



US-KENYA STRATEGIC TRADE
AND INVESTMENTS PARTNERSHIP

LABOR

KEY ISSUES TO BE CONSIDERED

Prof. Uche Ewelukwa Ofodile

(SJD Harvard)

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1.0 Introduction

Worker rights provisions first appeared in U.S. FTAs in 1994 with the ratification of NAFTA.¹ Labor provisions have been incorporated in every FTA concluded by the U.S. since NAFTA. Indeed, since 1988, workers' rights have been included as a principle negotiating objective in Trade Promotion Authority legislation. The justification for including labor provisions in U.S. FTAs is "to help ensure that countries not derogate from labor laws to attract trade and investment and that liberalized trade does not give a competitive advantage to developing countries due to a lack of adequate standards."²

Under NAFTA, labor provisions were incorporated in a supplemental agreement known as "side" agreement. Over the years, labor provisions have moved from side agreements in FTAs to integral chapters within FTAs involving the U.S. the labor provisions in U.S. FTAs are becoming more detailed, are imposing more obligations on parties, and are having more teeth. Chapter 23 of the USMCA is dedicated to labor.

- ✓ Article 23.1: Definitions.
- ✓ Article 23.2: Statement of Shared Commitments.
- ✓ Article 23.3: Labor Rights.
- ✓ Article 23.4: Non-Derogation.
- ✓ Article 23.5: Enforcement of Labor Laws.
- ✓ Article 23.6: Forced or Compulsory Labor.
- ✓ Article 23.7: Violence Against Workers.
- ✓ Article 23.8: Migrant Workers.
- ✓ Article 23.9: Discrimination in the Workplace.
- ✓ Article 23.10: Public Awareness and Procedural Guarantees.
- ✓ Article 23.11: Public Submissions.
- ✓ Article 23.12: Cooperation.
- ✓ Article 23.13: Cooperative Labor Dialogue.
- ✓ Article 23.14: Labor Council.
- ✓ Article 23.15: Contact Points.
- ✓ Article 23.16: Public Engagement.
- ✓ Article 23.17: Labor Consultations.

USMCA and Labor: Obligations

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

¹ Cathleen D. Cimino-Isaacs and M. Angeles Villarreal, Worker Rights Provisions in Free Trade Agreements (FTAs), In Focus.

² The United States-Mexico-Canada Agreement (USMCA) Updated July 27, 2020.

<https://fas.org/sgp/crs/row/R44981.pdf> p. 32.

³ USMCA, Article 23.2.

Labor Rights

Pursuant to Article 23.3, each Party shall adopt and maintain in its statutes and regulations, and practices thereunder, a list of labor rights as stated in the ILO Declaration on Rights at Work. The listed labor rights are: (a) freedom of association⁶ and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labor; (c) the effective abolition of child labor and, for the purposes of this Agreement, a prohibition on the worst forms of child labor; and (d) the elimination of discrimination in respect of employment and occupation. Each Party is also 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.⁴

Non-Derogation

In Article 23.4 (Non-Derogation), the Parties recognize that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in each Party's labor laws. Accordingly, no Party shall waive or otherwise derogate from, or offer to waive or otherwise derogate from, its statutes or regulations: (a) implementing Article 23.3.1 (Labor Rights), if the waiver or derogation would be inconsistent with a right set out in that paragraph; or (b) implementing Article 23.3.1 or Article 23.3.2 (Labor Rights), if the waiver or derogation would weaken or reduce adherence to a right set out in Article 23.3.1 (Labor Rights), or to a condition of work referred to in Article 23.3.2 (Labor Rights), in a special trade or customs area, such as an export processing zone or foreign trade zone, in the Party's territory.

Enforcement

Article 23.5 (Enforcement of Labor Laws) addresses enforcement of USMCA's labor provisions. Pursuant to Article 23.5.1, "[n]o Party shall fail to effectively enforce its labor laws **through a sustained or recurring course of action or inaction** in a manner affecting trade or investment between the Parties."⁵ The USMCA specifies a range of actions that each Party must take with respect to their labor law. According to Article 23.5.2, each Party shall promote compliance with its labor laws through appropriate government action, such as by:

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

⁴ USMCA, Article 23.3.2.

⁵ Emphasis added.

Forced or compulsory Labor

Article 23.6.1 of the USMCA provides that the Parties recognize the goal of eliminating all forms of forced or compulsory labor, including forced or compulsory child labor. Accordingly, “each Party shall prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.” In Article 23.6.2, the Parties agree to establish cooperation for the identification and movement of goods produced by forced labor.

Violence Against Workers

Violence against workers is addressed in Article 23.7. of the USMCA. In general, the Parties recognize that workers and labor organizations must be able to exercise the rights set out in Article 23.3 (Labor Rights) in a climate that is free from violence, threats, and intimidation, and the imperative of governments to effectively address incidents of violence, threats, and intimidation against workers. Consequently, the Parties agree that “no Party shall fail to address violence or threats of violence against workers, directly related to exercising or attempting to exercise the rights set out in Article 23.3 (Labor Rights), in a manner affecting trade or investment between the Parties.”

Migrant Workers

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

Discrimination

USMCA Parties recognize the goal of eliminating discrimination in employment and occupation, and support the goal of promoting equality of women in the workplace. Accordingly, Article 23.9.1 provides that each Party shall implement policies that it considers appropriate to protect workers against employment discrimination on the basis of sex (including with regard to sexual harassment), pregnancy, sexual orientation, gender identity, and caregiving responsibilities; provide job protected leave for birth or adoption of a child and care of family members; and protect against wage discrimination.

Public Awareness. Access to Remedy

Pursuant to Article 23.10 of the USMCA (Public Awareness and Procedural Guarantees), each Party shall promote public awareness of its labor laws, including by ensuring that information related to its labor laws and enforcement and compliance procedures is publicly available. A unique provision in the USMCA requires each Party to provide access to remedy to persons with a recognized interest for the enforcement of its labor laws. Article 23.10.2 provides:

2. Each Party shall ensure that a person with a recognized interest under its law in a particular matter has appropriate access to tribunals for the enforcement of its labor laws. These tribunals may include administrative tribunals, quasi-judicial tribunals, judicial tribunals, or labor tribunals, as provided for in each Party’s law.
3. Each Party shall ensure that proceedings before these tribunals for the enforcement of its labor laws:
 - (a) are fair, equitable and transparent;

- (b) comply with due process of law;
- (c) do not entail unreasonable fees or time limits or unwarranted delay; and
- (d) that any hearings in these proceedings are open to the public, except where the administration of justice otherwise requires, and in accordance with its applicable laws.

....

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

More generally, under the USMCA’s environmental chapter, Each Party shall ensure that other types of proceedings within its labor bodies for the implementation of its labor laws: (a) are fair and equitable; (b) are conducted by officials who meet appropriate guarantees of impartiality; (c) do not entail unreasonable fees or time limits or unwarranted delay; and (d) document and communicate decisions to persons directly affected by these proceedings.

Public Submission

Each Party is required to provide for the receipt and consideration of written submissions from persons of a Party on matters related to the labor 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. Furthermore, each Party is required to: (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.

Cooperation

The USMCA mandates cooperation on labor issues. The Parties may, commensurate with the availability of resources, cooperate through inter alia: (a) exchanging of information and sharing of best practices on issues of common interest; (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.

USMCA and Labor: Dispute Settlement

Dispute settlement relating to environmental issues occurs in stages that include dialogue, the Labor Council, and the Rapid Response Labor Mechanism.

Dialogues

Pursuant to Article 23.13.1, a Party may request dialogue with another Party on any matter arising under the labor chapter at any time by delivering a written request to the contact point that the other Party has designated under Article 23.15 (Contact Points). Once a party requests a dialogue, such a dialogue is mandatory. “Unless the requesting and receiving Parties (the dialoguing Parties) decide otherwise, dialogue **must commence within 30 days of a Party’s receipt of a request for dialogue.**”⁶ As part of the dialogue, the dialoguing Parties are required to provide a means for receiving and considering the views of interested persons on

⁶ Emphasis added.

the matter. What is more, the dialoguing Parties “shall address all the issues raised in the request.”⁷

Consultation

Article 23.17.1 of the USMCA stipulates that Parties shall make every effort through cooperation and dialogue to arrive at a mutually satisfactory resolution of any matter arising under this Chapter. A Party (the requesting Party) may request labor consultations with another Party (the responding Party) “regarding **any matter**” arising under the labor chapter.⁸ Third party participation is allowed. Essentially, a third Party that considers it has a substantial interest in a matter raised in a request for consultation may participate in the labor consultations by notifying the other Parties (the consulting Parties) in writing.

The Rapid Response Labor Mechanism

The Rapid Response Labor Mechanism (Mechanism) is a new and unique mechanism. The USMCA provides for two such mechanisms: (a) a United States-Mexico Facility-Specific Rapid Response Labor Mechanism (Annex 31-A); and (b) a Canada-Mexico Facility-Specific Rapid Response Labor Mechanism (Annex 31-B). The Rapid Response Labor Mechanism has been described as “the first of its kind” and allows the U.S. to take enforcement actions against individual factories if they fail to comply with domestic freedom of association and collective bargaining laws.⁹ The Mechanism applies whenever a Party (the “complainant Party”) has a good faith basis belief that workers at a Covered Facility are being denied the right of free association and collective bargaining under laws necessary to fulfill the obligations of the other Party (the “respondent Party”) under the USMCA. Before invoking the mechanism, a complaining party shall first request that the respondent Party conduct its own review of whether a Denial of Rights exists and, if the respondent Party determines that there is a Denial of Rights, it attempt to remediate within 45 days of the request.¹⁰ A central feature of this Mechanism is that it allows a complaining party to request a panel that targets a specific Covered Facility. A Covered Facility is defined as Covered Facility means a facility in the territory of a Party that: (i) produces a good or supplies a service traded between the Parties; or (ii) produces a good or supplies a service that competes in the territory of a Party with a good or a service of the other Party, and is a facility in a Priority Sector. Article 31-A.5 provides:

Article 31-A.5: Requests for Establishment of Rapid Response Labor Panel

1. If, after the conditions precedent for the establishment of a panel under Article 31-A.4 are met, the complainant Party continues to have a good faith basis to believe that a Denial of Rights is occurring at a Covered Facility, that Party may submit to the Secretariat a petition:

(a) requesting the establishment of a panel to request that the respondent Party allow the panel an opportunity to verify the Covered Facility’s compliance with the law in question and determine whether there has been a Denial of Rights; or

(b) requesting the establishment of a panel to determine whether there has been a Denial of Rights.

Under the Mechanism, Mexico and United States are obliged to establish and maintain a list of Rapid Response Labor Panelists who are willing to commit to being generally available to

⁷ USMCA, Article 23.13.5.

⁸ USMCA, Article 23.17.2.

⁹ <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca>

¹⁰ Article 31-A.4.

serve as Labor Panelists for the Mechanism. A panel so established conducts the verification and determines whether there has been a denial of rights at a covered facility. If a panel determines that there has been a determination of rights, the complaining party may impose remedies as stipulated in Article 31-A.10. Remedies may include suspension of preferential tariff treatment for goods manufactured at the Covered Facility or the imposition of penalties on goods manufactured at or services provided by the Covered Facility.

Other Administrative Mechanisms

The USMCA provides for a contact point for labor issues and for a Labor Council. Under Article 23.14, USMCA Parties establish a Labor Council composed of senior governmental representatives at the ministerial or other level from trade and labor ministries, as designated by each Party. The Labor Council may consider any matter within the scope of this Chapter and perform other functions as the Parties may decide. Labor Council decisions and reports shall be made by consensus and be made publicly available, unless the Council decides otherwise.

2.0 Key Considerations for Kenya

The USMCA addresses some of the short comings in NAFTA's side agreement on labor. The USMCA's acceptance of the ILO's Declaration on Fundamental Principles and Rights at Work and the elimination of sex-based discrimination are all welcomed development. The USMCA provision that allows citizens to file labor complaints through the establishment of contact points is also arguably a welcomed development. Labor provisions in trade agreement have the potential to reduce income inequality and improve the rights of workers.

Strong Congressional Support for Labor Provisions in FTA Involving the U.S.

Whether labor provisions belong in trade agreements is a matter of considerable debate in many policy circles. The inclusion of labor provisions in United States' FTA has strong congressional backing and endorsement as reflected in various versions of Trade Promotion Authority, 2015. Given the strong Congressional support for labor provisions in FTA, it is most likely that any US-Kenya trade deal would have a labor chapter.

To be sure, AGOA addresses labor issues.¹¹ However, the labor provisions in FTAs involving the U.S. are considerably broader than the labor provisions in AGOA. AGOA eligibility requirements are set out in Section 104 of the AGOA legislation (Public Law 106/200). Under AGOA, the U.S. President is authorized to designate a SSA country as an eligible SSA country if the President determines that the country has as established, or is making continual progress toward establishing –

“protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labour, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”

Sovereignty Concerns

Labor provisions in FTA have the potential to intrude impermissibly into domestic policy space. The USMCA stopped short of allowing U.S. labor inspectors access to Mexican factories to evaluate whether they were meeting their obligations in large part because of push back from Mexico. The new Rapid Response Labor mechanism is intrusive at best and

¹¹ 19 U.S.C. §§ 3701-3739 (2006).

essentially allows U.S. to monitor and police working conditions in Mexico. As the Cato Institute notes:

There are a number of concerning elements regarding how the labor provisions and a new “facility-specific rapid response labor mechanism” will operate. First, the burden of proof has shifted to the defendant in demonstrating that the alleged violation is not in a manner affecting trade or investment between the Parties. Second, inspections are not eliminated, but rather incorporated into the panel process, to serve as a fact-finding exercise. This will ultimately put a heavier burden on Mexico in future labor disputes. Third, the use of remedies appears similar to U.S. antidumping petitions and is ripe for abuse. Finally, it is notable that there is not one, but two annexes, one between the U.S. and Mexico and another between Canada and Mexico. In theory, Mexico could bring a complaint against the United States, but Canada and the United States have no recourse to these panels between them. Such an action locks in symbolic asymmetry among the North American partners.¹²

Mexico-specific provisions in the USMCA also raise concerns about sovereignty and regulatory space. One of the major innovations of the USMCA is the Mexico-specific requirements designed to facilitate the activities of independent unions and collective bargaining. USMCA, annex 23-A addresses “Worker Representation in Collective Bargaining in Mexico.” For example, Mexico agreed to guarantee the: “right of workers to engage in concerted activities for collective bargaining or protection and to organize, form, and join the union of their choice, and prohibit employer domination or interference in union activities, discrimination or coercion against workers for union activity or support, and refusal to bargain collectively with the duly recognized union.”¹³

For good or bad, the USMCA is forcing policy makers in Mexico to embark on some labor law reforms.¹⁴ Depending on the state of Kenya’s labor and employment law, a trade deal with the U.S. will require revisions to Kenya’s domestic laws.

Capacity Building

At the U.S. Department of Labor, the Bureau of International Labor Affairs (ILAB) manages the labor provisions in the USMCA.¹⁵ The USMCA implementing legislation includes \$210 million to ILAB for USMCA-implementation activities: \$180 million over four years for USMCA-related technical assistance projects and \$30 million over eight years for the capacity of ILAB to monitor USMCA compliance, including the necessary expenses of additional full-time ILAB employees for the Interagency Committee and labor attachés in Mexico.¹⁶ As of January 2020, ILAB had awarded \$32 million to assist Mexico in complying with the labor commitments in the USMCA.¹⁷ According to ILAB, projects supported with these funds will build government capacity in Mexico to: (i) implement its labor reforms, including training and support for the new labor courts and centers that will attempt to conciliate disputes and register unions and collective bargaining agreements;¹⁸ (ii) implement

¹²Inu Manak and Simon Lester, “Evaluating the New USMCA.” *Cato At Liberty*. 11 December 2019. <https://www.cato.org/blog/evaluating-new-usmca-0>

¹³ USMCA, Annex 23-A, para. 1.

¹⁴ Eric Martin, “Mexican Congress Passes Labor Law Tied to USMCA Trade Agreement,” *Bloomberg Law*, April 29, 2019, <https://bloom.bg/2GTz15W>; see also “Mexican Official: Labor Reform Legislation Slated to Pass by the End of April,” *World Trade Online*, February 19, 2019, <https://bit.ly/2WoJ9gu>.

¹⁵ <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca>

¹⁶ <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca>

¹⁷ <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca>

¹⁸ *Id.*

commitments related to collective bargaining, secret ballot voting for union representation challenges and approval of collective bargaining agreements, as well as improve government enforcement of labor laws;¹⁹ and (iii) combat child labor and forced labor, enforce labor laws and acceptable conditions of work in the agriculture sector, and promote economic empowerment of vulnerable women and girls.²⁰ ILAB is also implementing a project to build worker capacity in Mexico to identify violations of labor law, provide legal support, and improve advocacy and administrative functions.²¹

Expect Strong Enforcement From the U.S.

Strong U.S. enforcement of the labor chapter should be expected. The USMCA implementing legislation calls for the Department of Labor to post up to five attachés to the U.S. Embassy and/or consulates in Mexico. The attachés are to monitor implementation of the USMCA labor obligations and support bilateral cooperation on labor and employment matters. In the past, the U.S. has submitted labor disputes to the same state-to-state mechanism used for trade disputes.²² Congress is also pressing for stronger enforcement of labor and environmental provisions in the USMCA and other FTAs.

The U.S. also monitors and enforces the labor provisions in its preference programs. In 2019, the USTR opened new GSP eligibility reviews for Azerbaijan, based on worker rights concerns.²³ On October 25, 2019, the USTR announced plans to suspend \$1.3 billion in trade preferences for Thailand under the GSP for its “failure to adequately provide internationally-recognized worker rights.”²⁴ In 2020, Thailand lost some of its GSP benefits over poor enforcement of worker’s rights.

3.0 Key Recommendations

Cost/Benefit Analysis Required

From a human rights standpoint, labor provisions in a Kenya-U.S. FTA could advance rights protected under the Kenyan Constitution and under regional and international human rights law. However, frequently, labor provisions in FTAs have more to do with perceived unfair competition in the global market place than with the plight of workers in poor countries. Consequently, the Kenyan Government must evaluate the full costs and benefits of a broad labor chapter in an FTA with the U.S. What will Kenya give up by accepting binding labor provisions in its trade agreement and what will it gain?²⁵

Public Consultation Required

It is recommended that the Kenyan government consult with relevant stakeholders including trade unions in Kenya before accepting binding obligations that could require reform

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² See David A. Gantz, “Labor Rights and Environmental Protection under NAFTA and Other U.S. Free Trade Agreements,” *University of Miami Inter-American Law Review* 42 (2011): 297.

²³ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/october/ustr-announces-gsp-enforcement>

²⁴ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/october/ustr-announces-gsp-enforcement>

²⁵ “Foreign Affairs Minister: Mexico Unwilling to Give More on Labor Reform,” *World Trade Online*, May 8, 2019, <https://bit.ly/2Wml6i5>

of Kenya’s labor laws. With the USMCA, some labor unions in Mexico (e.g. the Confederation of Mexican Workers) raised objections regarding aspects of the USMCA labor provision.²⁶

Safeguard Domestic Regulatory Space

It is recommended that in any trade deal with the U.S., the labor chapter clearly affirm the right of each government to regulate in the public interest. Several provisions of the USMCA address the right to regulate but arguably do not go far enough. For example, under the USMCA, Article 23.5.3 provides that each Party retains the right to exercise reasonable enforcement discretion and to make bona fide decisions with regard to the allocation of enforcement resources between labor enforcement activities provided that the exercise of that discretion, and those decisions, are not inconsistent with its obligations under the labor chapter. Article 23.5.4 provides that nothing in Chapter 23 shall be construed to empower a Party’s authorities to undertake labor law enforcement activities in the territory of another Party. Article 23.2 of the Canada-EU CETA goes much further than the USMCA in terms of affirming the right to regulate by recognizing the right of each Party to set its labour priorities, to establish its levels of labour protection and to adopt or modify its laws and policies accordingly in a manner consistent with its international labour commitments.

Canada-EU CETA

Article 23.2

Right to regulate and levels of protection

Recognising the right of each Party to set its labour priorities, to establish its levels of labour protection and to adopt or modify its laws and policies accordingly in a manner consistent with its international labour commitments, including those in this Chapter, each Party shall seek to ensure those laws and policies provide for and encourage high levels of labour protection and shall strive to continue to improve such laws and policies with the goal of providing high levels of labour protection.

Corporate Social Responsibility. Corporate Liability

It is recommended that the labor chapter of any proposed agreement address corporate liability and accountability for abuses of workers’ rights. Over the years, U.S. businesses and other foreign corporations have been accused of violating worker’s rights in countries in Africa. Sadly, even in the face of serious violations of labor rights and workers’ rights, governments are often unwilling and/or unable to act and victims are left without any adequate remedy. In the U.S., a lawsuit has been brought accusing the Firestone tire company of illegally using child labor on a 118,000-acre latex-producing rubber tree farm in Liberia.²⁷ In December 2020, the U.S. Supreme Court heard arguments in a case that alleges that Nestle and Cargill facilitated the use of child slave labor on cocoa farms in Ivory Coast.²⁸

It is recommended that the Kenyan government consult with experts on how to craft an effective corporate accountability provision in an FTA.

Capacity Building/ Technical Assistance

It is recommended that the Kenyan government assess the full cost of implementing a high-standard labor chapter in an FTA with the U.S. and issues relating to technical assistance

²⁶ See “Mexico’s Biggest Union to Challenge a Key Part of Labor Reform,” Bloomberg Law, April 24, 2019, <https://bit.ly/2XlYnUB>.

²⁷ *Flomo et al v. Firestone Natural Rubber Co*, 7th U.S. Circuit Court of Appeals, No. 10-03675.

²⁸ <https://apnews.com/article/93cb9e2bbbed293130e726b071c3ee125>

and capacity building be part of any negotiation. The good news is that labor-related technical assistance and capacity building is addressed in the Trade Promotion Authority, 2015. One of the principal negotiating objectives of the United States with respect to labor is to strengthen the capacity of U.S. trading partners to promote respect for core labor standards. The bad news is that frequently FTA provisions relating to technical assistance and capacity building are not binding and tend to be very value. In the Trade Promotion Authority, 2015, one of the negotiating objectives relating to labor is to strengthen the capacity of United States trading partners to promote respect for core labor standards.

Update Negotiation Objectives

It is recommended that the Kenyan government review its negotiating objectives as they relate to labor issues. Compared to the U.S. negotiating objectives on labor, Kenya's negotiating objective is minimal at best (**See Annex VII**).