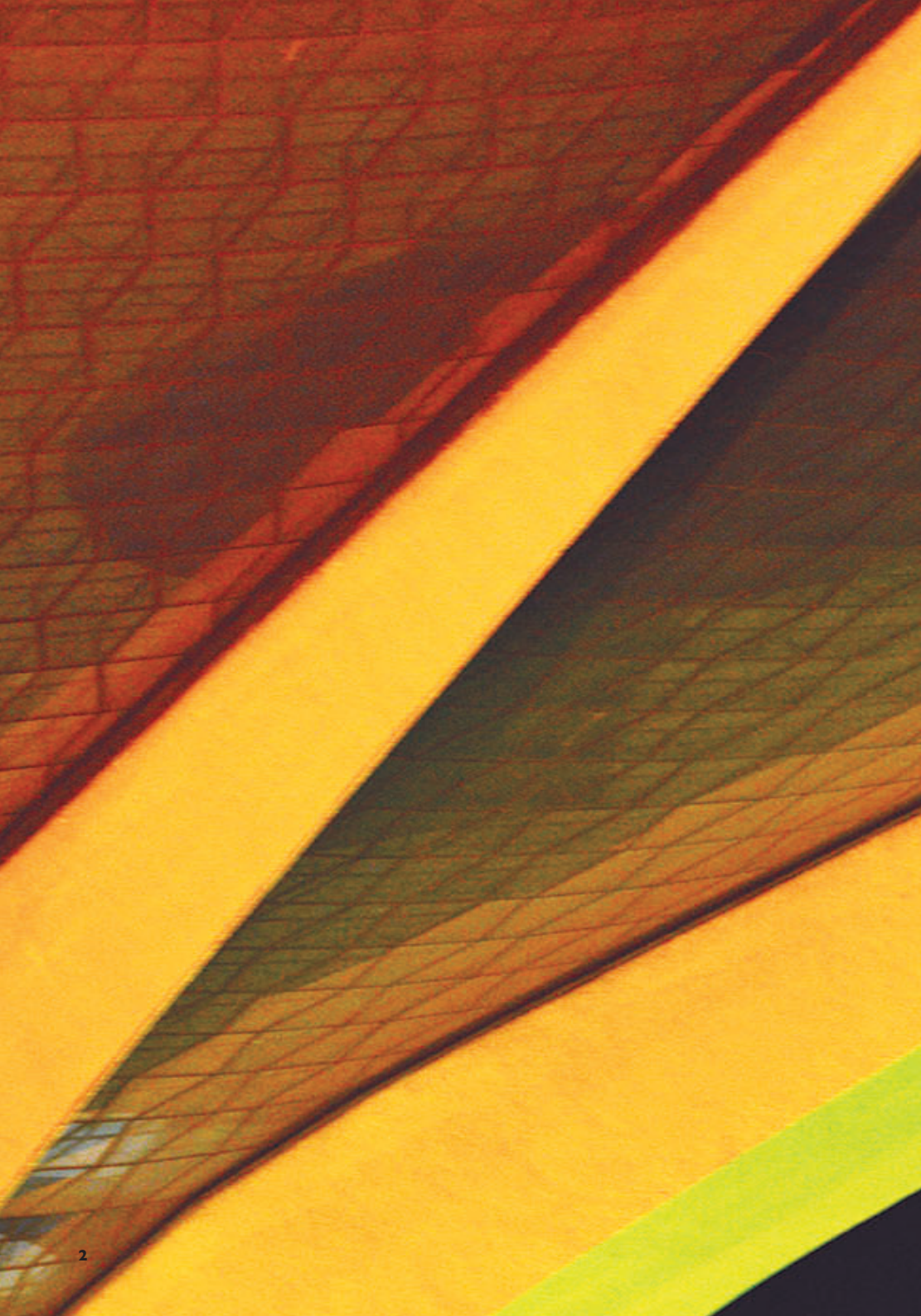


SOCIAL AND LABOR DECLARATION OF THE MERCOSUR



MERCOSUR



Updated by
Secretary of the **MERCOSUR**

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SOCIAL AND LABOR DECLARATION OF THE MERCOSUR 2015

The presidents of the States Parties to the Southern Common Market
(MERCOSUR)

PREAMBLE

Declaration, States Parties proceeded to the revision of the Declaration signed on 10th December, 1998.

Whereas the States Parties recognize, in accordance with the terms of the Treaty of Asuncion (1991), that integration is a fundamental condition for economic development with social justice;

Whereas the States Parties also recognize that achieving social justice undoubtedly requires policies that prioritize employment as the center of development and quality work;

Whereas the States Parties agree that the full observance of democratic values is only possible in a highly participatory and inclusive society, in the political, economic, social and cultural fields, the construction of which necessarily requires the commitment of all sectors for a model of development that is equitable and committed to job creation as a crucial factor to fight poverty and strengthen democratic governance;

Whereas the States Parties repeatedly in all their international political expressions have shown this coincidence, as it arises from the Declaration of the Ministers of Labor of MERCOSUR at the Regional Conference on Employment of MERCOSUR on the year 2004; of the IV Summit of the Americas that established the guidelines for a model of sustainable and inclusive development in the region, or in adhering to ILO's Global Jobs Pact;

Whereas the States Parties agree with the principles and values of ILO's Declaration of Philadelphia (1944), in particular, that all human beings, irrespective of race, creed or sex, have the right to pursue their material well-being with freedom and dignity, economic security and equal opportunities, and that to achieve these conditions should be the goal of the countries' national and international policy;

Whereas the States Parties adopt the principles of political democracy and the rule of law, and full respect for civil and political rights of the human person which are the inalienable bases of the integration process;

Whereas the States Parties also supported ILO's Declaration on Fundamental Principles and Rights at Work (1998), which reaffirms the commitment to promote and respect it;

Whereas the States Parties are committed to the declarations, agreements, protocols and other treaties that form the legal heritage of humanity, including the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the American Declaration of the Rights and Duties of Man (1948), the Inter-American Charter of Social Guarantees (1947) and the Charter of the Organization of American States (1948);

Whereas various international forums, including the Copenhagen Summit (1995), have emphasized the need to establish mechanisms for monitoring and evaluating the social components of economy's globalization in order to ensure harmony between economic progress and social welfare;

Whereas the decision of the States Parties to consolidate in one common instrument the progress already achieved in the social dimension in the integration process, and to ensure future and continued progress in the social field, particularly through the ratification and implementation of the major ILO agreements;

Whereas the resolution on the promotion of sustainable enterprises (ILO, 2007) acknowledges that sustainable enterprises are the main source of growth, and creation of wealth and employment, and that the promotion of such enterprises is an important tool for achieving decent work, sustainable development and innovation that improves living standards and social conditions;

They adopt the following rights and principles in the area of labor, which constitute the MERCOSUR Social and Labor Declaration, without prejudice to any others that national or international practice of the States Parties may have established or will establish:

CHAPTER I GENERAL PRINCIPLES

SECTION I Definitions

For the purposes of this instrument, the terms "worker" and "workers" include "working man and woman" and "working men and women", and the terms "employer" and "employers" include "male and female employer" and "male and female employers".

SECTION 2 Decent job

1. States Parties agree to:

- a) formulate and implement active policies of decent work and full productive employment in consultation with the most representative organizations of employers and workers, articulated with economic and social policies so as to promote the generation of employment opportunities and income;
- b) raise the living conditions of citizens;
- c) promote sustainable development in the region.

2. In the formulation of the active policies of decent work, States Parties must bear in mind:

- a) the creation of productive employment in an institutional, social and economically sustainable environment;
- b) the development of measures for social protection;
- c) the promotion of social dialogue and tripartism; and
- d) respect, dissemination and application of fundamental rights and principles of work.

SECTION 3 Sustainable enterprises

States Parties agree to:

- a) promote sustainable development in the region;
- b) stimulate the creation and development of sustainable enterprises;
- c) promote the growth of domestic and regional markets, and strengthen the competitiveness of sustainable enterprises for access to international markets;
- d) promote the strengthening of regional production chains to achieve higher added value, identifying investment and integrating them into production;
- e) promote an environment which encourages the creation, growth and transformation of enterprises on a sustainable base that combines the legitimate search for growth with the need for development that respects human dignity, environmental sustainability and decent work;
- f) promote the basic conditions for the development of sustainable enterprises, encompassing all the factors set out in ILO's resolution on the promotion of sustainable enterprises (2007).

**CHAPTER II
INDIVIDUAL RIGHTS**

**SECTION 4
Non-discrimination**

1. States Parties agree to ensure, in accordance with current legislation and national practices, effective equal rights, treatment and opportunities in employment and occupation, without discrimination or exclusion based on sex, ethnicity, race, color, national extraction, nationality, sexual orientation, gender identity, age, creed, opinion and political and union activity, ideology, economic status or any other social, family or personal condition.
2. Every worker shall receive equal pay for work of equal value, in accordance with the laws in force in each State Party.
3. States Parties commit to ensure the observance of the principle of non-discrimination. In particular, they commit to undertake actions to eliminate discrimination with regard to disadvantaged groups in the labor market.

**SECTION 5
Equal opportunities and treatment between women and men**

States Parties agree, in accordance with national laws and practices, to promote public policies for equal opportunities and treatment between women and men at work, particularly as regards to access to employment or productive activities, and non-discrimination in access to important positions in companies and public institutions, remuneration, working conditions, social protection, education, professional qualification and reconciliation of work and family obligations, and the exercise of the right to union organization and collective bargaining .

**SECTION 6
Equal opportunities and treatment for disabled workers**

1. Persons with disabilities shall be treated in a decent and non-discriminatory manner, favoring their social and professional integration.

2. States Parties agree to adopt and articulate effective measures, especially as regards education, qualification, retraining and professional guidance, accessibility and perception of collective goods and services, to ensure that people with disabilities have the possibility to carry out a productive activity in decent working conditions.

**SECTION 7
Migrants and border workers**

1. All workers, regardless of their nationality, have the right to assistance, information, protection and equal rights and working conditions, as well as the right to access public services granted to nationals of the country where they are carrying out their activities, in accordance with the laws of each country.
2. States Parties shall take into account the rights set forth in the Agreement on Residence for Nationals of MERCOSUR States Parties, Bolivia and Chile, and other supplementary instruments that may be signed, of which they are parties.
3. States Parties agree to adopt and coordinate measures aimed at establishing common rules and procedures relating to the movement of workers in the border areas and to carry out the necessary actions to improve employment opportunities and working and life conditions of these workers, under the terms of specific agreements for this population on the basis of the rights recognized in the residence and immigration agreements currently in force.
4. States Parties also agree to develop coordinated actions in the field of legislation, labor policies, migration institutions and other related areas, with a view to promoting the free movement of workers and the integration of labor markets in a compatible and harmonious manner with the process of regional integration.

**SECTION 8
Elimination of forced or compulsory labor**

1. Every person has the right to a freely-chosen job, and to exercise any trade or profession, in accordance with national regulations currently in force.

2. States Parties agree to adopt the necessary measures to eliminate all forms of forced or compulsory labor exacted from any person under threat of punishment and to which one did not offer spontaneously.

3. States Parties also agree to adopt measures to ensure the abolition of any use of labor that encourages, authorizes or tolerates forced or compulsory labor.

4. States Parties specially agree to suppress all forms of forced, compulsory or degrading labor that can be used:

- a) as a means of political coercion or education, or as a punishment for the worker not having or expressing certain political views, or for expressing an ideological opposition to the political, social or economic established order;
- b) as a method of mobilizing and using labor for purposes of economic development;
- c) as a measure of labor discipline;
- d) as a punishment to workers for having participated in union activities or strikes;
- e) as a measure of racial, social, national, religious or other kind of discrimination.

SECTION 9

Prevention and eradication of child labor and protection for young workers

1. The minimum age for admission to employment shall be that established by national legislations of the States Parties, and cannot be lower than that of completion of compulsory schooling.

2. States Parties agree to adopt policies and actions that lead to the prevention and eradication of child labor, and the progressive raising of the minimum age for developing work activity.

3. The work of adolescents shall receive special protection by the States Parties, especially with regard to minimum age for admission to employment or work, and other measures that enable their full physical, intellectual, professional and moral development.

4. The working day of adolescents, limited in accordance with national

legislations of the States Parties, shall not admit to be extended by doing overtime, and under no circumstances shall allow them to be carried out at night time.

5. States Parties shall take all necessary measures to prevent adolescents from performing work which, by its nature or circumstances, is likely to harm health, safety or morals.

6. The age of admission to a job with any of the aforementioned features may not be less than 18 years.

**SECTION 10
Rights of employers**

Employers, in accordance with national legislation currently in force in each State Party, have the right to create, organize and run the company economically and technically.

**SECTION 11
Working day**

Every worker has the right to have a working day no longer than eight hours per day, under the national legislation in force in the States Parties and the provisions of the agreement or collective bargaining agreement, without prejudice to the specific provisions for the protection of hazardous, unhealthy or night jobs.

**SECTION 12
Breaks, leave, and holidays**

1. Every worker is entitled to daily breaks, within and between working days, in accordance with the laws in force in the States Parties.

2. Workers, according to their type of contract, are entitled to a weekly day of paid rest, preferably on Sundays, in accordance with the laws in force in the States Parties.

3. Every worker has the right to enjoy paid annual leave, in accordance with the laws in force in the States Parties.

4. Every worker has the right to the set holidays, in accordance with the laws in force in the States Parties.

5. States Parties agree to adopt the necessary measures to ensure the workers' effective enjoyment of these rights.

**SECTION 13
Leave**

1. All workers are entitled to paid and unpaid leave, in accordance with the legislation in force in each State Party and the collective work agreements.

2. States Parties agree to adopt and articulate the necessary measures to ensure the effective enjoyment of this right by workers.

**SECTION 14
Remuneration**

1. Every worker is entitled to a minimum wage in accordance with the legislation in force in each State Party, sufficient to meet the worker's needs and those of his/her family.

2. States Parties agree to adopt the necessary measures to ensure the workers' effective enjoyment of these rights.

**SECTION 15
Protection against dismissal**

1. Every worker has the right to an adequate protection in case of dismissal, in accordance with the legislation in force in each State Party.

2. States Parties shall ensure provisions in their legislation which take into account this right.

**CHAPTER III
COLLECTIVE RIGHTS**

**SECTION 16
Freedom of association**

1. All employers and workers have the right to establish the organizations they consider appropriate as well as to join these organizations, in accordance with national legislation.

2. States Parties agree to ensure, through legal provisions, the right to free association, refraining from any interference in the creation and management of the established organizations, and to recognize their legitimacy in representing and defending the interests of their constituents.

3. Workers shall have adequate protection against all acts of discrimination aimed at undermining freedom of association in relation to their employment.

4. States Parties shall ensure the following to workers:

- a) freedom of association, non-affiliation and disaffiliation, this fact not compromising their admission to employment, continuity or the opportunity of a promotion;
- b) protection against dismissal or damages the cause of which is the membership to a union or the participation in union activities;
- c) the right to be represented in unions, according to the legislation, agreements and collective bargaining agreements in force in the States Parties.

5. States Parties agree to make efforts to ensure the right to the creation and management of workers' and employers' organizations, and to recognize the legitimacy in the representation and defense of their constituents in all areas.

**SECTION 17
Collective bargaining**

1. Employers or the organizations that represent them, even those in the public sector; organizations that represent workers, even those in the public sector; have a right to negotiate and execute collective agreements to regulate

the work conditions, in accordance with the national legislation and practices of the States Parties.

2. The States Parties agree to provide mechanisms to encourage collective negotiation in its different areas.

SECTION 18
Strike

1. Workers and unions are guaranteed the exercise of the right to strike, according to the national regulations currently in force in each State Party.

2. The mechanisms of conflict prevention or solution or the regulation of this right cannot prevent its exercise or distort its purpose.

SECTION 19
Promotion and development of preventive procedures and self-resolution of conflicts

The States Parties agree to promote and develop the creation of valid self-resolution mechanisms for individual and collective work conflicts through independent, impartial and voluntary procedures, with the purpose of improving the organization's atmosphere and harmony in the work environment, to lower costs and duration of the conflict.

SECTION 20
Social dialogue

1. The States Parties agree to promote social dialogue at a national and regional level, establishing effective mechanisms of permanent consultation between the representatives of the governments, the employers and the workers, in order to guarantee, through social consensus, favorable conditions for the sustainable economic growth with social justice in the region and for the improvement of the life conditions of its peoples.

2. Permanent consultation, practiced on the effective basis of the tripartism established in ILO's Agreement 144, should allow for joint examination on matters of mutual interest, in order to reach, as far as possible, mutual agreement solutions.

3. The consultation has as main purpose to encourage mutual understanding and a good relationship between public authorities and the organizations that most represent employers and workers as well as between organizations themselves, with the purpose of fostering social dialogue and the possibility of creating framework work agreements as essential elements to consolidate a democratic, plural and just society.

CHAPTER IV OTHER RIGHTS

SECTION 21

Centrality of employment in public policies

The States Parties reaffirm the centrality of employment in the public policies in order to reach the sustainable development of the region.

SECTION 22

Employment promotion

The States Parties agree to promote and coordinate economic development, the expansion of the internal and regional markets, and to put in practice active policies regarding the promotion and creation of employment in order to raise the standard of living and mend the social and regional unbalances.

SECTION 23

Protection of the unemployed

The States Parties agree to establish, maintain and improve mechanisms or systems of protection against unemployment, compatible with the legislation and internal conditions of each country affected by involuntary unemployment, and at the same time to facilitate access of workers to relocation services and professional retraining to make their return to an employment or productive activity easier in order to guarantee social inclusion.

SECTION 24

Professional training for employed and unemployed workers

1. All workers have a right to professional education, counseling, training and qualification in a systematic and continuous way, throughout their working life.
2. The States Parties agree to establish, together with the entities involved that volunteer to, continuous and permanent professional training,

qualification and counseling services and programs in order to allow workers to obtain the qualifications required to perform a productive activity, perfect, recycle and update knowledge and skills, fundamentally considering the resulting changes of technical progress.

3. The States Parties agree to implement Public Services of Employment setting up employment offices in their territories, and will adopt measures with the aim at promoting the interaction between the professional counseling and training programs and services, the work mediation activities, the protection of unemployed people and other components of the public system of employment, in order to improve access of workers to jobs.

4. Furthermore, the States Parties agree to guarantee effective information on job markets and its dissemination both on a national and regional level.

SECTION 25

Work health and safety

1. The States Parties, consulting the organizations most representative of employers and workers, shall create, plan, implement, control and assess regularly, a national work health and safety system, which guarantees the continuous improvement of work conditions and environment.

2. Government institutions responsible for the health and safety system in the country shall create permanent consultation channels for the employers and workers' representatives that will allow their effective involvement in the making and implementation of national policies for work conditions and environment.

3. The health and safety system shall have compulsory notification mechanisms for work accidents and illnesses that will allow the making of annual statistics on the matter, which will be available for the interested public.

4. The States Parties shall establish, support and strengthen the work inspection services, providing them with the necessary material and legal resources to enable an effective performance in the control of the work conditions and environment for an appropriate protection of the workers' physical and psychic health.

5. The work health and safety system shall include access to counseling, education, training and information on work health and safety, available to workers, employers and specialists in the area.

6. The work health and safety system shall include the involvement of workers and employers within the companies, in order to prevent accidents and illnesses originated at work, as to make work constantly compatible with the preservation of life and the promotion of workers' health.

7. National legislation and practices shall guarantee the making, use, paid or free assignment of machinery, equipment and technology is safe.

8. The adoption of protection measures against occupational risks and the work health and safety system shall create conditions that benefit collective actions. When collective measures are not enough to control risks, or while they are being implemented or in emergency situations, companies shall provide workers, without cost, with individual protective equipment appropriate for the risks, in perfect working condition, and instruct them on their use.

9. The health and safety system shall create appropriate controls for substances, procedures and technologies that, based on scientific evidence, may have serious effects on the health of workers.

10. National legislations shall plan for the foreign companies settled in MERCOSUR countries to comply with the same health and safety conditions as the MERCOSUR companies. The States Parties shall encourage that when these companies have higher standards in their headquarters or subsidiaries, those are applied to the MERCOSUR countries.

11. National legislation and practices shall guarantee workers are able to refuse to carry out their work activities if there are serious and imminent risk conditions, without being harmed by the said refusal, in accordance to the national legislations and uses.

12. The States Parties shall recognize workers' right to information on the permanent risks on the various work processes and the measures adopted to control or eliminate them.

13. National legislations and practices shall plan for competent work health and safety services with the purpose to provide advice to employers and workers on the prevention of professional accidents and illnesses.

SECTION 26 Work inspection

The States Parties agree to establish and maintain work inspection services, with the purpose of ensuring, in their respective territories, the implementation of the legal and regulatory regulations, including ratified international conventions, collective work agreements and CMC decisions N°32/06 and 33/06 on the protection of workers and work conditions.

SECTION 27 Social security

1. Workers have the right to social security on the levels and conditions established in the corresponding national legislations, in accordance, in regards to workers of the States Parties, with the Multilateral Agreement on Social Security of the MERCOSUR.

2. The States Parties agree to guarantee, through connected and universal public policies, a minimum social protection network for their inhabitants, notwithstanding their nationality, in the face of adverse social contingencies, particularly those driven by illness, disability, old age and death.

CHAPTER V APPLICATION AND FOLLOW UP

SECTION 28 Social and Labor Commission of the MERCOSUR

1. The States Parties agree to respect the fundamental rights within this Declaration and to promote its implementation in accordance with the national legislation and practices, ratified international work conventions, and collective work agreements and the norms of MERCOSUR relevant to these fundamental rights.

2. To deal with these objectives, the States Parties support, as a member of this Declaration, the MERCOSUR Social and Labor Commission, auxiliary tripartite body within the Common Market Group, which shall have national and regional levels for promoting and following up on the application of this instrument.

3. The MERCOSUR Social and Labor Commission shall operate on the basis of consensus among the three sectors and have the following functions and responsibilities:

- a) to constantly define and develop methodologies aimed at promoting the dissemination, implementation and proper fulfillment of the Declaration, as well as assessing the socio-economic repercussions of the instrument;
- b) to examine, make observations on, and forward reports on topics previously defined in the regional scope of the Commission, prepared by the States Parties;
- c) to analyze the reports periodically submitted by the States Parties on the compliance of the rights and commitments within the Declaration;
- d) to make, based on the previously mentioned reports, analysis, diagnosis, reports and statements on the situation of the States Parties, individually or as a block, in regards to the rights and commitments stated in the Declaration;
- e) to draw-up plans, programs of action and recommendation projects for promoting the implementation of and compliance with the Declaration and submit them before the Common Market Group for approval or counseling to the relevant national and regional authorities and spheres. At a national

level, those programs, recommendations and actions on the compliance with the Declaration shall seek to become a part of all programs promoting fundamental work rights;

f) to examine comments, consultations, doubts, difficulties and errors submitted before organizations that represent workers, employers and governments, relating to the implementation of and compliance with the Declaration, and providing the necessary clarifications and guidance;

g) to make and receive proposals, agreements and commitments to submit before the Common Market Group with the aim of improving the implementation of the principles and rights of the Declaration;

h) to examine and submit proposals that modify the Declaration, and to forward them for action as appropriate.

4. The forms and mechanisms to forward the matters previously listed, as well as the interaction on national and regional instances of the MERCOSUR Social and Labor Commission shall be adopted by internal regulations of said instances as established in Section 34.

5. The examinations of the comments, consultations and doubts referred to in paragraphs c, d, f and g of item 2 shall tend to the following procedures:

- a) submission before the regional commission, which shall submit them for prior examinations before the national commission of the respective State Party;
- b) if there is no consensus on the national section of the Commission, the request shall be returned, instructed of the reasons stated by the sections present in the form of the Internal Regulations, for examination before the regional commission.

SECTION 29 Reports of States Parties

1. The States Parties shall prepare, through their Labor Ministries and in consultation with the most representative employers' and workers' organizations, annual reports about:

- a) information on the regulations currently in force and national practices regarding the implementation of the principles, rights and commitments stated in this Declaration;
- b) a reference to the policies, programs and actions carried out by the States Parties in order to comply with the rights and commitments of the Declaration;
- c) the analysis of the results of the implementation of the Declaration on the promotion of decent and productive work in the States Parties, particularly relating to the improvement of workers' work and life conditions;
- d) the account of the difficulties and obstacles faced when implementing the Declaration;
- e) a reference to the measures relating to the improvement of the Declaration and motivating its compliance.

2. The reports shall deal with one Chapter each year, as established on item 1 in its making and according to the standards of the Internal Regulations.

SECTION 30 Meetings

The MERCOSUR Social and Labor Commission shall meet regularly at least twice a year to analyze the reports made by the States Parties and prepare recommendation reports and projects to submit before the Common Market Group.

SECTION 31 Scope of application

- 1. This Declaration applies to all the inhabitants of the States Parties.
- 2. The States Parties agree to respect the rights within this Declaration and to promote their implementation in accordance with ratified international conventions, relevant MERCOSUR's normative acts, national legislation and other practices, and collective work agreements.

3. The States Parties highlight that this Declaration and its follow-up mechanism shall not be invoked or used for ends other than those established, particularly safeguarding its application to commercial, economic and financial matters.

4. Notwithstanding the previous subsection, all individuals and legal entities, in order to be part of the projects financed by MERCOSUR funds, shall comply with the content of the rights established in this Declaration, according to the criteria that is or shall be established in the regulations of the relevant funds.

SECTION 32 Review of SLD

The States Parties agree that this Declaration, considering the dynamic character of its content and the progress of the regional integration process, shall be reviewed six years after its approval, based on the experience gained over the course of its implementation or in the proposals and materials expressed by the Social and Labor Commission.

CHAPTER VI TEMPORARY REGULATIONS

SECTION 33 Funding


The States Parties agree to activate the necessary mechanisms in order to reach the funding for the functioning of the Social and Labor Commission.


SECTION 34 Internal Regulations


1. The MERCOSUR Social and Labor Commission shall adopt at national or regional instances, by consensus, its internal regulations, upon approval by the Common Market Group.

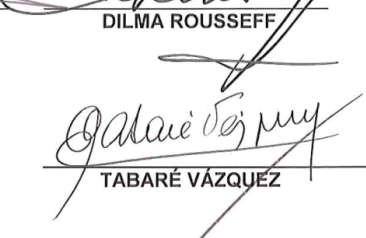
2. The adoption mentioned on item 1 of this section shall take place within one year; period extendable for another like period, from the date the review Declaration is signed.

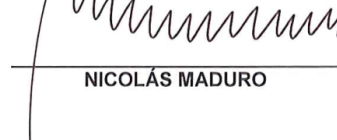
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