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FIRST ANNUAL REPORT CANADA-CHILE AGREEMENT ON LABOUR COOPERATION JULY 1997-JUNE 1998

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BACKGROUND

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Following the 1996 negotiation of the Canada-Chile Free Trade Agreement, an Agreement on Labour Cooperation was signed in Ottawa, Canada, on February 6, 1997 and came into effect on July 5, 1997.

Similar to the North American Agreement on Labour Cooperation which complements the NAFTA, the bilateral agreement seeks to:

- improve working conditions and living standards in both countries and
- protect, enhance and enforce basic workers' rights.

Under this Agreement, the two participating countries are committed to:

- ≠ effectively enforcing their own labour legislation;
- ≠ cooperating on labour matters; and
- ≠ promoting the following eleven labour principles:
 - freedom of association
 - the right to bargain collectively
 - the right to strike
 - prohibition of forced labour
 - labour protection for children and young persons
 - minimum employment standards
 - elimination of employment discrimination
 - equal pay for men and women
 - prevention of occupational injuries and illnesses
 - compensation in case of occupational injuries or illnesses
 - protection of migrant workers.

OBLIGATIONS

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The six obligations undertaken by the Parties under the Canada-Chile Agreement are:

Levels of Protection: each Party shall ensure that its laws and regulations provide for high labour standards, and shall strive to improve those standards;

Government Enforcement Action: each Party shall promote compliance with and effectively enforce its labour law through appropriate government actions;

Private Action: each Party shall ensure that persons with a legally recognized interest under its law in a particular matter have appropriate access to administrative, quasi-judicial (as appropriate), judicial or labour tribunals for the enforcement of the Party's law;

Procedural Guarantees: each Party shall ensure that its proceedings for the enforcement of its labour law are fair, equitable and transparent;

Publication: each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application are made available; and

Public Information and Awareness: each Party shall promote public awareness of its labour law.

INSTITUTIONS

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The Commission for Labour Cooperation and Ministerial Council were created to implement the Agreement. The Agreement has two main components: a Cooperative Work Program and a process for handling issues of concern to the two countries.

If differences arise, the Agreement provides for cooperative consultations, independent evaluations, and ultimately, a dispute resolution process in certain cases when issues related to the enforcement of labour legislation cannot be resolved by the two countries through consultation.

The Commission for Labour Cooperation consists of a binational Ministerial Council which is supported by a National Secretariat in each country. The Council of Ministers of Labour or their designees is to meet every year and to review progress and approve the work plan which the National Secretariats are responsible for implementing. In Canada, the Secretariat resides within the Labour Branch of Human Resources Development Canada. In Chile, the Secretariat has been established within the structure of the Ministry of Labour and Social Security.

Each National Secretariat is responsible for:

- ≠ planning and organizing participation in cooperative activities;
- ≠ responding to public requests for information;
- ≠ compiling and transmitting information to its counterpart;
- ≠ preparing reports and studies and providing support to any working groups or committees set up by the Council; and
- ≠ receiving and reviewing public communications on a range of labour issues including concerns relating to the enforcement of labour laws in the other country.

COOPERATIVE WORK PROGRAM

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The Cooperative Work Program initially approved for 1997-1998 consisted of four activities: two technical working seminars for the exchange of information and two public conferences. The primary objective of these activities is to promote the exchange of information and increase understanding of labour legislation as well as inspection and compliance measures to effectively enforce these standards in the two countries. Over the year, both countries also exchanged a wide range of publications and reference materials to ensure information on labour law was available.

The focus of the first seminar was on individual employment standards and occupational health and safety legislation, while the second focused on industrial relations. Although the number of participants was limited, the views of government, business and labour were incorporated into the discussions.

The conferences have a broader objective of disseminating information in both countries in order to increase public awareness and understanding of each other's labour legislation and enforcement practices as well as future directions in workplace practices. The goal is to address the social dimension of economic integration and ensure respect for basic human rights and labour standards in the workplace.

A) FIRST TECHNICAL SEMINAR

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An official Canadian delegation coordinated by May Morpaw, and consisting of the following individuals, travelled to Chile for the first bilateral Technical Seminar which was held on January 7-8, 1998 in Santiago: Gerald Blanchard, Director General of Operations, Labour Branch, Human Resources Development Canada (HRDC); William Worona, Director, Occupational Safety and Health (OSH) and Fire Prevention, Labour Branch (HRDC); Thomas J. Farrell, Deputy Minister of Labour, Manitoba Labour; Gordon Perreault, Head, Prevention and Inspection Service, Health and Safety Commission of the Government of Quebec; Gerald Foley, Director, Human Resources, Sudbury Division, Falconbridge Limited; and Andrew King, National Health and Safety Coordinator, Canadian Office of the United Steelworkers of America, with the latter two delegates representing the business and labour sectors in Canada, respectively.

The seminar was inaugurated on January 7, 1998 by the Minister of Labour and Social Security of Chile Jorge Arrate MacNiven, and His Excellency Lawrence D. Lederman, Ambassador of Canada to Chile.

Presentations on Chilean labour legislation and practice were made by Maria Ester Feres Nazarala, Director of Labour; Luis Orlandini Molina, Superintendent of Social Security; Ricardo Troncoso San Martín, Director of the National Geological and Mining Service; Clelia Vallebuona Stagno, Head of the Workplace Health Program of the Ministry of Health; Luis Lizama Portal, Head of the Legal Department, Labour Standards Branch; Yerko Ljubetic Godoy, Head of the Enforcement Department, Labour Standards Branch; and Guillermo Campero Quiroga, Advisor to the Minister of Labour and Social Welfare. The Chilean delegation was coordinated by Pablo Lazo, Chilean Executive Secretary for the Agreement.

The working sessions were co-chaired and co-moderated by the two Executive Secretaries.

Subjects discussed included each country's standards with respect to individual employment agreements and workplace health and safety, drawing on basic concepts and structures. Chilean legislation, regulations and methods of enforcement were explained, especially in the field of mining, due to significant Canadian investment in this sector of the Chilean economy.

For its part, the Canadian delegation explained its system, providing examples from both federal and provincial - specifically Quebec and Manitoba - areas of jurisdiction.

On January 9, meetings to discuss the Labour Cooperation Agreement and to expand Canadian understanding of workplace trends in Chile were held between the Canadian delegation and senior representatives of the Central Unitaria de Trabajadores [Unitary Workers Central] (CUT); the Confederación de la Producción y del Comercio [Confederation of Production and Trade] (CPC); and the Canada-Chile Chamber of Commerce. These meetings were chaired by Roberto Alarcón Gómez, Walter Riesco Salvo and James Drake, respectively.

Both governments emphasized the value of these exchanges, noting similarities in the actions taken in both countries, as well as different experiences which could be shared, and highlighted the importance of the transparency of information. The opportunity to gain understanding of both national realities through direct contact was viewed as

extremely important.

Attached as Annex 1 are copies of the agendas as well as a list of the Canadian participants and the Chilean speakers.

B) SECOND TECHNICAL SEMINAR

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A second seminar was held on April 28-29, 1998 in Ottawa, Canada. The Chilean delegation consisted of Guillermo Campero and Patricio Nova, advisors to the Minister of Labour and Social Security of Chile; Rafael Pereira, Head of the Department of Labour Relations of the Labour Branch; Sebastián Saez, Economic Relations Branch, Ministry of External Relations of Chile; and Pablo Lazo, Executive Secretary of the Agreement on Labour Cooperation. The objective of this seminar was to provide government officials with an opportunity to describe and compare Chilean and Canadian industrial relations law and practice.

This seminar was inaugurated by the Honourable Lawrence MacAulay, Canadian Minister of Labour, and His Excellency José Tomás Letelier, Ambassador of Chile to Canada. It also included an opening presentation by Warren Edmondson, Assistant Deputy Minister of the Labour Branch and Head of the Federal Mediation and Conciliation Service (FMCS), Human Resources Development Canada. The discussions were co-chaired and co-moderated by the Executive Secretaries of the two countries.

The following speakers participated on behalf of Canada: Michael McDermott, Assistant Deputy Minister responsible for the review of the Canada Labour Code, Part I, HRDC; Paul Lordon, Chair of the Canadian Labour Relations Board; Stan Lanyon, labour arbitration and mediation expert from British Columbia; and Akivah Starkman, Director of Operations, FMCS, Labour Branch, HRDC. Later, the following individuals discussed their views on labour services offered in Canada: George Smith, Vice-President of Human Resources at CBC/Radio Canada and President of the Federal Regulated Employers - Transportation and Communication (FETCO); Dan Oldfield, representative and chief negotiator of the Canadian Media Guild; and Mark Rowlinson, of the Legal Department of the Canadian Office of the United Steelworkers of America.

The Chilean delegation in turn described the law and its practice in their system of industrial relations, beginning with a general overview of the system of economic relations in Chile, followed by an overview of the system of industrial relations and the functioning of labour tribunals, and concluding with future directions in industrial relations and legislative proposals under consideration in Chile. Sebastián Sáez, Rafael Pereira, Patricio Novoa and Guillermo Campero, respectively, made these presentations.

The seminar agenda listing topics and participants is attached as Annex 2.

C) CONFERENCE ON CHILEAN LABOUR LEGISLATION IN OTTAWA, CANADA

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On April 30, 1998, a seminar on labour legislation in Chile was held in Ottawa. Over 50 Canadian participants from business, labour, government, and academia attended this event which was opened by Fernando Urrutia, Minister Counsellor at the Embassy of Chile and Warren Edmondson of the Labour Program at HRDC. The Chilean delegation was composed of Guillermo Campero, Patricio Novoa, Rafael Pereira, Sebastián Saez and Pablo Lazo, who made presentations on the law and its practice with respect to industrial relations in Chile.

The agenda and participants are attached as Annex 3. A transcript of this seminar will be made available to the public.

D) FUTURE PROGRAM

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The program of activities calls for two further conferences, the first of which will be held in Santiago following the Inter-American Conference of Ministers of Labour scheduled for October 1998. New forms of work and employment is the proposed topic for the first conference. The date and topic of the second conference are still to be determined.

PUBLICATIONS

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Available in English, French and Spanish:

1. Canada-Chile Agreement on Labour Cooperation, 1996
2. News Release "Canada Signs Environment and Labour Agreements with Chile", February 6, 1997
3. Seminar on Labour Legislation in Chile, Ottawa, Canada, April 30, 1998

Available in English and French:

Labour Legislation in Chile in Relation to the Eleven Labour Principles of the Canada-Chile Agreement on Labour Cooperation, Human Resources Development Canada, 1996.

PARTICIPATION IN RELATED EVENTS

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In addition to the bilateral Cooperative Work Program, on April 14-15, 1998, a conference on labour law and social security in relation to economic integration was held in Viña del Mar, Chile. This conference, which was organized by Montreal labour law firm Melançon, Marceau, Grenier & Sciortino in partnership with Montreal management firm Martineau Walker, benefitted from sponsorship and cooperation from organizations such as Human Resources Development Canada, the Government of Quebec, the International Labour Organization (ILO), the Canadian Association of Labour Lawyers, the Asociación Gremial de Abogados Laboralistas de Chile (Labour Lawyers Association of Chile), the International Society for Labour Law and Social Security and the Sociedad Chilena de Derecho del Trabajo (Chilean Society for Labour Law).

The conference was inaugurated by His Excellency Jorge Arrate MacNiven, on April 14. Executive Secretaries May Morpaw and Pablo Lazo also presented papers at this Conference.

Other participants included Oscar Ermida, Senior Technical Specialist at the ILO; Jorge Rosenbaum, Secretary of the Institute of Labour Law at the Universidad de la República in Uruguay; Mario Pasco, senior professor of Labour Law at the Universidad Católica de Perú; Leoncio Lara, Legal Advisor to the Secretariat of the North American Commission for Labour Cooperation; Alfredo Conte-Grand, official in charge of the ILO Multidisciplinary Technical Team in Chile; Lucie Lamarche, professor at the Université du Québec à Montréal; Warren Allmand, President of the

International Centre for Human Rights and Democratic Development in Montreal; Craig Forcese, Canadian legal expert on codes of conduct for multinational companies; and René Roy, Vice-President of the Fonds de Solidarité du Québec (Quebec Solidarity Fund) and the Quebec Federation of Labour.

The Conference was attended by representatives of labour organizations from Canada, officials of the Chilean Labour Ministry and Labour Branch and also included recognized legal experts from Argentina, Brazil, Canada, Chile, Mexico, Peru, the United States and Uruguay. The papers were distributed and posted on the Internet.

MEETING OF THE COUNCIL

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The first meeting of the Ministerial Council is tentatively scheduled to coincide with the Inter-American Conference of Ministers of Labour in Chile, in October, 1998.

For more information, you may wish to contact:

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You may also wish to consult our internet site at (<http://labour.hrdc-drhc.gc.ca/doc/nafta/eng/>) for the full text of the Canada-Chile Agreement on Labour Cooperation and for the text of this report.

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