

ANNEX 41

EXTENT OF OBLIGATIONS

1. On the date of signature of this Agreement, or of the exchange of written notification under Article 46, Canada shall set out in a declaration a list 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 Chile, and shall carry no implication as to the internal distribution of powers within Canada. Canada shall notify Chile six months in advance of any modification to its declaration.
2. When considering whether to instruct the responsible National Secretariat to prepare a factual record pursuant to Article 15, the Council shall take into account whether the submission was made by a non-governmental organization or enterprise incorporated or otherwise organized under the laws of a province included in the declaration made under paragraph 1.
3. Canada may not request consultations under Article 22 or a Council meeting under Article 23 or request the establishment of a panel primarily for the benefit of any government of a province not included in the declaration made under paragraph 1.
4. Canada may not request a Council meeting under Article 23, or request the establishment of a panel concerning whether there has been a persistent pattern of failure by Chile to effectively enforce its environmental law, unless Canada states in writing that the matter would be under federal jurisdiction if it were to arise within the territory of Canada, or:
 - (a) Canada states in writing that the matter would be under provincial jurisdiction if it were to arise within the territory of Canada; and
 - (b) the provinces included in the declaration account for at least 55 percent of Canada's Gross Domestic Product (GDP) for the most recent year in which data are available; and
 - (c) where the matter concerns a specific industry or sector, at least 55 percent of total Canadian production in that industry or sector is accounted for by the provinces included in the declaration for the most recent year in which data are available.
5. Chile may not request a Council meeting under Article 23 or request the establishment of a panel concerning whether there has been a persistent failure to effectively enforce an environmental law of a province unless that province is included in the declaration made under paragraph 1 and the requirements of subparagraphs 4(b) and (c) have been met.
6. Canada shall, no later than the date on which an arbitral panel is convened pursuant to Article 24 respecting a matter within the scope of paragraph 5 of this Annex, notify Chile in writing of whether any monetary enforcement assessment or action plan imposed by a panel under Article 33(4) or 33(5) against Canada shall be addressed to Her Majesty in right of Canada or Her Majesty in right of the province concerned.