities in the following areas:
- (a) labor laws and practices, including the promotion and effective implementation of the principles and rights as stated in the ILO Declaration on Rights at Work;
  - (b) labor laws and practices related to compliance with ILO Convention No. 182 *Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*;
  - (c) identification and movement of goods produced by forced labor;
  - (d) combatting forced labor and human trafficking, including on fishing vessels;
  - (e) addressing violence against workers, including for trade union activity;
  - (f) occupational safety and health, including the prevention of occupational injuries and illnesses;
  - (g) institutional capacity of labor administrative and judicial bodies;
  - (h) labor inspectorates and inspection systems, including methods and training to improve the level and efficiency of labor law enforcement, strengthen labor inspection systems, and help ensure compliance with labor laws;
  - (i) remuneration systems and mechanisms for compliance with labor laws pertaining to hours of work, minimum wages and overtime, and employment conditions;
  - (j) addressing gender-related issues in the field of labor and employment, including:
    - (i) elimination of discrimination on the basis of sex in respect of employment, occupation, and wages,
    - (ii) developing analytical and enforcement tools related to equal pay for equal work or work of equal value,
    - (iii) promotion of labor practices that integrate and retain women in the job market, and building the capacity and skills of women workers, including on workplace challenges and in collective bargaining,
    - (iv) consideration of gender issues related to occupational safety and health and other workplace practices, including advancement of child care, nursing mothers, and related policies and programs, and in the prevention of occupational injuries and illnesses, and

- (v) prevention of gender-based workplace violence and harassment;
- (k) promotion of productivity, innovation, competitiveness, training and human capital development in workplaces, particularly in respect to SMEs;
- (l) addressing the opportunities of a diverse workforce, including:
  - (i) promotion of equality and elimination of employment discrimination in the areas of age, disability, race, ethnicity, religion, sexual orientation, gender identity, and other characteristics not related to merit or the requirements of employment, and
  - (ii) promotion of equality, elimination of employment discrimination, and protection of migrant workers and other vulnerable workers, including low-waged, casual, or temporary workers;
- (m) collection and use of labor statistics, indicators, methods, and procedures, including on the basis of sex;
- (n) social protection issues, including workers' compensation in case of occupational injury or illness, pension systems, and employment assistance schemes;
- (o) labor relations, including forms of cooperation and dispute resolution to improve labor relations among workers, employers, and governments;
- (p) apprenticeship programs;
- (q) social dialogue, including tripartite consultation and partnership;
- (r) with respect to labor relations in multi-national enterprises, promoting information sharing and dialogue related to conditions of employment by enterprises operating in two or more Parties with representative worker organizations in each of the cooperating Parties; and
- (s) other areas as the Parties may decide.

6. The Parties may establish cooperative arrangements with the ILO or other international and regional organizations to draw on their expertise and resources to further the purposes of this Chapter.

### **Article 23.13: Cooperative Labor Dialogue**

1. A Party may request dialogue with another Party on any matter arising under this Chapter at any time by delivering a written request to the contact point that the other Party has designated under Article 23.15 (Contact Points).
2. The requesting Party shall include information that is specific and sufficient to enable the receiving Party to respond, including identification of the matter at issue, an indication of the basis of the request under this Chapter and, when relevant, how trade or investment between the Parties is affected.
3. Unless the requesting and receiving Parties (the dialoguing Parties) decide otherwise, dialogue must commence within 30 days of a Party's receipt of a request for dialogue. The dialoguing Parties shall engage in dialogue in good faith. As part of the dialogue, the dialoguing Parties shall provide a means for receiving and considering the views of interested persons on the matter.
4. Dialogue may be held in person or by any technological means available to the dialoguing Parties.
5. The dialoguing Parties shall address all the issues raised in the request. If the dialoguing Parties resolve the matter, they shall document the outcome, including, if appropriate, specific steps and timelines that they have decided upon. The dialoguing Parties shall make the outcome available to the public, unless they decide otherwise.
6. In developing an outcome pursuant to paragraph 5, the dialoguing Parties should consider all available options and may jointly decide on a course of action they consider appropriate, including:
  - (a) the development and implementation of an action plan in a form that they find satisfactory, which may include specific and verifiable steps, such as on labor inspection, investigation, or compliance action, and appropriate timeframes;
  - (b) the independent verification of compliance or implementation by individuals or entities, such as the ILO, chosen by the dialoguing Parties; and
  - (c) appropriate incentives, such as cooperative programs and capacity building, to encourage or assist the dialoguing Parties to identify and address labor matters.

#### **Article 23.14: Labor Council**

1. The Parties hereby establish a Labor Council composed of senior governmental representatives at the ministerial or other level from trade and labor ministries, as designated by each Party.
2. The Labor Council shall meet within one year of the date of entry into force of this Agreement and thereafter every two years, unless the Parties decide otherwise.
3. The Labor Council may consider any matter within the scope of this Chapter and perform other functions as the Parties may decide.
4. In conducting its activities, including meetings, the Labor Council shall provide a means for receiving and considering the views of interested persons on matters related to this Chapter. If practicable, meetings will include a public session or other means for Council members to meet with the public to discuss matters relating to the implementation of this Chapter.
5. During the fifth year after the date of entry into force of this Agreement, or as otherwise decided by the Parties, the Labor Council shall review the operation and effectiveness of this Chapter and thereafter may undertake subsequent reviews as decided by the Parties.
6. Labor Council decisions and reports shall be made by consensus and be made publicly available, unless the Council decides otherwise.
7. The Labor Council shall issue a joint summary report or statement on its work at the end of each Council meeting.

#### **Article 23.15: Contact Points**

1. Each Party shall designate, within 60 days of the date of entry into force of this Agreement, an office or official within its labor ministry or equivalent entity as a contact point to address matters related to this Chapter. Each Party shall notify the other Parties in writing promptly in the event of a change to its contact point.
2. The contact points shall:
  - (a) facilitate regular communication and coordination between the Parties, including responding to requests for information and providing sufficient information to enable a full examination of matters related to this Chapter;
  - (b) assist the Labor Council;
  - (c) report to the Labor 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, guided by the priorities of the Labor Council, areas of cooperation identified in Article 23.12.5 (Cooperation), and the needs of the Parties.
3. Contact points may communicate and coordinate activities in person or through electronic or other means of communication.
  4. Each Party's contact point, in carrying out its responsibilities under this Chapter, shall regularly consult and coordinate with its trade ministry.

#### **Article 23.16: Public Engagement**

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

#### **Article 23.17: Labor Consultations**

1. The Parties shall make every effort through cooperation and dialogue to arrive at a mutually satisfactory resolution of any matter arising under this Chapter.
2. A Party (the requesting Party) may request labor consultations with another Party (the 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. A third Party that considers it has a substantial interest in the matter may participate in the labor consultations by notifying the other Parties (the consulting Parties) in writing through their respective contact points, no later than seven days after the date of delivery of the request for labor consultations. The third Party shall include in its notice an explanation of its substantial interest in the matter.
4. Unless the consulting Parties decide otherwise, they shall enter into labor consultations no later than 30 days after the date of delivery of the request.

5. The consulting Parties shall make every effort to arrive at a mutually satisfactory resolution of the matter through labor consultations, which may include appropriate cooperative activities. The consulting Parties may request advice from independent experts chosen by the consulting Parties to assist them.
6. *Ministerial Labor Consultations:* If the consulting Parties have failed to resolve the matter, a consulting Party may request that the relevant Ministers or their designees of the consulting Parties convene to consider the matter at issue by delivering a written request to the other consulting Party through its contact point. The Ministers of the consulting Parties shall convene promptly after the date of receipt of the request, and shall seek to resolve the matter, including, if appropriate, by consulting independent experts chosen by the consulting Parties to assist them, and having recourse to procedures such as good offices, conciliation, or mediation.
7. If the consulting Parties are able to resolve the matter, they shall document the outcome, including, if appropriate, specific steps and timelines decided upon. The consulting Parties shall make the outcome available to the other Party and to the public, unless they decide otherwise.
8. If the consulting Parties fail to resolve the matter within 30 days after the date of receipt of a request for Labor consultations under paragraph 2, or any other period as the consulting Parties may agree, the requesting Party may request a meeting of the Commission pursuant to Article 31.5 (Commission, Good Offices, Conciliation, and Mediation) and thereafter request the establishment of a panel under Article 31.6 ( Establishment of a Panel).
9. Labor consultations shall be confidential and without prejudice to the rights of a Party in another proceeding.
10. Labor consultations pursuant to this Article may be held in person or by any technological means available to the consulting Parties. If the labor consultations are held in person, they must be held in the capital of the Party to which the request for labor consultations was made, unless the consulting Parties decide otherwise.
11. In labor consultations under this Article, a consulting Party may request another consulting Party to make available personnel of its government agencies or other regulatory bodies who have expertise in the matter at issue.
12. No Party shall have recourse to dispute settlement under Chapter 31 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with this Article.
13. A Party may have recourse to labor consultations under this Article without prejudice to the commencement or continuation of Cooperative Labor Dialogue under Article 23.13 (Cooperative Labor Dialogue).

## ANNEX 23-A

### WORKER REPRESENTATION IN COLLECTIVE BARGAINING IN MEXICO

1. Mexico shall adopt and maintain the measures set out in paragraph 2, which are necessary for the effective recognition of the right to collective bargaining, given that the Mexican government incoming in December 2018 has confirmed that each of these provisions is within the scope of the mandate provided to the government by the people of Mexico in the elections.

2. Mexico shall:

- (a) Provide in its labor laws the right of workers to engage in concerted activities for collective bargaining or protection and to organize, form, and join the union of their choice, and prohibit, in its labor laws, employer domination or interference in union activities, discrimination, or coercion against workers for union activity or support, and refusal to bargain collectively with the duly recognized union.
- (b) Establish and maintain independent and impartial bodies to register union elections and resolve disputes relating to collective bargaining agreements and the recognition of unions, through legislation establishing:
  - (i) an independent entity for conciliation and registration of unions and collective bargaining agreements, and
  - (ii) independent Labor Courts for the adjudication of labor disputes.

The legislation shall provide for the independent entity for conciliation and registration to have the authority to issue appropriate sanctions against those who violate its orders. The legislation also shall provide that all decisions of the independent entity are subject to appeal to independent courts, and that officials of the independent entity who delay, obstruct, or influence the outcome of any registration process in favor or against a party involved, will be subject to sanctions under Article 48 of the Federal Labor Law (*Ley Federal del Trabajo*) and Articles 49, 52, 57, 58, 61, 62 and other applicable provisions of the General Law of Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*).

- (c) Provide in its labor laws, through legislation in accordance with Mexico's Constitution (*Constitución Política de los Estados Unidos Mexicanos*), for an effective system to verify that elections of union leaders are carried out through a personal, free, and secret vote of union members.
- (d) Provide in its labor laws that union representation challenges are carried out by the

Labor Courts through a secret ballot vote, and are not subject to delays due to procedural challenges or objections, including by establishing clear time limits and procedures, consistent with Mexico's obligations under Article 23.10.3(c) and Article 23.10.10(c) (Public Awareness and Procedural Guarantees).

- (e) Adopt legislation in accordance with Mexico's Constitution (*Constitución Política de los Estados Unidos Mexicanos*), requiring:
  - (i) verification by the independent entity that collective bargaining agreements meet legal requirements related to worker support in order for them to be registered and take legal effect; and
  - (ii) for the registration of an initial collective bargaining agreement, majority support, through exercise of a personal, free, and secret vote of workers covered by the agreement and effective verification by the independent entity, through, as justified under the circumstances, documentary evidence (physical or electronic), direct consultations with workers, or on-site inspections that:
    - (A) the worksite is operational,
    - (B) a copy of the collective bargaining agreement was made readily accessible to individual workers prior to the vote, and
    - (C) a majority of workers covered by the agreement demonstrated support for the agreement through a personal, free, and secret vote.
- (f) Adopt legislation in accordance with Mexico's Constitution (*Constitución Política de los Estados Unidos Mexicanos*), which provides that, in future revisions to address salary and work conditions, all existing collective bargaining agreements shall include a requirement for majority support, through the exercise of personal, free, and secret vote of the workers covered by those collective bargaining agreements.

The legislation shall also provide that all existing collective bargaining agreements shall be revised at least once during the four years after the legislation goes into effect. The legislation shall not imply the termination of any existing collective bargaining agreements as a consequence of the expiration of the term indicated in this paragraph, as long as a majority of the workers covered by the collective bargaining agreement demonstrate support for such agreement through a personal, free, and secret vote.

The legislation shall also provide that the revisions must be deposited with the independent entity. In order to deposit the future revisions, the independent entity



shall effectively verify, through, as justified under the circumstances, documentary evidence (physical or electronic), direct consultation with workers, or on-site inspections that:

- (i) a copy of the revised collective bargaining agreement was made readily accessible to the workers covered by the collective bargaining agreement prior to the vote, and
  - (ii) a majority of workers covered by the revised agreement demonstrated support for that agreement through a personal, free, and secret vote.
- (g) Provide in its labor laws:
- (i) that each collective bargaining agreement negotiated by a union and a union's governing documents are made available in a readily accessible form to all workers covered by the collective bargaining agreement, through enforcement of Mexico's General Law on Transparency and Access to Public Information (*Ley General de Transparencia y Acceso a la Información Pública*), and
  - (ii) for the establishment of a centralized website that provides public access to all collective bargaining agreements in force and that is operated by an independent entity that is in charge of the registration of collective bargaining agreements.

3. It is the expectation of the Parties that Mexico shall adopt legislation described above before January 1, 2019. It is further understood that entry into force of this Agreement may be delayed until such legislation becomes effective.