

CANADA AND THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

Finding Solutions

- Any country may request consultations with any other country regarding the latter's failure to enforce its environmental laws.
- The Council will meet if the countries fail to resolve the matter or if a country has demonstrated a persistent pattern of non-enforcement.
- The Council may:
 - create working groups or committees;
 - have recourse to dispute resolution procedures; or
 - make recommendations.
- If the Council is unable to resolve a trade-related environmental dispute, it may, by a two-thirds vote, convene an arbitral panel.
- The panel will investigate and make public its findings. The spotlight of public scrutiny will be focused on any country which does not live up to its obligations.

Enforcement

- A compliance mechanism has been established in the event that an arbitral panel finds a persistent pattern of failure by a country to effectively enforce its environmental law.
- If a country fails to correct the problem, the panel may impose a fine of up to US\$20 million, for the first year. In the future, fines shall be no greater than .007 percent of total trilateral trade of goods.
- In the unlikely event a fine is imposed on Canada, the fine would be ultimately enforceable by domestic courts. In the case of the United States and Mexico, failure to pay the fine would result in suspension of NAFTA benefits, including the imposition of a duty, based on the amount of the fine.
- Under this arrangement, the United States and Mexico potentially face trade sanctions. Canada never does.

PROVINCES AND TERRITORIES

Environment is an area of shared jurisdiction. Most provinces and territories have been active participants in shaping the Canadian position and all provinces and territories will be encouraged to participate in the Agreement.