THE TRANS-PACIFIC PARTNERSHIP AGREEMENT
MODEL LABOUR & DISPUTE RESOLUTION CHAPTER

SUPPORTED BY

American Federation of Labor –
Congress of Industrial Organizations

Central Unitaria de Trabajadores del Perú

Australian Council of Trade Unions

Central Autónoma de Trabajadores del Perú

National Trades Union Congress – Singapore

Confederación General de Trabajadores del Perú

Malaysian Trade Union Congress

Confédération des syndicats nationaux – Canada

New Zealand Council of Trade Unions

Canadian Labour Congress- Congrès du travail du Canada

Japanese Trade Union Confederation – RENGO

Union Nacional de Trabajadores - Mexico

Note: The following proposal is based, in part, on the labour and dispute resolution chapters of the U.S.-Peru Free Trade Agreement (FTA), two of the Parties to the current negotiations. All proposed amendments and additions to those chapters are set forth herein. Where no change is indicated, the relevant provisions of the U.S.-Peru FTA should be inserted.

LABOUR CHAPTER

Article 17.1: No Change to U.S.-Peru FTA

Article 17.2

1. Each Party shall, at a minimum, adopt and maintain in its statutes and regulations, and practices thereunder, the rights as stated in the International Labour Organization (ILO) conventions related to:

(a) freedom of association;
(b) the effective recognition of the right to collective bargaining;
(c) the elimination of all forms of compulsory or forced labour;
(d) the effective abolition of child labour and a prohibition on the worst forms of child labour; and
(e) the elimination of discrimination in respect of employment and occupation.

2. No Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour laws.

3. Each Party shall adopt and maintain statutes and regulations with regard to acceptable conditions of work. [fn]

4. Each Party shall give full effect to the OECD Guidelines for Multinational Corporations.

[fn] Where the ILO has promulgated conventions and recommendations with regard to acceptable conditions of work, as defined herein, the Parties shall give full effect to those conventions and recommendations.

New Article

Article 17.3: Goods Produced by Compulsory or Forced Labour or Child Labour in its Worst Forms

No good may be imported into a Party from another Party or exported to a Party from another Party, if that good was produced, in whole or in part, by forced or compulsory labour or child labour in its worst forms, as defined by the International Labour Organization. Each Party shall establish procedures necessary to ensure that such prohibited goods will be seized at its border by customs and border authorities and to impose appropriate fines and sanctions to those responsible for the export or import of those goods.

Article 17.4: Enforcement of Labour Laws [fn]

1. (a) A Party shall not fail to effectively enforce its labour laws, including those it adopts or maintains in accordance with Article 17.2, through a sustained or recurring course of action or inaction, in a manner affecting commerce between the Parties, after the date of entry into force of this Agreement. [fn]

(b) A decision a Party makes on the distribution of enforcement resources shall not be a reason for not complying with the provisions of this Chapter.

2. 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.

[fn] To ensure the effective enforcement of labour laws, the Parties shall give full effect to the conventions on labour inspection, namely ILO Conventions 81, 129 and 178.

[fn] In an egregious case requiring expedited attention, a petitioner is not required to submit evidence of the existence of a sustained or recurring course of action or inaction.

New Article

Article 17.5.: Migrant Workers

1. The Parties shall provide migrant workers of another Party with the same rights and remedies under its labour laws as they relate to the core labour rights as well as wages, hours of work, occupational safety and health and workers compensation.

2. This article shall not be construed in any way to create any new right or to impose any new obligation regarding the entry of nationals of another Party for the purposes of employment.

3. The Parties shall ensure that the recruitment of citizens of another Party for employment is carried out, at minimum, in accordance with the guidelines set forth in Annex I.

4. Under no circumstance may an employer or labour recruiter take possession of a worker's passport, visa, or other travel documents.

Article 17.6: Procedural Guarantees and Public Awareness

1. Each Party shall ensure that persons with a legally recognized interest in a particular matter have appropriate access to tribunals for the enforcement of the Party's labour laws. Such tribunals may include administrative, quasi-judicial, judicial, or labour tribunals, as provided 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 and, 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.[fn]

3. Each Party shall provide that final decisions on the merits of the case in such proceedings are:

(a) in writing and state the reasons on which the decisions are based;
(b) made available without undue delay to the Parties to the proceedings and, consistent with its law, to the public; and [fn]
(c) based on information or evidence in respect of which the Parties to the proceedings were offered the opportunity to be heard.

4. Each Party shall provide, as appropriate, that Parties to such proceedings have the right to seek review

and, where warranted, correction of final decisions issued in such proceedings.

5. Each Party shall take appropriate measures to guard against the abuse of the legal process, including frivolous motions or appeals the purpose of which is to delay final judgment in a case."

6. Each Party shall ensure that tribunals that conduct or review such proceedings are impartial and independent and do not have any substantial interest in the outcome of the matter.

7. Each Party shall provide that the Parties to such proceedings may seek remedies to ensure the enforcement of their rights under its labour laws. Such remedies may include measures such as orders, fines, penalties, imprisonment or temporary workplace closures.

8. Each Party shall adopt and maintain effective procedures to enforce the final judgments of its courts, including fines and penal sanctions.

9. 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.

[fn] For greater certainty, an undue or unwarranted delay may constitute a "failure to effectively enforce labour laws" under Article 17.4.

Article 17.7: Institutional Arrangements

1. The Parties hereby establish a Labour Affairs Council (Council) comprising cabinet-level or equivalent representatives of the Parties, who may be represented on the Council by their deputies or high-level designees.

2. The Council shall meet within the first year after the date of entry into force of this Agreement and every two years thereafter. The Council shall:

(a) oversee the implementation of and review progress under this Chapter, including the activities of the Labour Cooperation and Capacity Building Mechanism established under Article 17.8;
(b) develop general guidelines for consideration of communications referred to in paragraph 5(c) and as outlined in Annex 2;
(c) prepare reports, as appropriate, on matters related to the implementation of this Chapter and make such reports available to the public;
(d) review and implement the recommendations of the independent advisory body referred to in paragraph 7; and
(e) perform any other functions as the Parties may agree.

3. All decisions of the Council shall be taken by a majority and shall be made public.

4. Each of its meetings shall include a session at which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of this Chapter.

5. Each Party shall designate an office within its labour ministry or equivalent entity that shall serve as a contact point with the other Parties and with the public. The contact points of each Party shall meet as often as they consider necessary or at the request of the Council. Each Party's contact point shall:

(a) assist the Council in carrying out its work, including coordination of the Labour Cooperation and Capacity Building Mechanism;
(b) cooperate with the other Parties' contact points and with relevant government organizations and agencies to:

(i) establish priorities, with a particular emphasis on the issues identified in paragraph 2 of the Annex on Labour Cooperation and Capacity Building, regarding cooperative activities on labour matters,
(ii) develop specific cooperative and capacity-building activities according to such priorities,
(iii) exchange information on the labour laws and practices of each Party, including best practices and ways to improve them, and
(iv) seek support, as appropriate, from international organizations such as the ILO, to advance common commitments regarding labour matters; and

(c) provide for the submission, receipt, and consideration of communications from persons of a Party on matters related to this Chapter and make such communications available to the other Party and, as appropriate, to the public.
(d) provide for the receipt of cooperative consultation requests.

6. Each Party shall review communications received under paragraph 5(c) in accordance with domestic procedures, consistent with the guidelines set forth in Annex 2.

7. Each Party shall convene a new, or consult an existing, national labour advisory or consultative committee comprising representatives of its labour and business organizations and other members of its public to provide views on any issues related to this Chapter.

Article 17.8: Labour Cooperation and Capacity Building Mechanism

1. Recognizing that cooperation on labour issues plays an important role in advancing development in the territory of the Parties and in enhancing opportunities to improve labour standards, and to further advance common commitments regarding labour matters, including the principles embodied in the *ILO Declaration on Fundamental Principles and Rights at Work*, the Parties hereby establish a Labour Cooperation and Capacity Building Mechanism, as set out in Annex 3. This Mechanism shall operate in a manner that respects each Party's law and sovereignty.

2. The Parties shall strive to ensure that the activities undertaken through that Mechanism:

(a) are consistent with each Party's national programs, development strategies, and priorities;
(b) provide opportunities for public participation in the development and implementation of such activities; and
(c) take into account each Party's economy, culture, and legal system.

Article 17.9: Cooperative Labour Consultations

1. A Party or Parties may request cooperative labour consultations with another Party regarding any matter arising under this Chapter by delivering a written request to the contact point that the other Party has designated under Article 17.5.5. A Party shall request labour cooperative consultations with another Party if it has received a petition and, upon review, has issued findings that if confirmed, would lead the Party to determine that the Party complained against is in violation of its obligations under the labour chapter.

2. The cooperative labour consultations shall begin promptly after delivery of the request.
The request shall contain information that is specific and sufficient to enable the Party receiving the request to respond.

3. The Parties shall allow for a public hearing during cooperative labour consultations to receive and review information regarding any and all matters raised in a petition or which otherwise concern the compliance by the Party complained against with its obligations under this Chapter.

4. The consulting Parties shall make every attempt to arrive at a mutually satisfactory resolution of the matter. In so doing, the Parties shall develop an action plan that addresses fully all findings and recommendations of the Party initiating the consultations, whether self-initiated or the result of the review of a petition. Either Party may seek advice or assistance from any person or body, including the Council, they deem appropriate in order to fully examine the matter at issue.

5. If the consulting Parties have failed to develop a suitable action plan within 60 days of a request under paragraph 1, or, it is determined after 180 days from the date the action plan was reached that the Party complained against failed to fully comply with the terms of the plan, any complaining Party or Parties jointly shall request a meeting of the Commission under Article 21.5 (Intervention of the Commission) and, as provided in Chapter Twenty-One (Dispute Settlement), thereafter have recourse to the other provisions of that Chapter.

6. No Party may have recourse to dispute settlement under this Agreement for a matter arising under this Chapter without first seeking to resolve the matter in accordance with this Article.

Article 17.10: Definitions

labour laws means a Party's statutes and regulations, or provisions thereof, that are related to the following rights:

(a) freedom of association;
(b) the effective recognition of the right to collective bargaining;
(c) the elimination of all forms of forced or compulsory labour;
(d) the effective abolition of child labour, a prohibition on the worst forms of child labour, and other labour protections for children and minors;
(e) the elimination of discrimination in respect of employment and occupation; and
(f) acceptable conditions of work with respect to wages (including minimum wages), hours of work, occupational safety and health, workers representatives, termination of employment, compensation in cases of occupational injuries and illnesses, and social security and retirement.

a sustained or recurring course of action or inaction means that a Party has failed to effectively enforce its labour laws in two or more cases

in a manner affecting commerce means

with regard to trade in goods and services, that the labour law violation took or is taking place in a work place that produces goods or services for international commerce, produces inputs for goods or services for international commerce, or otherwise processes, handles, sells or adds any value to goods or services that have been introduced into international commerce and, with regard to investment, that the labour law violation underlying the Party's failure to effectively enforce its labour laws occurred at the site of the investment, related facilities of the investment or associated facilities that are not part of the investment but whose viability and existence depend on the investment or whose goods or services are necessary for the successful operation of the investment.

DISPUTE SETTLEMENT

Article 21.1-21.12: No change to U.S. –Peru FTA text

Article 21.13: Initial Report

1. Unless the disputing Parties otherwise agree, the panel shall base its report on the relevant provisions of this Agreement, the submissions and arguments of the disputing Parties, and on any information before it pursuant to Article 21.12.

2. If the disputing Parties request, the panel may make recommendations for resolution of the dispute. For any dispute arising under Chapter 17, the panel shall issue a detailed action plan, with concrete short, medium and long-term goals, as appropriate, and explicit deadlines by which the Party shall achieve each goal. [fn] The panel shall also issue recommendations and goals to the non-state actors involved, directly or indirectly, in the Party's non-conformity with Chapter 17.

3. Unless the disputing Parties otherwise agree, the panel shall, within 120 days after the last panelist is selected, present to the disputing Parties an initial report containing:

(a) findings of fact, including any findings pursuant to a request under Article 21.10.6;

(b) its determination as to whether a disputing Party has not conformed with its obligations under this Agreement or that a Party's measure is causing nullification or impairment in the sense of Article 21.2, or any other determination requested in the terms of reference; and

(c) its recommendations, if the disputing Parties have requested them, and action plan in disputes arising out of Chapter 17, for resolution of the dispute.

4. Panelists may furnish separate opinions on matters not unanimously agreed.

5. A disputing Party may submit written comments or requests for clarifications to the panel on its initial report within 14 days of presentation of the report or within such other period as the disputing Parties may agree.

6. After considering written comments or requests for clarifications on the initial report, the panel shall reply to such requests and to the extent it considers appropriate, make further examinations and reconsider its report.

[fn] A short-term goal must be met within 90 days; a medium-term goal within 180 days and a long-term goal within one year.

Article 21.14: No Change to U.S.-Peru FTA Text

Article 21.15: Implementation of Final Report

1. On receipt of the final report of a panel, the disputing Parties shall agree on the resolution of the dispute, which normally shall conform with the determinations and recommendations, if any, or action plan, of the panel.

2. If, in its final report, the panel determines that a disputing Party has not conformed with its obligations under this Agreement or that a disputing Party's measure is causing nullification or impairment in the sense of Article 21.2, the resolution, whenever possible, shall be to eliminate the non-conformity or the nullification or impairment.

Article 21.16: Non-Implementation − Suspension of Benefits

We propose adding a separate text to 21.16, namely 21.16A, which addresses labour matters.

Article 21.16A: Non-Implementation − Suspension of Benefits (Labour)

1. If a panel has made a determination of the type described in Article 21.15.2, and the disputing Parties are unable to reach agreement on a resolution pursuant to Article 21.15 within 45 days of receiving the final report, or the complaining Party considers that the Party complained against has failed to observe the terms of the action plan, the complaining Party shall, within 30 days of date by which the terms of the action plan should have been implemented, provide written notice to the Party complained against that it intends to suspend the application to the Party complained against of benefits. The notice shall specify the level of benefits that the Party proposes to suspend. [fn] Subject to paragraph 4, the complaining Party may begin suspending benefits 30 days after the later of the date on which it provides notice under this paragraph or the panel issues its determination under paragraph 2, as the case may be.

2. If the Party complained against considers that:

(a) the level of benefits proposed to be suspended is manifestly excessive; or

(b) it has complied with the terms of the action plan, it may, within 30 days after the complaining Party provides notice under paragraph 1, request that the panel be reconvened to consider the matter. The Party complained against shall deliver its request in writing to the complaining Party. The panel shall

reconvene as soon as possible after delivery of the request and shall present its determination to the disputing Parties within 90 days after it reconvenes to review a request under subparagraph (a) or (b), or within 120 days for a request under subparagraphs (a) and (b). If the panel determines that the level of benefits proposed to be suspended is manifestly excessive, it shall determine the level of benefits.

3. The complaining Party may suspend benefits up to the level the panel has determined under paragraph 2 or, if the panel has not determined the level, the level the complaining Party has proposed to suspend under paragraph 1, unless the panel has determined that the Party complained against implemented the terms of the action plan.

4. In considering what benefits to suspend pursuant to paragraph 1:

(a) the complaining Party should first seek to suspend benefits in the same sector or sectors as that affected by the measure or other matter that the panel has found to be inconsistent with the obligations of this Agreement or to have caused nullification or impairment in the sense of Article 21.2; [fn2] and

(b) if the complaining Party considers that it is not practicable or effective to suspend benefits in the same sector or sectors, it may suspend benefits in other sectors.

5. The amount of benefits suspended shall be increased by 50% each year that the Party complained against fails to implement the action plan.

[Fn] If the panel determined that the Party complained against violated Chapter 17, the Party shall impose a suspension of benefits of at least X% of the trade between the complaining and the complained against Parties.

[Fn2] If and where possible, the benefits should be suspended first as to those specific non-state actors identified in the panel report.

Article 21.17-18: No change to U.S.-Peru FTA

LABOUR SECRETARIAT

An international, independent institution that addresses labour relations among the Parties makes much sense in a regional context. The concept of a labour commission, restructured and reformed to address the many lessons learned from the NAALC experience, would be valuable, especially as the proposed TPPTA membership potentially expands to an APEC-wide agreement. A potential TPP institution would be a TPP labour secretariat. The purpose of such a secretariat would be to act both as a forum for the social partners to address international labour issues, and to provide research on, for example, labour law and labour inspection, labour market trends in and among countries, labour migration, industry studies and the like. The secretariat could also be entrusted with providing regular, independent reports on compliance with the labour clause of the TPPTA, which should be regularly reviewed and acted upon by the labour council. An advisory council made of up government, labour and business would also help to shape and guide the institution. The director and staff should be hired on the basis of merit, not by political appointment, as international civil servants. Funding to establish and sustain the secretariat would come from each of the Parties, with each contributing a share to the annual budget based on economic size. A budget formula should be established in the agreement, allowing the secretariat to expand as needed as additional countries enter the TPP.

The following text should be included as an Annex to the Labour Chapter, or as a stand-alone chapter. The purpose is to creates a structure for international labour dialogue across multi-national enterprises operating in the TPPTA area.

TRANS-PACIFIC ENTERPRISES

Article 1: Objective

To provide unions the right to information and consultation in Trans-Pacific Enterprises, unions may request the establishment of a council in any Trans-Pacific Enterprise.

Article 2: Trans-Pacific Enterprise

A Trans-Pacific Enterprise is any domestic or foreign corporation, partnership or other unincorporated association with at least 500 employees incorporated and/or doing business in the territory of two or more Parties. The term "corporation" shall mean the parent corporation and any and all subsidiaries and departments. There must be at least 100 employees in the territory of at least two Parties. The thresholds for the size of the workforce shall be based on the average number of employees, including part-time employees, employed during the previous two years.

Article 3: Responsibility for the establishment of a Trans-Pacific Enterprise Council

1. The central management of a Trans-Pacific Enterprise shall be responsible for creating the conditions and means necessary for the establishment of a council.
2. Where the central management is not situated in a Party, the central management's representative agent in a Party, to be designated if necessary, shall take on the responsibility referred to in paragraph 1. In the absence of such a representative, the management of the establishment or group undertaking employing the greatest number of employees in any one Party shall take on the responsibility.

Article 4: Negotiating body

1. The central management shall initiate negotiations for the establishment of a council at the written request of unions in at least two undertakings or establishments in at least two different Parties.

2. A negotiating body shall be established in accordance with the following guidelines:

> (a) The Parties shall determine the method to be used for the election or appointment of the members of the special negotiating body who are to be elected or appointed in their territories. Parties shall provide that employees in enterprises in which there are no employees' representatives, have the right to elect or appoint members of the special negotiating body.
>
> (b) The negotiating body shall have a minimum of three and a maximum of 12 members.

(c) The central management and local management shall be informed of the composition of the negotiating body.

3. The negotiating body shall negotiate, with the central management, the scope, composition, functions, and term of office of the council or the arrangements for implementing a procedure for the information and consultation of employees.

4. The central management shall convene a meeting with the negotiating body. It shall inform the local managements accordingly.

Article 6: Content of the agreement

1. The central management and the negotiating body must negotiate with a view to reaching an agreement on the detailed arrangements for implementing the consultation of the unions provided for in Article 1.

2. The agreement referred to in paragraph 1 between the central management and the negotiating body shall determine:

(a) the enterprises that are covered by the agreement;

(b) the composition of the council, the number of members, the allocation of seats and the term of office;

(c) the functions and the procedure for information and consultation of the council;

(d) the venue, frequency and duration of meetings of the council;

(e) the financial and material resources to be allocated to the council;

(f) the duration of the agreement and the procedure for its renegotiation.

3. For the purposes of concluding the agreements, the negotiating body shall act by a majority of its members.

4. Central management and the negotiating body shall reach an agreement in no more than one year.

Article 7: Protection of Employees

Protection of employees' representatives of negotiating bodies, members of councils and employees' representatives exercising their functions under this Part shall, in the exercise of their functions, enjoy the same protection and guarantees provided for employees' representatives by the national legislation and/or practice in force in their country of employment.

Article 8: Compliance

Each Party shall ensure that management of enterprises which are situated within its territory and their employees' representatives or, as the case may be, employees abide by the obligations laid down in this part, regardless of whether or not the central management is situated within its territory. Failure to comply may be enforced using the procedures set forth in this chapter.

ANNEX 1

PROTECTIONS FOR WORKERS RECRUITED ABROAD

(a) Basic Requirements-

Each Party shall ensure that its laws and regulations provide at least the following:

(1) Each employer and foreign labour contractor who engages in foreign labour contracting activity shall ascertain and disclose to each such worker who is recruited for employment the following information at the time of the worker's recruitment:

(A) The place of employment.
(B) The compensation for the employment.
(C) A description of employment activities.
(D) The period of employment.
(E) The transportation, housing, and any other employee benefit to be provided and any costs to be charged for each benefit.
(F) The existence of any labour organizing effort, strike, lockout, or other labour dispute at the place of employment, as well as the name and contact information of each union or unions.
(G) The existence of any arrangements with any owner or agent of any establishment in the area of employment under which the contractor or employer is to receive a commission or any other benefit resulting from any sales (including the provision of services) by such establishment to the workers.
(H) The extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including work related injuries and death, during the period of employment and, if so, the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.
(I) Any education or training to be provided or made available, including the nature and cost of such training, who will pay such costs, and whether the training is a condition of employment, continued employment, or future employment.
(J) A statement, approved by the ministry of labour, describing the protections enumerated in this Annex for workers recruited abroad.

(2) No foreign labour contractor or employer shall knowingly provide false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

(3) The information required to be disclosed by paragraph (1) to workers shall be provided in written form. Such information shall be provided in the language(s) of the Party and in the language of the worker being recruited.

(4) No fees may be charged to a worker for recruitment.

(5) No employer or foreign labour contractor shall, without justification, violate the terms of any working arrangement made by that contractor or employer.

(6) The employer shall pay the transportation costs, including subsistence costs during the period of travel, for the worker from the place of recruitment to the place of employment and from the place of employment to such worker's place of permanent residence.

(7) It shall be unlawful for an employer or a foreign labour contractor to fail or refuse to hire or to discharge any individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because such individual's race, color, creed, sex, national origin, religion, age, union membership or disability. For greater certainty, this clause shall not diminish the rights of any individual under the applicable law of any Party.

(b) Other Worker Protections-

Each Party shall also provide that:

(1) Each employer shall notify the labour ministry of the identity of any foreign labour contractor involved in any foreign labour contractor activity for or on behalf of the employer. The employer shall be subject to civil remedies for violations committed by such foreign labour contractor to the same extent as if the employer had committed the violation. The employer shall notify the labour ministry of the identity of such a foreign labour contractor whose activities do not comply.

(2) The labour ministry shall maintain a list of all foreign labour contractors whom they know or believe have been involved in violations of this Annex, and make that list publicly available. The labour authorities shall provide a procedure by which an employer, a foreign labour contractor, or someone acting on behalf of such contractor may seek to have a foreign labour contractor's name removed from such list by demonstrating to the authority's satisfaction that the foreign labour contractor has not violated this Act in the previous five years.

(3) No foreign labour contractor shall violate, without justification, the terms of any written agreements made with an employer pertaining to any contracting activity or worker protection enumerated in this Annex.

(c) Discrimination Prohibited Against Workers Seeking Relief

The Parties shall provide that no person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding in a national tribunal related to the rights stated in this Annex, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by means of this Annex.

(d) Sanctions – The Parties shall provide that anyone who knowingly violates laws adopted pursuant to this Annex shall be subject to fines or imprisoned or both.

ANNEX 2

The guidelines referred to in Article 17.7.2(b) should include at minimum the following elements:

1. The contact points shall accept a submission for review if: (a) The submission raises issues relevant to any matter arising under a labour chapter; (b) the submission clearly identifies the person filing the submission, is signed and dated, and is sufficiently specific to determine the nature of the request and permit an appropriate review; *and* (c) the statements contained in the submission, if substantiated, would constitute a failure of the other Party to comply with its obligations or commitments under a labour chapter.

2. The contact point shall have 30 days from receipt of the submission to determine whether to accept or reject the submission. If the contact point accepts the communication for review, it shall promptly provide written notice to the submitter, the Party complained against, and the public. The statement must specify why review is warranted and the terms of the review. If the contact point declines to accept a submission for review, it shall promptly notify the submitter in writing, clearly stating the reasons for the rejection and describing any deficiencies in the submission. Further, it shall give the submitter 30 days from the issuance of such written notice to remedy any defects. If the submitter does attempt to remedy said deficiencies, the contact point shall make a determination on the revised submission within 30 days, and provide a final determination and the reasons therefore in writing.

3. The contact point shall conduct an investigation of an accepted submission, which shall include site visits, interviews with workers, employers and government representatives, a public hearing on the submission during which the submitters, workers or their representatives, relevant witnesses, employers and the government and interested Parties may provide testimony and a process to receive written testimony throughout the investigation.

4. The contact point shall issue a final report no later than 180 days from the acceptance of the submission. The report shall make findings and recommendations that shall serve as the basis for cooperative labour consultations with the Party complained against.

ANNEX 3: Labour Cooperation and Capacity Building Mechanism

1. Coordination and Oversight

The Council shall oversee the implementation of the Mechanism and, through each Party's contact point designated pursuant to Article 1.5.5, coordinate its activities.

2. Cooperation and Capacity Building Priorities

The Parties' contact points shall carry out the work of the Mechanism by developing and pursuing bilateral or regional cooperation activities on labour issues, which may include, but need not be limited to:

(a) *fundamental rights at work and their effective application*: cooperation on law and practice related to implementation and public awareness of the principles and rights contained in the ILO Declaration:

i. freedom of association and the effective recognition of the right to collective bargaining,
ii. elimination of all forms of forced or compulsory labour,
iii. a prohibition on the employment of children under the legal age and the effective abolition of child labour, and
iv. the elimination of discrimination in respect of employment and occupation;

(b) *worst forms of child labour*: programs or other cooperation to promote compliance with ILO Convention 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;
(c) *labour administration*: activities aimed at strengthening the institutional capacity of labour administrations and labour tribunals, especially professionalization of personnel and training, including with respect to technological skills;
(d) *labour inspectorates*: activities to improve labour law enforcement and compliance, including training and initiatives to strengthen and improve the efficiency of labour inspection systems;
(e) *alternative dispute resolution*: initiatives aimed at establishing and strengthening alternative dispute resolution mechanisms for labour disputes; 1-9
(f) *labour relations*: forms of cooperation to improve social dialogue among workers, employers, and governments, ensure productive labour relations, and contribute to efficiency and productivity in the workplace;
(g) *occupational safety and health*: forms of cooperation to improve preventive measures and reduce hazardous conditions in the workplace and measures to promote best practices and compliance with statutes and regulations;
(h) *working conditions*: forms of cooperation to increase public awareness and develop innovative methods for supervising compliance with statutes and regulations pertaining to hours of work, minimum wages, and overtime, and other conditions of work;
(i) *migrant workers*: mechanisms and best practices to protect and promote the rights and welfare of migrant workers of the Parties, including joint efforts with relevant organizations and dissemination of information regarding labour rights of migrant workers in each Party's territory;

(j) *social assistance and training*: programs for social assistance, skills development, training, and worker adjustment, as well as other relevant programs;
(k) *technology and information exchange*: programs to exchange information and share experiences on methods to improve productivity, on the promotion of best labour practices, and on the effective use of technologies, including those that are Internet-based;
(l) *labour statistics:* development of methods for the Parties to generate comparable labour market statistics in a timely manner, including improvement of data collection systems;
(m) *employment opportunities*: development of programs to promote new employment opportunities and workforce modernization, including employment services;
(n) *gender*: development of programs on gender issues, including the elimination of discrimination in respect of employment and occupation;
(o) *best labour practices*: dissemination of information and promotion of best labour practices, including corporate social responsibility, that enhance competitiveness and worker welfare; and
(p) *issues related to small, medium, and micro-enterprises, and artisans*: promotion of fundamental rights at work, improvement of working conditions, competitiveness, and productivity levels, and public awareness of relevant laws.

3. Implementation of Cooperative Activities

The Parties shall use any means they deem appropriate to carry out activities pursued under paragraph 2, including:

(a) technical assistance programs, including by providing human, technical, and material resources, as appropriate;
(b) exchange of official delegations, professionals, and specialists, including through study visits and other technical exchanges;
(c) exchange of information on standards, regulations, procedures, and best practices;
(d) exchange or development of pertinent studies, publications, and monographs;
(e) joint conferences, seminars, workshops, meetings, training sessions, and outreach and education programs;
(f) development of joint research projects, studies, and reports, whereby expertise from independent specialists may be solicited;
(g) exchanges on technical labour matters, including through the use of expertise from academic institutions and other similar entities; and
(h) exchanges on technology issues, including information systems.

4. Public Participation

In identifying areas for labour cooperation and capacity building and in carrying out cooperative activities, each Party shall consider the views of its worker and employer representatives, as well as the views of other members of the public.