

AGREEMENT ON LABOUR COOPERATION

BETWEEN

CANADA

AND

THE REPUBLIC OF PANAMA

PREAMBLE

CANADA and **THE REPUBLIC OF PANAMA** hereinafter referred to as the “Parties”:

RECALLING their resolve in the *Free Trade Agreement between Canada and the Republic of Panama* (“Canada-Panama FTA”) to:

- protect, enhance and enforce basic workers' rights,
- strengthen cooperation on labour matters, and
- build on their respective international commitments on labour matters;

SEEKING to complement the economic opportunities created by the *Free Trade Agreement between Canada and the Republic of Panama* with the human resource development, protection of basic workers’ rights, labour-management cooperation and continuous learning that characterize high-productivity economies;

REAFFIRMING the obligations of both countries as members of the International Labour Organization and their commitments to the International Labour Organization *Declaration on Fundamental Principles and Rights at Work* and its *Follow-Up* of June 19,1998;

AFFIRMING their continuing respect for each other’s Constitution and law;

DESIRING to build on their respective international commitments;

RECOGNIZING the importance of mutual cooperation to strengthen actions on labour matters, including by:

- encouraging consultation and dialogue between labour, business and government,
- encouraging employers and employees in each country to comply with labour laws and to work together in maintaining a fair, safe and healthy working environment; and

RECOGNIZING that differences exist in regard to each Party's national conditions, circumstances and needs, including with respect to their economies, their social and cultural traditions and their legal framework;

RECOGNIZING the importance of encouraging voluntary practices of corporate social responsibility within their territories, to ensure coherence between labour and economic objectives; and

BUILDING on existing institutions and mechanisms in Canada and Panama to achieve the preceding economic and social goals;

HAVE AGREED as follows:

PART ONE

OBLIGATIONS

ARTICLE 1: General Obligations

1. Each Party shall adopt and maintain in its statutes and regulations, and practices thereunder, the following internationally recognized labour principles and rights, particularly bearing in mind their commitments as members of the International Labour Organization (ILO) to the *Declaration on Fundamental Principles and Rights at Work* and its *Follow-Up* of June 19, 1998 (ILO 1998 Declaration):

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour and a prohibition on the worst forms of child labour;
- (d) the elimination of discrimination in respect of employment and occupation;
- (e) acceptable minimum employment standards, such as minimum wages and overtime pay, for employees, including those not covered by collective agreements;
- (f) the prevention of occupational injuries and illnesses and compensation in cases of such injuries or illnesses; and
- (g) non-discrimination in respect of working conditions for migrant workers.

2. To the extent that the principles and rights stated above relate to the ILO, paragraphs (a) to (d) refer only to the ILO 1998 Declaration, whereas the rights stated in paragraphs (e), (f) and (g) more closely refer to the ILO's Decent Work Agenda.

ARTICLE 2: Non-Derogation

Each Party shall not, as a means to encourage trade or investment, waive or otherwise derogate from, or offer to waive or otherwise derogate from, its labour law in a manner that weakens or reduces adherence to the internationally recognized labour principles and rights referred to in Article 1.

ARTICLE 3: Government Enforcement Action

1. Each Party shall, subject to Article 15, promote compliance with and effectively enforce its labour law through appropriate government activities, such as:

- (a) establishing and maintaining effective labour inspection divisions, including by appointing and training inspectors;
- (b) monitoring compliance and investigating suspected violations, including through on-site inspections;
- (c) requiring record keeping and reporting;
- (d) encouraging the establishment of worker-management committees to address labour regulation of the workplace;
- (e) providing or encouraging mediation, conciliation and arbitration services; and,
- (f) initiating, in a timely manner, proceedings to seek appropriate sanctions or remedies for violations of its labour law.

2. Each Party shall ensure that its competent authorities give due consideration, in accordance with its law, to any request by an employer, employee or their representatives, or another interested person, for an investigation of an alleged violation of the Party's labour law.

3. Each Party retains the right to the reasonable exercise of discretion and to bona fide decisions with regard to the allocation of resources between labour enforcement activities among the fundamental labour rights enumerated in Article 1.1 (a) to (d), provided the exercise of such discretion and such decisions are not inconsistent with the obligations of this Agreement.

ARTICLE 4: Private Action

Each Party shall ensure that a person with a recognized interest under its labour law in a particular matter has appropriate access to administrative or tribunal proceedings which can give effect to the rights protected by such law, including by granting effective remedies for any breaches of such law.

ARTICLE 5: Procedural Guarantees

1. Each Party shall ensure that proceedings referred to in subparagraphs 1 (b) and (f) of Articles 3 and Article 4 are fair, equitable and transparent and to this end shall provide that:

- (a) persons who conduct such proceedings are impartial and independent and do not have an interest in the outcome of the matter;
- (b) the parties to the proceedings are entitled to support or defend their respective positions and to present information or evidence;
- (c) the decision is based on such information or evidence and final decisions on the merits of the case are in writing;

- (d) the proceedings are open to the public, except where the law and the administration of justice otherwise requires; and
 - (e) the proceedings are free and expeditious or at least do not entail unreasonable fees or delays, and the time limits do not impede exercise of the rights.
2. Each Party shall provide that parties to such proceedings have the right, pursuant to its legislation, to seek review and correction of final decisions issued in such proceedings.

ARTICLE 6: Public Information and Awareness

1. Each Party shall promptly publish or otherwise make publicly available its labour law, regulations, procedures and administrative rulings of general application respecting any matter covered by this Agreement in such a manner as to enable interested persons and the other Party to become acquainted with them.
2. When so required by its law, each Party shall:
- (a) publish in advance any such measure that it proposes to adopt; and
 - (b) provide interested persons a reasonable opportunity to comment on the proposed measures.
3. Each Party shall promote public awareness of its labour law, including by:
- (a) making available public information related to its labour law and enforcement and compliance procedures; and
 - (b) encouraging education of the public regarding its labour law.

PART TWO

INSTITUTIONAL MECHANISMS

ARTICLE 7: Ministerial Council

1. The Parties hereby establish a Ministerial Council comprised of Ministers responsible for labour affairs of the Parties or their designees.
2. The Council shall meet within the first year after the date of entry into force of this Agreement and thereafter as often as it considers necessary to discuss matters of common interest, to oversee the implementation of the Agreement and review progress under it. The Council may hold joint meetings with Councils established under similar agreements.
3. Unless the Parties otherwise jointly decide, each meeting of the Council 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 Agreement.
4. The Council may consider any matter within the scope of this Agreement and take such other action in the exercise of its functions as the Parties may jointly decide, including:
 - (a) establishing, and assigning responsibilities to, committees, working groups or expert groups; and
 - (b) seeking the advice of independent experts.
5. The Council shall review the operation and effectiveness of this Agreement, including the degree to which progress has been made in implementing the objectives of the Agreement, within five years after the date of entry into force of the Agreement and thereafter within such other period as may be directed by the Council. Unless the Council directs otherwise, such review:
 - (a) shall be conducted by one or more independent experts. The Parties shall make every effort to decide upon selection of the expert or experts and shall cooperate with the expert or experts in the preparation of the report;

- (b) shall include a literature review and consultation with the members of the public, including representatives of labour and business organizations, as well as an opportunity for the Parties to provide comments;
- (c) shall make recommendations for the future; and
- (d) shall be concluded within 180 days of its commencement and made public within 30 days thereafter.

ARTICLE 8: National Mechanisms

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

2. Each Party shall designate an office within its governmental department responsible for labour affairs that shall serve as a National Administrative Office (NAO) and provide to the other Party its contact information through diplomatic channels.

3. The NAO shall serve as a point of contact with the other Party and perform such functions as are assigned by the Parties or the Council, as well as:

- (a) coordinate cooperative programs and activities in accordance with Article 9;
- (b) review public communications in accordance with Article 10; and
- (c) provide information to the other Party, the review panels and the public.

ARTICLE 9: Cooperative Activities

1. The Parties may develop a plan of action for cooperative labour activities for the promotion of the objectives of this Agreement. To the extent possible, such activities shall be linked to any recommendations in any Ministerial Council report referred to in Article 7. An indicative list of areas of possible cooperation between the Parties is set out in Annex 1.

2. In carrying out the plan of action, the Parties may, commensurate with the availability of resources, cooperate through:

- (a) seminars, training sessions, working groups and conferences;
- (b) joint research projects, including sector studies; and
- (c) other means which the Parties may decide.

3. The Parties shall carry out the cooperative activities with due regard to the differences that exist between each Party's national conditions, circumstances and needs, including with respect to their economies, their social and cultural traditions and their legal framework.

ARTICLE 10: Public Communications

1. Each Party shall provide for the submission and receipt of public communications on labour law matters that:

- (a) are raised by a national of the Party or by an enterprise or organization established in the territory of the Party;
- (b) arise in the territory of the other Party; and
- (c) pertain to any matters related to this Agreement.

2. Each Party shall consider such communications in accordance with domestic procedures and notify the public of communications accepted for review within 30 days of such acceptance.

ARTICLE 11: General Consultations

1. The Parties shall at all times endeavour to concur on the interpretation and application of this Agreement.

2. The Parties shall make every attempt, including through cooperation, consultations and the exchange of information, to address any matter that might affect its operation.

3. A Party may request consultations with the other Party regarding any matter arising under this Agreement, by delivering a written request to the National Administrative Office.

4. If the Parties fail to resolve the matter through their National Administrative Offices within 60 days, the requesting Party may use the procedures provided under Article 12.

PART THREE

PROCEDURES FOR REVIEW OF OBLIGATIONS

ARTICLE 12: Ministerial Consultations

1. Following the conclusion of General Consultations, a Party may request in writing consultations with the other Party at the ministerial level regarding any obligation under this Agreement. The Party that is the object of the request shall respond within 60 days of receiving the request, or within such other period as the Parties may decide.
2. To facilitate discussion of the matters under consideration:
 - (a) each Party shall provide the other with sufficient information in its possession to allow a full examination of the matters raised, subject to any domestic legislation regarding confidential personal and commercial information; and
 - (b) either Party may call upon one or more independent experts to prepare a report. The Parties shall make every effort to decide upon the selection of the expert or experts and shall cooperate with the expert or experts in the preparation of the report. Any report shall be made public within 60 days of its receipt by the Parties.
3. The Parties shall make every effort to reach a mutually satisfactory resolution of the matter subject of the consultation, and may resolve it by developing a plan of cooperative activities or other appropriate measures related to issues raised through the consultations. Such plan shall provide that it be implemented within 90 days of the conclusion of the Ministerial Consultations, or within such other period as the Parties may decide.
4. Ministerial consultations shall be concluded no later than 180 days after the request unless the Parties decide on another date.

ARTICLE 13: Establishment and Conduct of Review Panel

1. Following the conclusion of Ministerial Consultations, the Party that requested the consultations may request that a review panel be convened if the Party considers that:

- (a) the matter is trade-related; and
- (b) the other Party has failed to comply with its obligations under this Agreement through:
 - (i) failure to comply with its obligations under Articles 1 and 2 to the extent that they refer to the ILO 1998 Declaration, or
 - (ii) a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private rights of action, procedural guarantees, public information and awareness.

2. Unless the Parties otherwise decide, a panel composed of three independent experts, including a chairperson who is not a national of either Party, shall be established in a manner consistent with the criteria and procedures set out in Annex 2.

3. Unless the Parties otherwise decide, the panel shall perform its functions in accordance with the provisions of this Part, Annex 2 and the Model Rules of Procedure.

The panel:

- (a) shall determine, within 30 days of confirmation of its terms of reference, whether the matter is trade-related and shall cease its functions if it determines that the matter is not trade-related;
- (b) shall provide the Parties with sufficient opportunity to make written and oral submissions to the panel;

- (c) may invite or receive and consider written submissions and any other information from organisations, institutions, the public and persons with relevant information or expertise; and
- (d) shall hold proceedings that are open to the public, except to the extent necessary to protect information in accordance with Article 17 and the Model Rules of Procedure.

ARTICLE 14: Review Panel Reports and Determinations

1. The panel shall present to the Parties a report that:
 - (a) makes findings of fact;
 - (b) addresses the submissions and arguments of the Parties and any relevant information before it pursuant to subparagraph (3)(c) of Article 13;
 - (c) determines whether the Party that is the object of the review has engaged in non-compliance through failure to comply with its obligations under Articles 1 and 2 to the extent that they refer to the ILO 1998 Declaration or a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private rights of action, procedural guarantees, public information and awareness, or makes any other determination requested in the terms of reference; and
 - (d) makes recommendations for resolution of any non-compliance determined under subparagraph (c), which normally shall be that the Party that is the object of the review adopt and implement an action plan sufficient to remedy the non-compliance.

2. The panel shall present its initial report to the Parties within 120 days after the last panellist is selected unless the panel extends the time period by up to a further 60 days or the Model Rules of Procedure otherwise provide. If the panel extends the time period, it shall first give written notice to both Parties setting out the reasons for the extension of time.

3. Either Party may submit written comments to the panel on its initial report within 30 days of presentation of the report or within such other period as the Parties may decide. After considering such written comments, the panel, on its own initiative or on the request of either Party, may reconsider its report and make any further examination that it considers appropriate.

4. The panel shall present to the Parties a final report within 60 days of the presentation of the initial report, unless the Parties otherwise decide. The final report shall be made public within 60 days of its receipt by the Parties.

5. If, in the final report, a panel determines that there has been non-compliance within the meaning of subparagraph 1(c), the Parties may develop, within the following 90 days or such longer period as they may decide, a mutually satisfactory action plan to implement the panel's recommendations.

6. Following the expiry of the period set out in paragraph 5, if the Parties were unable to decide on an action plan or the Party subject to review is failing to implement the action plan according to its terms, the requesting Party may request in writing that the panel be reconvened with a view to determining whether or not a monetary assessment needs to be set and paid in accordance with Annex 3.

PART FOUR

GENERAL PROVISIONS

ARTICLE 15: Enforcement Principle

This Agreement shall not be construed to empower a Party's authorities to undertake labour law enforcement activities in the territory of the other Party.

ARTICLE 16: Private Rights

A Party may not provide for a right of action under its domestic law against the other Party on the ground that the other Party has acted in a manner inconsistent with this Agreement.

ARTICLE 17: Protection of Information

1. A Party that receives information identified by the other Party as confidential or proprietary information shall protect such information as confidential or proprietary.
2. A review panel that receives confidential or proprietary information under this Agreement shall treat it in accordance with the Model Rules of Procedure.

ARTICLE 18: Cooperation with International and Regional Organizations

The Parties may establish cooperative arrangements with the International Labour Organization and other competent international and regional organisations to draw on their expertise and resources to achieve the objectives of this Agreement.

ARTICLE 19: Definitions

For purposes of this Agreement:

A Party has not failed to “**effectively enforce its labour law**” or comply with Article 3 in a particular case where the action or inaction by agencies or officials of that Party reflects a reasonable exercise of the agency’s or the official's discretion with respect to investigatory, prosecutorial, regulatory or compliance matters;

“**days**” means calendar days, including weekends and holidays;

“**enterprise**” means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture or other association;

“**labour law**” means laws, regulations and jurisprudence that implement and protect the labour principles and rights set out in Article 1;

“**national**” means:

- (a) with respect to Canada, a permanent resident of Canada or a citizen of Canada under the legislation of Canada;
- (b) with respect to Panama, a permanent resident of Panama, or a Panamanian national by birth, naturalization, or adoption as provided in Articles 9, 10, and 11 of the Constitution of the Republic of Panama.

“**persistent pattern**” means a sustained or recurring course of action or inaction beginning after the date of entry into force of this Agreement;

“**person**” means a natural person, an enterprise, or an organization of employers or workers;

“**province**” means a province or territory of Canada and its successors, and includes the Yukon, the Northwest Territories, and Nunavut;

“territory” means:

- (a) with respect to Panama, the land, maritime, and air space under its sovereignty; the exclusive economic zone, and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with its domestic law and international law;
- (b) with respect to Canada, (i) its land territory, internal waters, territorial sea, including the air space above these areas; (ii) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the *United Nations Convention on the Law of the Sea* of 10 December 1982 (UNCLOS); and (iii) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS;

“trade-related” means related to trade or investment matters covered by the Canada-Panama FTA, provided that this term shall not be interpreted as including the public sector.

PART FIVE

FINAL PROVISIONS

ARTICLE 20: Annexes

The Annexes to this Agreement constitute an integral part of the Agreement.

ARTICLE 21: Entry into Force

Each Party shall notify the other Party in writing when the domestic procedures required for the entry into force of this Agreement have been completed. Unless the Parties decide otherwise, this Agreement shall enter into force on the date of the second of these notifications or the date that the Canada-Panama FTA enters into force, whichever is later.

ARTICLE 22: Amendments

1. At the request of either Party, the Parties shall meet with a view to reviewing and amending this Agreement to reflect developments in their multilateral or bilateral relations on matters covered by this Agreement.
2. The Parties may amend this Agreement in writing at any time, upon their mutual consent. Such amendment shall come into force following the procedure for entry into force of this Agreement in Article 21.

ARTICLE 23: Termination

1. This Agreement shall remain in force as long as the Canada-Panama FTA continues in force. Should the Canada-Panama FTA be terminated, either Party may terminate this Agreement by giving written notice to the other Party. Such termination shall take effect 14 days after the date of the receipt of the written notice, or such later date as specified in the notice.

2. This Agreement may terminate upon the mutual written agreement of the Parties and upon such conditions and within such timeframe as may be mutually agreed upon.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE in duplicate at _____, this _____ day of _____ 2010,
in the English, French and Spanish languages, each version being equally authentic.

FOR CANADA

**FOR THE REPUBLIC
OF PANAMA**

ANNEX 1

COOPERATIVE ACTIVITIES

1. The Parties have established the following indicative list of areas for cooperative activities that they may develop pursuant to Article 9:

- (a) information sharing: exchanging of information and sharing of best practices on issues of common interest and on relevant events, activities, and initiatives organized in their respective territories;
- (b) international forums: cooperation within international and regional forums such as the International Labour Organization on labour-related issues;
- (c) fundamental rights and their effective application: legislation and practice related to the core elements of the ILO 1998 Declaration (freedom of association and the effective recognition of the right to collective bargaining, elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation);
- (d) worst forms of child labour: legislation and practice related to compliance with ILO Convention No. 182 on the Worst Forms of Child Labour;
- (e) labour administration: institutional capacity of labour administrations and tribunals;
- (f) labour inspectorates and inspection systems: methods and training to improve the level and efficiency of labour law enforcement, strengthen labour inspection systems, and help ensure compliance with labour laws;
- (g) labour relations: forms of cooperation and dispute resolution to ensure productive labour relations among workers, employers, and governments;

- (h) working conditions: mechanisms for supervising compliance with statutes and regulations pertaining to hours of work, minimum wages and overtime, occupational safety and health, and employment conditions;
- (i) migrant workers: dissemination of information regarding labour rights of migrant workers in each Party's territory;
- (j) gender: gender issues, including the elimination of discrimination in respect of employment and occupation;
- (k) such other matters as, in the view of the Parties, promote the purposes of the Agreement.

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

ANNEX 2

PROCEDURES RELATED TO REVIEW PANELS

Qualifications of Panellists

1. Panellists shall:
 - (a) be chosen on the basis of expertise in labour matters or other appropriate disciplines, objectivity, reliability and sound judgment;
 - (b) be independent of, and not be affiliated with or take instructions from, either Party; and
 - (c) comply with a code of conduct to be established by the Parties.

2. If either Party believes that a panellist is in violation of the code of conduct, the Parties shall consult and, if they so decide, the panellist shall be removed and a new panellist shall be selected in accordance with the procedures set out in paragraph 4 that were used to select the panellist who was removed. The time limits shall run from the date of their decision to remove the panellist. The Model Rules of Procedure may provide procedures for resolving the situation if the Parties do not concur.

3. Individuals may not serve as panellists with respect to a review in which they have, or a person or organization with which they are affiliated has, an interest.

Panel Selection Procedures

4. For purposes of selecting a review panel, the following procedures shall apply:
 - (a) within 20 days of the receipt of the request for the establishment of a panel, each Party shall select one panellist;
 - (b) if one Party fails to select its panellist within such period, the other Party shall select the panellist from among qualified individuals who are nationals of the Party that has failed to select its panellist;
 - (c) the following procedures shall apply to the selection of the chairperson:
 - (i) the Party that is the object of the review shall provide the Party that made the request with the names of three individuals who it considers to be qualified to be the chairperson. The names shall be provided no later than 20 days after the receipt of the request for the establishment of the panel;
 - (ii) the Party that made the request may choose one of the individuals to be the chairperson or, if the names were not provided or none of the individuals is acceptable, provide the Party that is the object of the review with the names of three individuals who it considers to be qualified to be the chairperson. Those names shall be provided no later than five days after receiving the names under subparagraph (i) or 25 days after the receipt of the request for the establishment of the panel;
 - (iii) the Party that is the object of the review may choose one of the three individuals to be the chairperson, no later than five days after receiving the names under subparagraph (ii), in default of which the Parties shall immediately request the Director General of the International Labour Office to appoint a chairperson within 25 days.

Conduct of the Panel

5. The Parties shall, no later than one year after the entry into force of this Agreement, establish Model Rules of Procedure, which shall be used for the establishment and conduct of proceedings under Part Three. The Model Rules will include a code of conduct for the purposes of paragraph 1 and rules for the protection of information under Article 17.

6. The Parties shall establish a separate budget for each set of panel proceedings pursuant to Articles 13 to 14. The Parties shall contribute equally to the budget, unless they otherwise decide.

7. Unless the Parties otherwise decide, within 30 days after the Parties establish the panel, the terms of reference shall be:

“To examine, in light of the relevant provisions of this Agreement, whether the Party that was the object of the request has, in a trade-related matter, failed to comply with its obligations under Articles 1 and 2 to the extent that they refer to the ILO 1998 Declaration, or engaged in a persistent pattern of failure to effectively enforce its labour law through appropriate government action, private rights of action, procedural guarantees, public information and awareness, and to make findings, determinations and recommendations in accordance with paragraph 1 of Article 14.”

8. For a determination under paragraph 3 of Article 13 of whether the matter is trade-related, the Party which has requested the panel has the onus of establishing that the matter is trade-related. For a determination under subparagraph 1(c) of Article 14 of whether the Party that is the object of the request has failed to comply with its obligations, the onus of establishing such non-compliance is on the Party which has requested the panel and its case may be supplemented by any other information provided under subparagraph 3(c) of Article 13.

9. A panel may not release the final report other than to the Parties. Panellists may furnish separate opinions on matters that are not the subject of unanimous agreement. A panel however may not disclose which panellists are associated with majority or minority opinions.

ANNEX 3

MONETARY ASSESSMENTS

1. The panel shall reconvene as soon as possible after delivery of the request pursuant to paragraph 6 of Article 14. Within 90 days after being reconvened, the panel shall determine whether the terms of the action plan have been implemented or the non-compliance otherwise remedied.

2. In the event of a negative determination under paragraph 1 above, the panel shall assess a monetary assessment which reflects a determination of the estimated costs of implementing the action plan, or in the absence of an action plan, other appropriate measures to remedy the non-compliance provided that:
 - (a) the panel may adjust the assessment to reflect:
 - (i) any mitigating factors, such as good faith efforts made by the Party to begin remedying such non-compliance after the final report of the panel, bona fide reasons for the Party's failure to comply with such obligations or a real likelihood that the cost of the assessment would have a negative impact on vulnerable members of society;
 - (ii) any aggravating factors, such as the pervasiveness and duration of the Party's failure to comply with its obligations; or
 - (iii) the Party's national conditions, circumstances and needs; and
 - (b) in no circumstances shall the assessment exceed \$15 million U.S. dollars annually, or its equivalent in the currency of the Party complained against, adjusted to the rate of inflation of that Party.

3. Monetary assessments shall be paid into an interest-bearing fund designated by the Council and shall be expended at the direction of the Council to implement the action plan or other appropriate measures.

4. Ninety days from the date on which the panel determines the amount of the monetary assessment under paragraph 2, or at any time thereafter, the requesting Party may provide notice in writing to the other Party demanding payment of the monetary assessment. The monetary assessment shall be paid in equal, quarterly instalments beginning 120 days after the requesting Party provides such notice and ending upon decision of the Parties or upon the date of any panel determination under paragraph 5.

5. If the Party that was the object of the review considers that it has eliminated the non-compliance, it may refer the matter to the panel by providing written notice to the other Party. The panel shall be reconvened within 60 days of such notice and issue its report within 90 days thereafter.

6. In Canada, the procedures for enforcement of the monetary assessment shall be the following:

- (a) Panama may file in a court of competent jurisdiction a certified copy of a panel determination under paragraph 2 above only if Canada has failed to comply with the terms of a notice provided under paragraph 4 within 180 days of it being made;
- (b) when filed, the panel determination, for purposes of enforcement, shall become an order of the court;
- (c) Panama may take proceedings for enforcement of a panel determination that is made an order of the court, in that court, against the person in Canada against whom the panel determination is addressed in accordance with paragraph 4 of Annex 4;
- (d) proceedings to enforce a panel determination that has been made an order of the court shall be conducted in Canada by way of summary proceedings, provided that the court shall promptly refer any question of fact or any question of interpretation of the panel determination to the panel that made the determination, and the decision of the panel shall be binding on the court;
- (e) a panel determination that has been made an order of the court shall not be subject to domestic review or appeal; and

- (f) an order made by the court in proceedings to enforce a panel determination that has been made an order of the court shall not be subject to review or appeal.

7. In Panama, the procedures for enforcement of the monetary assessment shall be the following. If Panama has failed to comply with a notice provided under paragraph 4 above within 180 days of it being made, the panel determination in Panama shall be executed:

- (a) as if it were a decision ordering the payment of a set amount by an international court constituted by a treaty ratified by Panama; or
- (b) Canada may present to the Supreme Court of Justice of the Republic of Panama or other competent body a certified copy of a panel determination under paragraph 2 above and may demand compliance with the panel determination. Canada will be entitled to execute directly the panel determination in Panama as if it were a final ruling issued by a court in Panama, and it will not be subject to domestic review or appeal. The panel determination will be a clear, express and executable obligation pursuant to the rules on the execution of rulings in force in Panama and therefore will not require to be recognized and follow an *exequatur* in Panama.

8. Any change by the Parties to the procedures adopted and maintained by each of them pursuant to this Annex that has the effect of undermining the provisions of this Annex shall be considered a breach of this Agreement.

ANNEX 4

EXTENT OF OBLIGATIONS

1. At the time entry into force of this Agreement, Canada shall notify Panama in a declaration of any provinces for which Canada is to be bound in respect of matters within their jurisdiction. The declaration shall be effective on delivery to Panama, and shall carry no implication as to the internal distribution of powers within Canada. Canada shall notify Panama of any modification to its declaration at any time. The amended declaration shall enter into force six months after the date of this notification.
2. Canada may not request the establishment of a review panel under Part Three at the instance of the government of a province not included in the declaration made under paragraph 1.
3. Panama may not request the establishment of a panel under Part Three, concerning a matter related to a labour law of a province unless that province is included in the declaration made under paragraph 1.
4. Canada shall, no later than the date on which a panel is convened pursuant to Article 13 respecting a matter within the scope of paragraph 3 of this Annex, notify Panama in writing of whether any recommendation of a panel in a report under Article 14 or any monetary assessment imposed by a panel under Annex 3 with respect to Canada shall be addressed to Her Majesty in right of Canada or Her Majesty in right of the province concerned.
5. Canada shall use its best efforts to have as many of its provinces as possible agree to be added to the declaration.