

CHAPTER 19

LABOUR

Article 19.1: 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 wages¹, hours of work, and occupational safety and health;

statutes and regulations and **statutes or regulations** means:²

- (a) for Australia, Acts of the Commonwealth Parliament, or regulations made by the Governor-General in Council under delegated authority under an Act of the Commonwealth Parliament;

¹ For Singapore, minimum wages may include wage payments and adjustments gazetted under the *Employment Act* and wage supplement schemes under the *Central Provident Fund Act*.

² 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.

第 19 章

劳工

第 19.1 条 定义

就本章而言：

国际劳工组织宣言指国际劳工组织《关于工作中基本原则和权利宣言及其后续措施》(1998)；

劳工法指一缔约方与下列国际认可的劳工权利直接相关的法律和法规，或法律和法规中的条款：

- (a) 结社自由和有效承认集体谈判权利；
- (b) 消除一切形式的强迫或强制劳动；
- (c) 有效废除童工，禁止最恶劣形式童工及其他对儿童和未成年人的劳工保护；
- (d) 消除就业与职业歧视；以及
- (e) 与最低工资¹、工作时长、职业安全卫生相关的可接受的工作条件；

法律和法规及法律或法规指：²

- (a) 对于澳大利亚，联邦议会法案，或总督根据联邦议会法案所给予的授权制定的法规；

¹ 对于新加坡，最低工资可包括根据《雇佣法》规定公布的工资支付和调整以及《中央公积金法》项下的工资补充计划。

² 为进一步明确，对于每一拥有联邦形式政府的缔约方所设定的定义，其定义涵盖实质上所有工人。

- (b) for Malaysia, the Federal Constitution, Acts of Parliament and subsidiary legislation or regulations made under Acts of Parliament;
- (c) 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
- (d) 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.

Article 19.2: 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. The Parties recognise that, as stated in paragraph 5 of the ILO Declaration, labour standards should not be used for protectionist trade purposes.

Article 19.3: 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^{3, 4}:
 - (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.

³ The obligations set out in Article 19.3 (Labour Rights), as they relate to the ILO, refer only to the ILO Declaration.

⁴ To establish a violation of an obligation under Article 19.3.1 (Labour Rights) or Article 19.3.2, 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.

- (b) 对于马来西亚，联邦宪法、议会法案和根据议会法案制定的附属法律或法规；
- (c) 对于墨西哥，国会法案或根据国会法案颁布的法规和规定，且就本章而言，包括墨西哥合众国宪法；以及
- (d) 对于美国，国会法案或根据国会法案颁布的法规，且就本章而言，包括美国宪法。

第 19.2 条 共同承诺声明

1. 缔约方确认其作为国际劳工组织成员对其领土内的劳工权利承担的义务，包括国际劳工组织宣言中所述的义务。
2. 缔约方认识到，如国际劳工组织宣言第 5 段所述，劳工标准不得用于贸易保护主义目的。

第 19.3 条 劳工权利

1. 每一缔约方应在其法律、法规及据此的实践中，采取并维持国际劳工组织宣言所述下列权利^{3,4}：
 - (a) 结社自由和有效承认集体谈判权利；
 - (b) 消除一切形式的强迫或强制劳动；
 - (c) 有效废除童工，及就本协定而言，禁止最恶劣形式童工；以及
 - (d) 消除就业与职业歧视。

³ 第 19.3 条(劳工权利)中所列义务，如与国际劳工组织相关时，仅指国际劳工组织宣言。

⁴ 要证明违反第 19.3.1 条(劳工权利)或 19.3.2 条下一义务，一缔约方必须证明另一缔约方以影响缔约方之间贸易或投资的方式未能采用或维持法律、法规或实践。

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.⁵

Article 19.4: Non Derogation

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 19.3.1 (Labour Rights), if the waiver or derogation would be inconsistent with a right set out in that paragraph; or
- (b) implementing Article 19.3.1 (Labour Rights) or Article 19.3.2, if the waiver or derogation would weaken or reduce adherence to a right set out in Article 19.3.1, or to a condition of work referred to in Article 19.3.2, 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 19.5: 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 19.3.1 (Labour Rights) and Article 19.3.2, provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under this Chapter.

⁵ 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.

2. 每一缔约方应采取并维持法律、法规及据此的实践，以规定与最低工资、工作时长、职业安全卫生相关的可接受的工作条件。⁵

第 19.4 条 不减损

缔约方认识到，不宜通过弱化或减少每一缔约方劳工法提供的保护以鼓励贸易或投资。为此，任何缔约方不得以影响缔约方之间贸易或投资的方式，豁免或减损或提议豁免或减损其下列法律或法规：

- (a) 实施第 19.3.1 条(劳工权利)的法律或法规，如该豁免或减损会与该条中所列一权利不一致；或
- (b) 实施第 19.3.1 条(劳工权利)或第 19.3.2 条的法律或法规，如在该缔约方领土内的一特殊贸易或关税区内，例如出口加工区或对外贸易区内，该豁免或减损会弱化或减损对第 19.3.1 条中所指的一权利的遵守，或对第 19.3.2 条中所指的一工作条件的遵守。

第 19.5 条 劳工法的执行

1. 在本协定生效之日后，任何缔约方不得以影响缔约方之间贸易或投资的方式，通过持续或反复作为或不作为，导致其劳工法未能有效执行。

2. 如一缔约方未能履行本章下一义务，则不得以该缔约方作出的关于执行资源的决定作为未能履行的借口。对于第 19.3.1 条(劳工权利)和第 19.3.2 条中所列举的基本劳工权利中的劳工执行活动与可接受的工作条件之间的执行资源分配，每一缔约方保留其合理行使执行自由裁量权并作出善意决定的权利，只要该自由裁量权的行使和这些决定与其在本章下的义务不相抵触。

⁵ 为进一步明确，这一义务与一缔约方在其法律、法规和据此的实践中设定由该缔约方确定的可接受工作条件相关。

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 19.6: Forced or Compulsory Labour

Each Party recognises the goal of eliminating all forms of forced or compulsory labour, including forced or compulsory child labour. Taking into consideration that the Parties have assumed obligations in this regard under Article 19.3 (Labour Rights), each Party shall also discourage, through initiatives it considers appropriate, the importation of goods from other sources produced in whole or in part by forced or compulsory labour, including forced or compulsory child labour.⁶

Article 19.7: 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 19.8: 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 recognised 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 hearings in these proceedings shall be open to the public, except when the administration of justice otherwise requires, and in accordance with its applicable laws.

4. Each Party shall ensure that:

⁶ For greater certainty, nothing in this Article authorises a Party to take initiatives that would be inconsistent with its obligations under other provisions of this Agreement, the WTO Agreement or other international trade agreements.

3. 本章中任何内容不得解释为授予一缔约方主管机关在另一缔约方领土内开展劳工法执行活动的权力。

第 19.6 条 强迫或强制劳动

每一缔约方认识到消除包括强迫或强制童工在内的所有形式的强迫或强制劳动的目标。考虑到缔约方在此方面已承担第 19.3 条(劳工权利)下的义务，每一缔约方还应通过其认为适当的倡议，阻止从其他来源进口全部或部分由包括强迫或强制童工在内的强迫或强制劳动生产的货物。⁶

第 19.7 条 企业社会责任

每一缔约方应努力鼓励企业自愿采用该缔约方批准或支持的关于劳工问题的企业社会责任倡议。

第 19.8 条 公众认识与程序保证

1. 每一缔约方应提高公众对其劳工法的认识，包括通过保证与其劳工法、执行和遵守程序相关的信息可公开获得。
2. 每一缔约方应保证，根据其法律对一特定事项拥有被认可利益的人可适当使用执行该缔约方劳工法的公正和独立的法庭。按每一缔约方的法律中所规定的，这些法庭可包括行政法庭、准司法法庭、司法法庭或劳动法庭。
3. 每一缔约方应保证这些法庭执行其劳工法的程序：公平、公正且透明；符合正当法律程序；不收取不合理费用或设置不合理时限，或无理拖延。这些程序中的任何听证会应依照其适用法律向公众开放，除非司法机关另有要求。
4. 每一缔约方应保证：

⁶ 为进一步明确，本条中任何内容未授权一缔约方采取会与本协定项下其他条款、《WTO 协定》或其他国际贸易协定项下的义务不一致的倡议。

- (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:
 - (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 that parties to these proceedings have the right to seek review or appeal, as appropriate under its law.

6. 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 the Party's labour laws and that these remedies are executed in a timely manner.

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

8. 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 19.9: Public Submissions

1. Each Party, through its contact point designated under Article 19.13 (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. 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;

- (a) 这些程序的当事方有权支持各自立场或为各自立场进行辩护，包括提交信息或证据；以及
 - (b) 对案件实体问题的最终裁决：
 - (i) 根据当事方被给予听证机会的信息或证据作出；
 - (ii) 陈述作出裁决的理由；以及
 - (iii) 以书面形式向这些程序当事方提供，不得有不当迟延，并在符合其法律的情况下向公众提供。
5. 每一缔约方应规定，这些程序的当事方有权酌情依法寻求复审或上诉。
6. 每一缔约方应保证，这些程序的当事方可获得其法律下的救济，以有效执行其在该缔约方劳工法下的权利，且这些救济及时得到执行。
7. 每一缔约方应规定程序以有效执行其法庭在这些程序中作出的最终裁决。
8. 为进一步明确，在不影响法庭的裁决是否与该缔约方在本章下义务相一致的情况下，本章中任何内容不得解释为要求一缔约方的法庭重新审理对一特定事项已作出的裁决。

第 19.9 条 公众意见

1. 每一缔约方，应通过其根据第 19.13 条(联络点)指定的联络点作出规定，以接收和审议一缔约方的人依照其本国程序提交的与本章相关事项的书面意见。每一缔约方应使其包括时间表在内的接收和审议书面意见的程序容易使用并可公开获得。
2. 一缔约方可在其程序中规定，有资格获得审议的书面意见至少应：
- (a) 提出与本章直接相关的一问题；

- (b) clearly identify the person or organisation 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 organisation that made the submission additional information that is necessary to consider the substance of the submission.

Article 19.10: 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 optimise resources used in cooperative activities;

- (b) 明确提出意见的人或组织；以及
 - (c) 尽可能说明所提事项如何及在何种程度上影响缔约方之间的贸易或投资。
3. 每一缔约方应：
- (a) 对意见中所提事项进行审议并及时答复提交者，包括酌情以书面形式答复；及
 - (b) 酌情及时将所提交的意见及其审议结果向其他缔约方和公众提供。
4. 一缔约方可请求提交意见的人或组织补充提供审议意见内容所需的额外信息。

第 19.10 条 合作

1. 缔约方认识到合作作为有效执行本章的机制的重要性，以增加提高劳工标准的机会，进一步推进关于劳工问题的共同承诺，包括工人福利、生活质量以及国际劳工组织宣言中所述原则和权利。
2. 在开展合作活动时，缔约方应遵循下列原则：
- (a) 考虑每一缔约方的优先领域、发展水平及可获得的资源；
 - (b) 缔约方的广泛参与和共同利益；
 - (c) 能力与能力建设活动的相关性，包括缔约方之间为处理劳工保护问题开展的技术援助及为促进创新工作场所实践进行的活动；
 - (d) 产生可衡量、积极的和有意义的劳动成果；
 - (e) 资源效率，包括酌情使用技术以优化合作活动所使用的资源；

- (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 organisations, 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:

- (a) job creation and the promotion of productive, quality employment, including policies to generate job-rich growth and promote sustainable enterprises and entrepreneurship;
- (b) creation of productive, quality employment linked to sustainable growth and skills development for jobs in emerging industries, including environmental industries;
- (c) innovative workplace practices to enhance workers' well-being and business and economic competitiveness;
- (d) human capital development and the enhancement of employability, including through lifelong learning, continuous education, training and the development and upgrading of skills;
- (e) work-life balance;
- (f) promotion of improvements in business and labour productivity, particularly in respect of SMEs;
- (g) remuneration systems;
- (h) 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;

- (f) 与处理劳工问题的现行区域和多边倡议互补；以及
 - (g) 透明度及公众参与。
3. 在确定潜在合作领域和开展合作活动时，每一缔约方应邀请包括工人和雇主代表在内的利益相关方发表意见，并酌情邀请其参加。在遵守所涉缔约方议定的前提下，合作活动可通过双边或诸边参与方式进行，并可涉及国际劳工组织等相关区域或国际组织以及非缔约方。
4. 在本章框架下开展合作活动的资金问题应由所涉缔约方逐案决定。
5. 除本条所概述的合作活动外，缔约方应酌情利用各自在区域和多边场合的成员身份加强协调，以增进在处理劳工问题方面的共同利益。
6. 合作领域可包括：
- (a) 创造就业和促进生产性、高质量就业，包括创造更多就业的增长、促进可持续企业和企业家精神的政策；
 - (b) 创造与可持续增长相关的生产性和高质量就业以及培养包括环境产业在内的新兴产业就业所需技能；
 - (c) 提升工人福利、商业及经济竞争力的创新性工作实践；
 - (d) 人力资本开发及就业能力提高，包括通过终身学习、继续教育、培训以及技能开发和提高；
 - (e) 工作与生活的平衡；
 - (f) 促进商业和劳动生产力的改善，特别是对于中小企业；
 - (g) 薪酬制度；
 - (h) 促进对国际劳工组织宣言中所述原则和权利及国际劳工组织“体面劳动”概念的认识和尊重；

- (i) labour laws and practices, including the effective implementation of the principles and rights as stated in the ILO Declaration;
- (j) occupational safety and health;
- (k) labour administration and adjudication, for example, strengthening capacity, efficiency and effectiveness;
- (l) collection and use of labour statistics;
- (m) labour inspection, for example, improving compliance and enforcement mechanisms;
- (n) 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;
- (o) addressing the labour and employment challenges of economic crises, such as through areas of common interest in the ILO *Global Jobs Pact*;
- (p) social protection issues, including workers' compensation in case of occupational injury or illness, pension systems and employment assistance schemes;
- (q) best practice for labour relations, for example, improved labour relations, including promotion of best practice in alternative dispute resolution;
- (r) social dialogue, including tripartite consultation and partnership;
- (s) with respect to labour 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 organisations in each Party;
- (t) corporate social responsibility; and

- (i) 劳工法和实践，包括国际劳工组织宣言中所述原则和权利的有效执行；
- (j) 职业安全卫生；
- (k) 劳动行政管理和裁决，例如提高能力、效率和效力；
- (l) 劳工统计数据的收集和使用；
- (m) 劳动监察，例如改善遵守与执行机制；
- (n) 应对多元化、多代际劳动力带来的机遇和挑战，包括：
 - (i) 在外来工人就业和职业方面，或在年龄、残疾及其他与岗位绩效或要求无关的特征方面，促进平等，消除歧视；
 - (ii) 推动妇女平等和就业利益，消除妇女歧视；以及
 - (iii) 保护弱势工人，包括外来工人及低工资、非正式工或临时工；
- (o) 应对经济危机带来的劳工和就业挑战，例如通过国际劳工组织《全球就业协定》中的共同利益领域；
- (p) 社会保护问题，包括出现职业伤害或疾病时对工人的赔偿、养老金制度以及就业援助计划；
- (q) 劳动关系最佳实践，例如改善劳动关系，包括促进替代性争议解决方面的最佳实践；
- (r) 社会对话，包括三方协商和伙伴关系；
- (s) 对于跨国企业中的劳动关系，促进在两个或多个缔约方运营的企业与每一缔约方的代表性工人组织就就业条件进行信息分享和对话；
- (t) 企业社会责任；以及

- (u) 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 19.11: Cooperative Labour 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 19.13 (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 shall 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 any outcome, including, if appropriate, specific steps and timelines that they have agreed. The dialoguing Parties shall make the outcome available to the public, unless they decide otherwise.

- (u) 缔约方可能决定的其他领域。
7. 缔约方可通过下列方式开展第 6 款中合作领域的活动：
- (a) 讲习班、研讨会、对话及其他论坛以分享知识、经验和最佳实践，包括在线论坛和其他知识分享平台；
 - (b) 考察、访问及研究性学习文件以及学习政策和实践；
 - (c) 对具有共同利益议题的最佳实践开展合作研究和开发；
 - (d) 酌情就技术专长和援助开展具体交流；以及
 - (e) 缔约方可能决定的其他形式。

第 19.11 条 合作性劳工对话

1. 一缔约方可通过向另一缔约方根据第 19.13 条(联络点)指定的联络点递送书面请求，随时就本章下产生的任何事项与该另一缔约方进行对话。
2. 提出请求的缔约方应包括能够使接收请求的缔约方作出答复的具体而充分的信息，包括确定争议事项，并表明该请求在本章下的根据，且如相关，缔约方之间的贸易或投资如何受到影响。
3. 除非提出请求的缔约方和接收请求的缔约方(对话缔约方)另有决定，否则对话应在一缔约方收到对话请求起 30 天内启动。对话缔约方应真诚开展对话。作为对话的一部分，对话缔约方应提供接收和审议利害关系人对该事项意见的方法。
4. 对话可面对面进行或通过对话缔约方可获得的任何技术手段进行。
5. 对话缔约方应处理请求中提出的所有问题。如对话缔约方解决该问题，则应记录任何结果，如适当，包括其议定的具体步骤和时间表。对话缔约方应将对话结果向公众提供，除非对话缔约方另有决定。

6. In developing an outcome pursuant to paragraph 5, the dialoguing Parties should consider all available options and may jointly decide on any course of action they consider appropriate, including:

- (a) the development and implementation of an action plan in any form that they find satisfactory, which may include specific and verifiable steps, such as on labour 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 programmes and capacity building, to encourage or assist the dialoguing Parties to identify and address labour matters.

Article 19.12: Labour Council

1. The Parties hereby establish a Labour Council (Council) composed of senior governmental representatives at the ministerial or other level, as designated by each Party.

2. The Council shall meet within one year of the date of entry into force of this Agreement. Thereafter, the Council shall meet every two years, unless the Parties decide otherwise.

3. The Council shall:

- (a) consider matters related to this Chapter;
- (b) establish and review priorities to guide decisions by the Parties about labour cooperation and capacity building activities undertaken pursuant to this Chapter, taking into account the principles in Article 19.10.2 (Cooperation);
- (c) agree on a general work programme in accordance with the priorities established under subparagraph (b);
- (d) oversee and evaluate the general work programme;
- (e) review reports from the contact points designated under Article 19.13 (Contact Points);
- (f) discuss matters of mutual interest;

6. 在根据第 5 款争取达成一结果时，对话缔约方应审议所有可获得的选项，并可共同决定其认为适当的任何行动方案，包括：

- (a) 以其满意的任何方式制定并实施的行动计划，可包括具体且可验证的步骤，例如劳动监察、调查或遵守行动，以及适当时间框架；
- (b) 由对话缔约方选择的个人或机构，如国际劳工组织，对遵守或实施情况进行独立核查；以及
- (c) 适当的激励，例如合作计划和能力建设，以鼓励或协助对话缔约方确定并处理劳工问题。

第 19.12 条 劳工理事会

1. 缔约方特此设立劳工理事会(理事会)，由每一缔约方指定的部级或其他级别的高级政府代表组成。

2. 理事会应在本协定生效之日起 1 年内召开会议。此后，理事会应每 2 年召开一次会议，除非缔约方另有决定。

3. 理事会应：

- (a) 审议与本章相关的事项；
- (b) 设定和审议优先事项，以指导缔约方作出关于根据本章开展的劳工合作和能力建设活动的决定，同时考虑第 19.10.2 条(合作)中的原则；
- (c) 依照根据(b)项设定的优先事项，达成一总体工作计划；
- (d) 监督和评估该总体工作计划；
- (e) 审议根据第 19.13 条(联络点)指定的联络点提交的报告；
- (f) 讨论具有共同利益的问题；

- (g) facilitate public participation and awareness of the implementation of this Chapter; and
 - (h) perform any other functions as the Parties may decide.
4. During the fifth year after the date of entry into force of this Agreement, or as otherwise decided by the Parties, the Council shall review the implementation of this Chapter with a view to ensuring its effective operation and report the findings and any recommendations to the Commission.
 5. The Council may undertake subsequent reviews as agreed by the Parties.
 6. The Council shall be chaired by each Party on a rotational basis.
 7. All Council decisions and reports shall be made by consensus and be made publicly available, unless the Council decides otherwise.
 8. The Council shall agree on a joint summary report on its work at the end of each Council meeting.
 9. The Parties shall, as appropriate, liaise with relevant regional and international organisations, such as the ILO and APEC, on matters related to this Chapter. The Council may seek to develop joint proposals or collaborate with those organisations or with non-Parties.

Article 19.13: Contact Points

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 90 days of the date of entry into force of this Agreement for that Party. Each Party shall notify the other Parties 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

- (g) 促进公众对本章执行的参与和认知；以及
 - (h) 履行缔约方可能决定的其他职能。
4. 在本协定生效之日后第 5 年中，或按缔约方所决定的其他时间，理事会应审议本章实施情况以保证其有效运用，并向自贸协定委员会报告结果和任何建议。
 5. 理事会可按缔约方所议定的开展后续审议。
 6. 理事会主席应由每一缔约方轮流担任。
 7. 理事会所有决定和报告应经协商一致作出并向公众提供，除非理事会另有决定。
 8. 理事会应在每一理事会会议结束时议定一份关于其工作的联合摘要报告。
 9. 缔约方应酌情与相关区域和国际组织就与本章相关的事项进行联络，例如国际劳工组织和 APEC 等。理事会可寻求与这些组织或与非缔约方制定联合提案或开展合作。

第 19.13 条 联络点

1. 每一缔约方应在本协定对其生效之日起 90 天内，指定其劳动部或等同实体内的一机构或官员作为联络点，以处理与本章相关的事项。如其联络点发生任何变更，则每一缔约方应迅速通知其他缔约方。
2. 联络点应：
 - (a) 便利缔约方之间的定期沟通和协调；
 - (b) 为理事会提供协助；
 - (c) 酌情向理事会报告；
 - (d) 在各自领土内作为与公众沟通的渠道；以及

- (e) work together, including with other appropriate agencies of their governments, to develop and implement cooperative activities, guided by the priorities of the Council, areas of cooperation identified in Article 19.10.6 (Cooperation) and the needs of the Parties.

3. Contact points may develop and implement specific cooperative activities bilaterally or plurilaterally.

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

Article 19.14: Public Engagement

1. In conducting its activities, including meetings, the Council shall provide a means for receiving and considering the views of interested persons 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 organisations, to provide views on matters regarding this Chapter.

Article 19.15: 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. The requesting Party shall circulate the request to the other Parties through their respective contact points.

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. The responding Party shall circulate the reply to the other Parties and enter into labour consultations in good faith.

4. A Party other than the requesting Party or the responding Party (the consulting Parties) that considers that it has a substantial interest in the matter may participate in the labour consultations by delivering a written notice to the

- (e) 以理事会优先事项、第 19.10.6 条(合作)中确定的合作领域以及缔约方需要为指导，共同工作，包括与其政府内其他适当机构一道制定并实施合作活动。
- 3. 联络点可通过双边或诸边制定并实施具体合作活动。
- 4. 联络点可面对面或通过电子或其他通信手段开展联络和协调活动。

第 19.14 条 公众参与

- 1. 在开展包括会议在内的活动时，理事会应提供接收和审议利害关系人对本章相关事项意见的方法。
- 2. 每一缔约方应建立或设立并咨询一国家劳工咨询或顾问机构或类似机制，供包括其劳工和商业组织代表在内的公众人士就本章相关事项提出意见。

第 19.15 条 劳工磋商

- 1. 缔约方应根据相互尊重原则尽最大努力通过合作和磋商解决本章下产生的任何事项。
- 2. 一缔约方(请求方)可通过向另一缔约方(回应方)的联络点递送书面请求，随时就本章下产生的任何事项请求与回应方开展劳工磋商。请求方应包括能够使回应方作出答复的具体而充分的信息，包括确定争议事项，并表明该请求在本章的法律根据。请求方应通过各自联络点向其他缔约方散发该请求。
- 3. 除非与请求方另有议定，否则回应方应在收到请求之日后 7 天内，对该请求作出书面答复。回应方应向其他缔约方散发该答复，并真诚开展劳工磋商。
- 4. 不属请求方或回应方(磋商方)的一缔约方如认为其在该事项上具有实质利益，则可通过在请求方散发劳工磋商请求之日起

other Parties within seven days of the date of circulation by the requesting Party of the request for labour consultations. The Party shall include in its notice an explanation of its substantial interest in the matter.

5. The Parties shall begin labour consultations no later than 30 days after the date of receipt by the responding Party of the request.

6. In the labour consultations:

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

7. 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.

8. 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.

9. In labour consultations under this Article, a consulting Party may request another consulting 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.

10. If the consulting Parties are unable to resolve the matter, any consulting Party may request that the Council representatives of the consulting Parties convene to consider the matter by delivering a written request to the other consulting Party through its contact point. The Party making that request shall inform the other Parties through their contact points. 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.

11. If the consulting Parties are able to resolve the matter, they shall document any outcome including, if appropriate, specific steps and timelines agreed upon.

7 天内向其他缔约方递送书面通知以参加该劳工磋商。该缔约方应在通知中包括关于其在该事项上的实质利益的说明。

5. 缔约方应不迟于回应方收到请求之日后 30 天启动劳工磋商。

6. 在劳工磋商中：

(a) 每一磋商方应提供能够对该事项进行全面审查的充分信息；及

(b) 参与磋商的任何缔约方对于在磋商过程中交换的任何机密信息应按照与提供该信息的缔约方相同的基础予以对待。

7. 劳工磋商可面对面进行或通过磋商方可获得的任何技术手段进行。如劳工磋商面对面进行，则应在回应方的首都进行，除非磋商方另有议定。

8. 磋商方应通过本条下的劳工磋商，尽一切努力就该事项达成共同满意的解决办法，同时考虑与该事项相关的合作机会。磋商方可请其选择的一位或多位独立专家提出建议以提供帮助。磋商方可援用斡旋、调停或调解等程序。

9. 在本条下的劳工磋商中，一磋商方可请求另一磋商方提供其政府机关或其他监管机构内具备与该劳工磋商主题相关的专门知识的人员。

10. 如磋商方未能解决该事项，则任何磋商方可通过其联络点向另一磋商方递送书面请求，请求磋商方的理事会代表召开会议审议该事项。提出该请求的缔约方应通过各自联络点告知其他缔约方。磋商方的理事会代表应在收到该请求之日后 30 天内召开会议，除非磋商方另有议定，并应寻求解决该事项，如适当，包括通过咨询独立专家并援用斡旋、调停或调解等程序。

11. 如磋商方能够解决该事项，则应记录任何结果，如适当，包括议定的具体步骤和时间表。磋商方应将该结果向其他缔约方

The consulting Parties shall make the outcome available to the other Parties and to the public, unless they agree otherwise.

12. If the consulting Parties have failed to resolve the matter no later than 60 days after the date of receipt of a request under paragraph 2, the requesting Party may request the establishment of a panel under Article 28.7 (Establishment of a Panel) and, as provided in Chapter 28 (Dispute Settlement), thereafter have recourse to the other provisions of that Chapter.

13. No Party shall have recourse to dispute settlement under Chapter 28 (Dispute Settlement) for a matter arising under this Chapter without first seeking to resolve the matter in accordance with this Article.

14. A Party may have recourse to labour consultations under this Article without prejudice to the commencement or continuation of cooperative labour dialogue under Article 19.11 (Cooperative Labour Dialogue).

15. Labour consultations shall be confidential and without prejudice to the rights of any Party in any other proceedings.

和公众提供，除非磋商方另有议定。

12. 如磋商方未能在不迟于收到第 2 款下一请求之日后 60 天解决该事项，则请求方可请求根据第 28.7 条(专家组的设立)设立专家组，并按第 28 章(争端解决)中所规定的，在此后援用该章其他规定。

13. 任何缔约方不得在未首先寻求依照本条解决本章下产生的一事项的情况下，就该事项援用第 28 章(争端解决)下的争端解决。

14. 一缔约方可在不损害启动或继续第 19.11 条(合作性劳工对话)下的合作性劳工对话的情况下，援用本条下的劳工磋商。

15. 劳工磋商应保密且不损害任何缔约方在任何其他程序中的权利。