

## **Canada-Jordan Free Trade Agreement Agreement on the Environment**

Canada and the Hashemite Kingdom of Jordan, hereinafter referred to as “the Parties”:

NOTING their resolve to establish a free trade area in a manner that is consistent with environmental protection and conservation, enhance and enforce environmental laws and regulations, and strengthen their cooperation on environmental matters, and to promote sustainable development;

CONVINCED of the importance of the conservation, protection and enhancement of the environment in their territories for the well-being of present and future generations;

ACKNOWLEDGING that it is inappropriate to relax environmental laws in order to encourage trade and investment;

REAFFIRMING the Rio Declaration on Environment and Development, the Johannesburg Declaration on Sustainable Development, and the United Nations Millennium Development Goals;

ACKNOWLEDGING the growing economic, environmental and social links between their countries through the establishment of a free trade area;

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

AFFIRMING the Parties’ objective to pursue policies that promote sustainable development and sound environmental management and the need for mutually reinforcing trade and environmental policies;

ACKNOWLEDGING the importance of transparency and public participation in the development of environmental laws and policies and with respect to environmental governance;

RECOGNIZING that enhanced cooperation amongst the Parties brings benefits which can promote sustainable development, strengthen the environmental governance of the Parties and build on international environmental agreements;

AGREE as follows:

### **Part One—Definitions and Objectives**

#### **Article 1: Definitions**

##### **1. For purposes of this Agreement:**

(a) administrative ruling of general application means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit and that establishes a norm of conduct but does not include:

(i) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case, or

(ii) a ruling that adjudicates with respect to a particular act or practice;

(b) due process means that proceedings are conducted by decision-makers who are impartial and independent and do not have an interest in the outcome of the matter, that the Parties to the proceedings are entitled to support or defend their respective positions and to present information or evidence, and that the decision is based on such information or evidence;

(c) environmental laws mean statutory or regulatory provisions of a Party, including legally binding instruments made pursuant to such provisions, the primary purpose of which is the protection of the environment, or the prevention of a danger to human life or health, through:

(i) the prevention, abatement or control of the release, discharge, or emission of pollutants or environmental contaminants,

(ii) the control of environmentally hazardous or toxic chemicals, substances, materials and wastes, and the dissemination of information related thereto, or

(iii) the conservation and protection of wild flora or wildlife, including endangered species and their habitat, and specially protected natural areas, in the Party's territory,

but does not include any statutory or regulatory provision directly related to worker health and safety or public health, nor any statutory or regulatory provision of which the primary purpose is managing the commercial harvest or exploitation, or subsistence or aboriginal harvesting, of natural resources;

(d) environmental governance means the domestic system of legal, administrative, scientific and technical processes which collectively support the development, implementation, review, and improvement of laws, policies, programs and procedures for the conservation, protection and enhancement of the environment, including the prevention of environmental danger to human health;

(e) person means a natural person, or a legal person, such as an enterprise or non-governmental organization;

(f) persistent pattern means a sustained or recurring course of action or inaction beginning after the date of entry into force of this Agreement;

(g) province means a province of Canada, and includes the Yukon, the Northwest Territories and Nunavut;

(h) territory means:

(i) with respect to Canada, a) its land territory, internal waters, territorial sea, including the air space above these areas; b) 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 c) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS, and

(ii) with respect to Jordan, the land territory, air space, internal waters and territorial sea over which Jordan exercises sovereignty.

2. It is understood that a Party has not failed to “effectively enforce its environmental laws” in a particular case where the action or inaction in question by agencies or officials of that Party:

(a) reflects a reasonable exercise of their discretion in respect of investigatory, prosecutorial, regulatory or compliance matters; or

(b) is the result of bona fide decisions to allocate resources to enforcement in respect of other environmental matters which have been determined to have a higher priority.

## Article 2: Objectives

The objectives of this Agreement are to:

(a) foster conservation, protection and improvement of the environment in the territories of the Parties for the well-being of present and future generations;

(b) promote sustainable development through environmental and economic policies that are mutually supportive;

(c) promote cooperation between the Parties on the development and improvement of environmental governance;

(d) enhance compliance with, and enforcement of, environmental laws;

(e) support the environment-related provisions of the Free Trade Agreement between Canada and the Hashemite Kingdom of Jordan;

(f) promote transparency and public participation in the conservation, protection and improvement of the environment, including in the development of environmental laws and policies;

(g) encourage public participation in the implementation of this Agreement; and

(h) promote economically efficient and effective environmental measures.

## Part Two—Domestic Obligations

### Article 3: Levels of Protection

Recognizing the sovereign right of each Party to establish its own levels of domestic environmental protection, including its environmental laws, policies and priorities, and to adopt or modify each of these accordingly, each Party shall ensure that its environmental laws and policies provide for high levels of environmental protection, and shall strive to continue to develop and improve those laws and policies and the environmental governance that supports them.

### Article 4: Compliance with and Enforcement of Environmental Laws

1. With the aim of achieving high levels of environmental protection and compliance with its environmental laws, each Party shall effectively enforce, through government action, its environmental laws, subject to Article 19.

2. Each Party shall ensure that violations of its environmental laws can be remedied or sanctioned under its law through judicial, quasi-judicial or administrative proceedings.

## Article 5: Non-derogation

Neither Party may encourage trade or investment by weakening or reducing the levels of protection afforded in its environmental laws. Accordingly, neither Party may waive or otherwise derogate from its environmental laws in a manner that weakens or reduces the protections afforded in those laws to encourage trade or investment.

## Article 6: Environmental Assessment

1. Each Party shall ensure that it maintains appropriate procedures for assessing the environmental impacts of proposed projects which may cause significant adverse effects on the environment, with a view to avoiding or minimizing such adverse effects.
2. Each Party shall ensure that its environmental assessment procedures provide for the disclosure of information to the public concerning proposed projects subject to assessment and, in accordance with its law, shall allow for public participation in such procedures.

## Article 7: Public Information

1. Each Party shall ensure that its laws, regulations and administrative rulings of general application respecting any matter covered by this Agreement are promptly published or otherwise made available in such a manner as to enable interested persons to become acquainted with them.
2. Subject to Article 21, each Party shall publish or otherwise make available in advance any such law or regulation that it proposes to adopt, so as to enable interested persons to provide comments.

## Article 8: Private Access to Remedies

1. Each Party shall ensure that interested persons residing in or established in the territory of such Party may request the Party's competent authorities to investigate alleged violations of its environmental laws and shall give such requests due consideration, in accordance with its law.
2. Each Party shall ensure that persons with a legally recognized interest under its environmental laws in a particular matter shall have appropriate access to administrative, quasi-judicial or judicial proceedings for:
  - (a) the enforcement of the Party's environmental laws; and
  - (b) the seeking of remedies for violations of those laws.

## Article 9: Procedural Guarantees

1. Each Party shall ensure that its administrative, quasi-judicial and judicial proceedings referred to in paragraph 2 of Article 8 are fair, equitable and transparent and to this end shall provide that such proceedings:
  - (a) comply with due process of law;
  - (b) are open to the public, except where the administration of justice otherwise requires;

(c) entitle the parties to the proceedings to support or defend their respective positions and to present information or evidence; and

(d) are not unnecessarily complicated and do not entail unreasonable fees, unreasonable time limits or unwarranted delays.

2. Each Party shall provide that final decisions on the merits of the case in such proceedings are:

(a) in writing and where appropriate state the reasons on which the decisions are based;

(b) made available to the parties to the proceedings without undue delay and, in accordance with its law to the public; and

(c) based on information or evidence in respect of which the parties were offered the opportunity to be heard.

3. Each Party shall further provide, as appropriate, that parties to such proceedings have the right, in accordance with its law, to seek review and, where warranted, correction or redetermination of final decisions in such proceedings.

4. Each Party shall ensure that tribunals that conduct or review such proceedings are impartial and independent, and do not have any substantial interest in the outcome of the matter.

#### Article 10: Corporate Social Responsibility

Recognizing the substantial benefits brought by international trade and investment, the Parties should encourage voluntary best practices of corporate social responsibility by enterprises within their territories or jurisdictions, to strengthen coherence between economic and environment objectives.

#### Article 11: Measures to Enhance Environmental Performance

1. The Parties recognize that voluntary and incentive-based measures can enhance environmental performance and contribute to the achievement and maintenance of environmental protection, complementing regulatory provisions under environmental laws. In accordance with its laws and policies, each Party shall promote the development and use of such measures.

2. In accordance with its laws and policies, each Party shall promote the development, establishment, maintenance or improvement of performance goals and standards used in measuring environmental performance.

#### Part Three—Accountability

##### Article 12: Public Information and Accountability

1. Any person residing in or established in the territory of either Party may submit a written question to either Party, through the National Point of Contact, indicating that the question is being submitted pursuant to this Article regarding that Party's obligations under Part Two of this Agreement or cooperative activities developed pursuant to this Agreement.

2. The Party to which such question is directed shall acknowledge the question in writing, forward the question to the appropriate authority, and provide a response in a timely manner to the person who has sent the question.

3. Where the question is submitted by a person to the Party other than the Party of its residence or its establishment, the responding Party shall provide to the other Party, in a timely manner, copies of the questions it receives, and the responses it makes to those questions.

4. Each Party shall make publicly available in a timely manner all questions received and all responses given.

#### Article 13: Party-to-Party Information Exchange

1. A Party shall promptly provide any information regarding any proposed or actual environmental measure to the other Party, upon receiving a written request from that other Party and, as promptly as is reasonably possible, shall respond to any questions of the other Party pertaining to any such environmental measure.

2. A Party may notify the other Party of, and provide to that Party, any credible information regarding possible violations of, or failures to effectively enforce, its environmental laws. Such information shall be specific and sufficient to allow the other Party to inquire into the matter. The notified Party shall take appropriate steps to so inquire in accordance with its laws and to respond to the other Party.

#### Part Four–Cooperation

##### Article 14: Cooperative Activities

1. The Parties recognize that cooperation is an effective way to achieve the objectives and fulfill the obligations under this Agreement. Accordingly, and subject to the availability of appropriate financial and/or non-financial resources, the Parties may develop programs of cooperative activities including information sharing and technical exchanges based on each Party's national environmental agendas. Priorities for the programs are to be identified by the Environment Committee established under Article 15 of this Agreement.

2. In this regard, the Environment Committee shall consider the following topics: enforcement and compliance; corporate social responsibility; trade and environment; and environmental technologies to address, inter alia, water management and renewable energy.

3. The Parties may involve the public and interested stakeholders or any other entity as the Parties deem appropriate in their cooperative activities.

4. The Parties agree that it would be desirable if programs of cooperative activities developed by them could have as broad an application and benefit as possible.

5. In addition, the Parties agree to strive to strengthen their cooperation on environmental issues in other bilateral and multilateral fora in which they participate.

#### Part Five–Implementation

##### Article 15: Management of the Agreement

1. Implementation of this Agreement shall be through Party-to-Party coordination.

2. The Parties hereby establish a Committee on the Environment, comprising representatives of each Party. The Committee shall be responsible for the implementation of this Agreement, including the development of programs of cooperative activities, as required under Article 14.

3. The Committee shall meet, for the first time, no later than one year following the entry into force of this Agreement and subsequently as mutually agreed.

4. The Committee shall consider and discuss progress on the implementation of this Agreement.

5. The Committee shall prepare a summary record of the meetings unless otherwise decided and shall prepare reports on the activities related to the implementation of this Agreement when they consider appropriate. Such reports may address, among other things:

(a) actions taken by each Party further to its obligations pursuant to this Agreement; and

(b) cooperative activities undertaken pursuant to this Agreement.

6. Summary records and reports of the Committee meetings shall be made public, unless otherwise agreed by the Parties.

#### Article 16: National Point of Contact

Each Party shall designate an official within the appropriate ministry that shall serve as the National Point of Contact. The Parties shall inform each other by diplomatic note of such designation within six months of the entry into force of this Agreement, and shall make such information available to the public.

#### Article 17: Review

1. No later than the fifth year after the date of its entry into force, and subsequently as the Committee decides, the Committee shall consider undertaking a review of the implementation of the Agreement with a view to improving its operation and effectiveness.

2. The Committee may provide for the participation of the public and independent experts in the review process.

3. As part of this review, the Committee may consider further developments in respect of this Agreement and may present recommendations to the Parties for their consideration and action as appropriate.

4. The Parties shall make the results of any review public.

#### Article 18: Public Engagement

1. Each Party shall inform the public of activities, including meetings of the Parties and cooperative activities, undertaken to implement this Agreement.

2. Each Party shall endeavour to engage the public, as appropriate, in activities undertaken to implement this Agreement.

Part Six—General Provisions  
Article 19: Enforcement

Nothing in this Agreement shall be construed to empower a Party's authorities to undertake enforcement activities under its environmental laws in the territory of another Party.

Article 20: Private Rights

Neither Party may provide for a right of action under its law against the other Party on the ground that the other Party has acted in a manner inconsistent with this Agreement.

Article 21: Protection of Information

Nothing in this Agreement shall be construed to require a Party to release information that would otherwise be prohibited or exempt from disclosure under its laws and regulations, including those concerning access to information and privacy.

Article 22: Relation to Other Environmental Agreements

Nothing in this Agreement shall be construed to affect the existing rights and obligations of either Party under other international environmental agreements to which such Party is a party.

Article 23: Dispute Resolution

1. The Parties shall at all times endeavour to agree on the interpretation and application of this Agreement.
2. The Parties shall make every attempt, through consultations and the exchange of information with an emphasis on cooperation to address any matter that might affect the operation of this Agreement.
3. Either Party may request consultations with the other Party regarding any matter arising under this Agreement by delivering a written request to the National Point of Contact of the other Party. Upon receipt, the National Point of Contact shall forward the request for consultations to the Committee on the Environment.
4. If the Parties fail to resolve the matter through the Committee, a Party may request in writing consultations with the other Party at the Ministerial level. The Party that has received the request shall respond expeditiously. Ministerial consultations shall be concluded no later than 120 days after the request unless the Parties agree to another date.
5. Following the Ministerial consultations, if the requesting Party considers that there is a persistent pattern of failure by the other Party to effectively enforce its environmental laws or a breach of the obligation under Article 5, the requesting Party may call for the establishment of a Review Panel.
6. The Review Panel shall be established and function in accordance with Annex I and the Model Rules of Procedure.
7. The Review Panel shall prepare a report that will contain findings of fact. The report will include its determination as to whether there has been a persistent pattern of failure by a Party to effectively enforce its environmental laws or a breach of the obligation under Article 5. Where appropriate, the

Panel will include recommendations to remedy the persistent pattern of failure or the breach of the obligation under Article 5 for the Parties' consideration.

8. The Parties shall endeavour to develop a mutually satisfactory action plan to implement the Panel's recommendations. Each Party shall make the action plan public, if both parties so decide.

#### Article 24: Application to the Provinces of Canada

The application of this Agreement to the provinces of Canada is subject to

Annex II of this Agreement.

#### Part Seven—Final Provisions

##### Article 25: Annexes

Annexes I and II to this Agreement form an integral part of this Agreement.

##### Article 26: Entry into Force

Each Party shall notify the other Party in writing of the completion of the domestic procedures required for the entry into force of this Agreement. Unless the Parties agree otherwise, this Agreement shall enter into force from the date of the second of these notifications or the date that the Free Trade Agreement between Canada and the Hashemite Kingdom of Jordan enters into force, whichever is later.

##### Article 27: Amendments

The Parties may agree in writing on any amendment to this Agreement. Each Party shall notify the other Party in writing of the completion of the domestic procedures required for the entry into force of the Amendment. Unless the Parties agree otherwise, this Amendment shall enter into force from the date of the second of these notifications.

##### Article 28: Termination

1. This Agreement may terminate upon written consent of the Parties

2. In the event of the termination of the Free Trade Agreement between Canada and the Hashemite Kingdom of Jordan, either Party may unilaterally, with 60 days written notice to the other Party, terminate this Agreement. This agreement shall terminate 60 days after this notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE in duplicate at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 2009, in the English, French and Arabic languages, each version being equally authentic.

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FOR CANADA

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FOR THE HASHEMITE KINGDOM OF JORDAN

Annex I Dispute Resolution  
Review Panel Process

Initial Report:

1. The Review Panel shall prepare an initial report within 120 days after the last panelist is selected or as otherwise agreed and present such report to the Parties.
2. Such report shall contain:
  - (a) findings of fact;
  - (b) its determination as to whether there has been a persistent pattern of failure by a Party to effectively enforce its environmental laws, or a breach of the obligation under Article 5; and
  - (c) in the event of a determination under sub paragraph (b) that a Party has failed to effectively enforce its environmental laws, or has breached the obligation under Article 5, its recommendations to remedy the matter.

Final Report:

3. The Parties may provide comments on the initial report within 60 days of the presentation of the initial report.
4. The Review Panel shall present the final report to the Parties within 30 days of receiving comments from the Parties.
5. The final report shall be published within 60 days after it is presented to the Parties.

Criteria for Selecting Panel Review:

6. A Review Panel shall be comprised of three panelists appointed by the Parties.
7. Panelists shall:
  - (a) be chosen on the basis of their expertise in environmental 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.
8. If either Party believes that a panelist is in violation of the code of conduct, the Parties shall consult and, if they so decide, the panelist shall be removed and a new panelist shall be selected in accordance with the criteria set out above. The time limits in paragraphs 1, 3, 4 and 5 shall run from the date of the decision to remove the panelist.
9. Individuals may not serve as panelists with respect to a review in which they have, or a person or organization with which they are affiliated has an interest.

10. The chairperson shall not be a national of either Party.

Panel Selection Procedures:

11. 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 the Review Panel, each Party shall select one panelist;

(b) if one Party fails to select a panelist within such period, the other Party shall select the panelist from among qualified individuals who are nationals of the Party that has failed to select its panelist; and

(c) the following procedures shall apply to the selection of the chairperson:

(i) the Party that is the object of the request for the establishment of a panel shall provide the requesting Party with the names of three qualified candidates to be the chairperson. The names shall be provided no later than 20 days after the receipt of the request;

(ii) the requesting Party may choose one of the individuals to be the chairperson or, if the names were not provided or none of the individuals are acceptable, provide the Party that is the object of the request with the names of three qualified candidates 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 request may choose one of the three individuals chosen by the requesting party 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 Secretary-General of the Permanent Court of Arbitration to appoint a chairperson expeditiously.

Rules of Procedure:

12. 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 dispute resolution proceedings under Article 23.

13. The Parties shall adopt a separate budget for each Review Panel established under Article 23. The Parties shall contribute equally to the budget, unless they decide otherwise.

Annex II Application to the Provinces of Canada

1. Following the entry into force of this Agreement, Canada shall provide to the Hashemite Kingdom of Jordan a written declaration indicating any provinces for which Canada is to be bound in respect of matters within their jurisdiction. The declaration shall be effective upon delivery to the Hashemite Kingdom of Jordan.

2. Canada shall use its best efforts to make this Agreement applicable to as many provinces as possible.

3. Canada shall notify the Hashemite Kingdom of Jordan of any modification to its declaration. The modification shall take effect six months after this notice.