

Canada's Labour Provisions in Trade Agreements

Presentation before the Standing Senate Committee on Foreign Affairs and International Trade

April 14, 2016

PERSONS WITH
DISABILITIES
WORKFORCE DEVELOPMENT



Outline

- Purpose of Labour Provisions in Trade Agreements
- Canada's Approach to Labour Provisions
- Canada's Labour Provisions
- Recently Concluded Agreements
- Implementation and Monitoring
- Looking Forward



Purposes of Labour Provisions

- To support good governance and rule of law internationally
- To reinforce Canada's competitive position to ensure Canadian workers and employers are not disadvantaged in international trade and investment
- To build on Canada's commitment to fundamental human rights, in particular the International Labour Organization (ILO)'s *1998 Declaration on Fundamental Principles and Rights at Work*



Canada's Approach to Labour Provisions in Trade Agreements

- Canada's standard approach:
 - negotiate enforceable labour provisions in the context of free trade initiatives; and
 - provisions based on the respect of internationally-recognized core labour standards, and enforcement of domestic labour legislation.
- Key components:
 - comprehensive labour rights obligations;
 - binding and enforceable dispute resolution mechanism; and
 - labour-related cooperation



Canada's Labour Provisions

- Early labour agreements focussed on enforcement of laws.
- Since 2009, agreements include a broader scope of obligations.
- Agreements with Peru (2009), Colombia (2011), Jordan (2012), Panama (2013), Honduras (2014), and Korea (2015) commit Parties to embody and provide protection for fundamental labour principles, particularly those set out in the ILO *1998 Declaration*.
- The *1998 Declaration* covers:
 - right to freedom of association and to collective bargaining;
 - abolition of child labour;
 - elimination of forced or compulsory labour; and
 - elimination of discrimination in employment.
- Parties also commit to provide acceptable protections in the areas of occupational health and safety, wages, hours of work and migrant workers.



Canada's Labour Provisions (cont'd)

- In addition, these agreements include:
 - a mechanism through which the public can raise concerns (also included in earlier agreements);
 - dispute resolution mechanism applying to all obligations and principles in the agreement (with or without provincial/territorial participation);
 - possibility of financial penalties, paid by the party complained-against;
 - non-derogation clause to not lower labour standards or weaken labour law enforcement to attract trade or investment; and
 - commitments to implement cooperative or capacity-building activities in support of agreement objectives.



Recently Concluded Agreements

- Emerging models of labour provisions influenced by key partners: European Union and the United States, as reflected in Canada's recent FTAs: Comprehensive Economic Trade Agreement (CETA) and Trans-Pacific Partnership (TPP) Agreement.
- CETA Trade and Labour chapter: High level of obligations (particular focus ILO fundamental conventions); binding and enforceable (no specific dispute settlement mechanism); Canadian provinces and territories bound by labour obligations.
- TPP Labour chapter: High level of obligations (no obligation to provide protections for migrant workers); binding and enforceable (including possibility of trade sanctions, a first for Canada); obligations apply to Canadian provinces and territories.
- Labour chapters in Ukraine and Israel FTAs: labour provisions in line with Canada's approach, i.e. comprehensive, binding and enforceable obligations, including possibility of monetary penalties.



Implementation and Monitoring

- Allow Canada and its trading partners to build constructive dialogue, foster cooperative exchanges, and address labour issues (e.g. Ministerial Councils, technical assistance projects, official-level consultations).
- Technical assistance to support capacity building and ensure compliance with obligations.
 - Since 2006: 80 country-specific or regional technical assistance projects (more than \$18 million).
 - Typical areas: labour inspection, occupational safety and health, tripartite dialogue.
- Focus: more strategic and effective approach to monitoring and enforcement, to achieve:
 - efficient use of limited resources;
 - coordination efforts with other donors; and
 - concrete progress with respect to key compliance concerns.



Looking Forward

- Canada's approach to trade and labour
 - Continue to promote respect for fundamental labour principles and rights
- Monitoring and Compliance
 - Continue to build internal capacity and knowledge base;
 - Foster opportunities to work with like-minded partners to promote compliance; and
 - Better alignment of technical assistance.

