

Violation of International Law: The Security and Prosperity Partnership must be declared Null and Void

Montebello Declaration for the establishment of the North American Compliance Court (NACC) to replace the SPP

By [The Global Compliance Research Project](#)

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When the leaders of Canada, Mexico and the US meet in Montebello, they should reflect on the fact that one of them leads a minority government, another one was elected in an election still under dispute, still another is rapidly descending in the polls.

They should also reflect on the fact that all three come from rogue states that have generally shown disrespect for international peremptory norms.

Instead of further negotiating the SPP which entrenches the dereliction of duty towards these norms, they should establish a North American Compliance Court where citizens can take evidence of state and corporate non-compliance, and where, in the absence of compliance, charters and licences of corporation can be revoked.

In relation to the SPP, it should be noted that under Article 53 of the Convention on the Law of Treaties, Treaties may come in conflict with a peremptory norm of general international law (jus cogens):

“A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. for the purposes of the present convention, a preemptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”

The Security and Prosperity Partnership is described as an “agreement” rather than a treaty. [The objective is to bypass Congress] because in the United States Constitution, treaties have to be ratified by Congress whereas agreements can be acceded to by the President as a “sole executive agreement”.

This “agreement” should still respect peremptory norms.

Peremptory norms can be extracted from years of international instruments to which a broad range of states, functioning under a range of legal systems, have incurred obligations, made commitments and created expectations.

Given that the Security and Prosperity Partnership, including all the subsidiary negotiations related to the SPP, will cause Canada, Mexico and the United States to further undermine peremptory norms, the SPP must be declared null and void.

In its place the three leaders at Montebello, Quebec in their meeting in August must thus abandon all further negotiations on the SPP and abide by peremptory norms which have been established to achieve the following objectives:

- * to promote and fully guarantee respect for human rights including labour rights, civil and political rights, social and cultural rights- right to food, right to housing, right to universally accessible, not for profit health care system , right to education and social justice;
- * to enable socially equitable and environmentally sound employment, and ensure the right to development [as per Convention];
- * to achieve a state of peace, social justice and disarmament; through reallocation of military expenses, and eradication of poverty
- * to create a global structure that respects the rule of law ; and
- * to ensure the preservation and protection of the environment, respect the inherent worth of nature beyond human purpose, reduce the ecological footprint and move away from the current model of overconsumptive development.

And should agree to set up and to set up a North American Compliance Court to achieve these objectives

For over 60 years states through the UN system, member states of the UN have incurred obligations through treaties, conventions and covenants, made commitments through UN Conference Action plans, and created expectation through UNGA declarations and resolutions related to furthering international law and common security.

True security is not “collective security” or “human security” which has been extended to “humanitarian intervention” and used along with the “responsibility to protect” with a view to justifying military intervention in other states. True security is “common security”, not as defined in the SPP, but in documents prepared by Olaf Palme, and which entrench peremptory norms.

It is time for compliance, implementation and enforcement of these obligations and commitments.

Common security can only be achieved if there is a concerted international effort to eliminate the actions that have led to global insecurity, that no state shall compel another state to act to its detriment, and that no corporation shall be permitted to sue a state for respecting the commons, and for protecting the interests of its citizens.

PROVISIONS PROPOSED FOR THE MONTEBELLO DECLARATION:

WE, leaders from Canada, Mexico, and the United States HAVE AGREED TO THE FOLLOWING:

Article 1

We will discharge obligations incurred through conventions, treaties, and covenants; and act on commitments through conference action plans related to Common security - peace,

environment, human rights and social justice

Article 2

We will sign, ratify, and enact the necessary legislation to ensure compliance with, or respect for Common Security international Conventions, Covenants and Treaties.

Article 3

We reaffirm our commitment to multilateralism and oppose unilateral actions that undermine global common security, and we undertake to abandon all further negotiations on the Security and Prosperity Partnership.

Article 4

We undertake to reduce our military budgets and reallocate military expenses and transfer the savings into global social justice as undertaken through numerous UN Conference Action Plans and UN General Assembly Resolutions.

Article 5

We will no longer undermine the notion of democracy by couching a plutocracy/theocracy in democratic notions of “freedom”.

Article 6

We will abandon the pre-emptive/preventive policy that has resulted in aggressive attacks on sovereign states and that has been in violation of the UN Charter article 2 and international law and is the ‘supreme’ international crime of a war of aggression.

Article 7

We will end the practice of mollifying public opposition by couching aggressive acts in euphemistic “operations” such as “operation just cause”, Operation Iraqi freedom, “Operation Enduring Freedom” etc.

Article 8

We will withdraw immediately from any military involvement and occupation of sovereign states including Iraq and Afghanistan

Article 9

We will be willing to be judged by an international tribunal for any actions that might be deemed to violate international law, to be crimes against the peace, to be war crimes, or genocide

Article 10

We will not misuse UN “peace keeping” to clean up aggressive acts of destruction and occupation of other states

Article 11

We will undertake to sign and ratify all Geneva Protocols, including Protocol V which requires the removal of remnants of war

Article 12

We will no longer perceive justice in terms of revenge through military intervention we will instead seek justice through the International Court of Justice.

Article 13

We will no longer misconstrue Art 51 (self defence) of the Charter of the United Nations to justify premeditated non provoked military aggression, or use various pretexts for invading other sovereign states.

Article 14

We will not engage in and will oppose any attempt to undermine the international resolve to prevent the scourge of war; this would include not engaging in intimidation or in offering economic incentives in exchange for support for military intervention.

Article 15

We will invoke Chapter VI - the peaceful resolutions of disputes- and be prepared to be judged by the International Court of Justice

Article 16

We undertake to respect the mandatory jurisdiction of the International Court of Justice ,and will abide by its decisions.

Article 17

We will convert to peaceful purposes foreign military bases in sovereign states around the world,

Article 18

We will end the circulation and berthing of nuclear powered or nuclear arms capable vessels throughout the world.

Article 19

We will no longer engaged in “War Games” or “Military exercises” such as Exercise Trident Fury

Article 20

We will discontinue propping up and financing military dictators.

Article 21

We will abandon the practice of targeting or assisting in the assassination of leaders of other sovereign states, and engaging in “regime change” or covert destabilization of democratically elected leaders of or any leader of a sovereign state.

Article 22

We will abide by the Nuclear Non Proliferation treaty and immediately implement Article VI of the treaty, (Article VI: commits all parties to pursue negotiations in good faith on measures to end the nuclear arms race and to achieve disarmament.) and we will end the production of all weapons of mass destruction such as nuclear, chemical, and biological, as agreed to in UNCTED in 1972, and in specific conventions.

Article 23

We reaffirm the obligations under the 1967 the Outer space Treaty to ensure that exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind [humanity]; and we will discontinue the research, development and installation of Ballistic Missile Defence technology.

Article 24

We make a full commitment to disarmament and oppose the continued profit making from the sale of arms, will implement obligations to reduce the trade in small arms and in collaboration with the ILO will fund a fair and just transition program for worker currently working in the arms trade.

Article 25

We will end the production of land mines and sign and ratify the Convention for the Banning of Landmines, and affirm a commitment of funds and continuous effort to remove land mines from all areas of the world where land mines are known to exist.

Article 26

We will suffocate the production of uranium, phase out the use of civil nuclear energy, and prohibit the use of weapons such as Depleted Uranium and cluster bombs that would be prohibited under the Geneva Protocol II.

Article 27

We oppose NATO'S first strike policy, and support the disbanding of NATO, and NORAD.

Article 28

We will abide by the Geneva conventions on the treatment of civilians, and respect international human rights and humanitarian law.

Article 29

We will abide by the Convention against Torture through Cruel, Inhumane or Degrading Treatment or Punishment, and end the practice of rendition of citizens and will abide by the Geneva conventions.

Article 30

We will eliminate cruel and inhumane punishment such as capital punishment, which violates accepted international norms.

Article 31

We will abandon institutions and agreements which promulgate globalization, deregulation and privatization; these institutions and agreements undermine the rule of international public trust law, and condone and actively facilitate corporations benefiting and profiting from war.

Article 32

We oppose the promulgation, globalization, deregulation and privatization through trade agreements, such as the WTO/FTAA/NAFTA etc that undermine the rule of international public trust law, and we will support global fair trade

Article 33

We abandon the IMF structural adjustment program which has led to the violation of human rights, has exploited citizens in the developing world and has adversely impacted on vulnerable and indigenous peoples around the world.

Article 34

We oppose the privatization of public services such as water and health care, we will increase funding to Universities to counter the corporate funding of education including the corporate direction of research and declare that research must be arms length and not tied

to government or corporations.

Article 35

We will finally implement the long standing international commitment to transfer .7% of the GDP for overseas aid, and to cancel third world deb.

Article 36

We will no longer subsidize and invest in companies that have developed weapons of mass destruction, that have violated human rights, that have denied social justice, that have exploited workers, and that have destroyed the environment.

Article 37

We will implement the commitment made to ensure that corporations, including transnational corporations comply .. with international law, and that they pay compensation for any previous health and environmental consequences of their actions.

Article 38

We will revoke charters and licences of corporations that have violated human rights, including labour rights, that have contributed to war and violence, and that have led to the destruction of the environment.

Article 39

We support Mandatory International Ethical Normative (MIEN) standards and enforceable regulations to drive industry to conform to international law, and oppose corporate “voluntary compliance”.

Article 40

We will enforce the provisions in the Convention to prevent disasters, and will not embrace the acceptance of weaker proposals which would result in “reducing disasters”

Article 41

We will oppose all proposals such as those in the Security and Prosperity Partnership, which will result, through the practice of harmonization, in standards’ and regulations’ not achieving the highest tenable principles but arriving at the lowest common denominator

Article 42

We will ban substances and activities that contribute to environmentally induced diseases we will address poverty related health problems and ensure universal access, to publicly funded not for profit health care system.

Article 43

We will end the production of toxic, hazardous, atomic waste, and we will prevent the transfer to other states of substances and activities that are harmful to human health or the environment as agreed at the UN Conferences on the Environment and Development, 1992.

Article 44

We will ban the production, approval and promotion of genetically engineered foods and crops which have led to a deterioration of the food supply, and to loss of heritage seeds; and we will oppose all proposals such to supply genetically engineered food and crops to address the issue of poverty, or to contribute to the mitigation of climate change

Article 45

We will protect Biodiversity by signing and ratifying the Convention on Biological Diversity and oppose “megadiversity”–resulting from genetic engineering.

Article 46

We will be forthright in acknowledging that the Biosafety Protocol is a disguised trade agreement, and serves to promote the acceptance of Genetically modified living organisms.

Article 47

We will accept the warnings of the Intergovernmental panel on Climate change, and no longer disregard obligations under the Framework Convention on Climate Change and its protocol to reduce greenhouse gas emissions, and to preserve carbon sinks..

Article 48

We will counter the doubters of the issue of climate change by citing the precautionary principle contained in the legally binding Framework Convention on Climate Change; Which reads that where there is a threat of climate change, the lack of full scientific certainty should not be used to postpone measures to prevent the threat [a paraphrase]

Article 49

We will oppose any suggestion that civil nuclear energy is the solution to climate change. {in violation of the principle that a solution should never be equally bad or worse than the problem it is intended to solve]

Article 50

We oppose the practice by the International Atomic Energy Agency (IAEA) of promoting civil nuclear energy as a solution to climate change [in violation of the principle that a regulator should not a promoter be]

Article 51

We support a Forest Protocol to be linked to the Convention on Biological Diversity and to the Framework Convention on Climate Change.

Article 52

We will repeal anti-terrorism legislation because it violates civil and political rights, and results in racial profiling.

Article 53

We will oppose “slap suits” against public participation, and will no longer target, intimidate and discriminate against activists on the grounds of political and other opinion (a listed ground in the International Covenant of Civil and Political Rights}

Article 54

We will clearly distinguish legitimate dissent from criminal acts of subversion.

Article 55

We will end all discrimination on the following grounds:

- race, tribe, or culture;
- colour, ethnicity, national ethnic or social origin, or language; nationality, place of birth, or nature of residence (refugee or immigrant, migrant worker);
- gender, sex, sexual orientation, gender identity, marital status, or form of family, [including same-sex marriage]
- disability or age;

- religion or conviction, political or other opinion, or - class, economic position, or other status.

Article 56

We will end the discrimination against immigrants, and refugees and we sign and ratify the Convention for the Protection of Migrant Workers and their Families; and the Convention on Refugees.

Article 57

We will fully abide by ILO Convention related to indigenous rights, and will not longer engaged in practices that destroy the lands of indigenous people or that are deemed to be inappropriate

Article 58

We will respect women's reproductive rights, and abide by commitments made under the International Conference on Population and Development, and the Beijing Platform, and we will sign and ratify the Convention on the Elimination of all forms of Discrimination against Women, and its protocols.

Article 59

We oppose religious extremism and proselytizing including the spread of Evangelical Christianity around the world, which has undermined local indigenous cultures, instilled fear through the dangerous, belief in the "rapture", "Armageddon" and "left behind", has promulgated dispensationalist "end times" scenario which has serious irreversible consequences. and has led to the denigrating other established beliefs and practices.

Article 60

We will abide by all of the ILO Conventions, including the provisions related to the right to strike, and the right to equal pay for work of equal value

Article 61

We support the institution of an International Court of Compliance linked to the International Court of Justice; The Court of Compliance will hear evidence from citizens of state non compliance.

Article 62

We will set up the North American Court of Compliance (NACC) where citizens can take evidence of state and corporate non-compliance, and where, in the absence of compliance, charters and licences of corporation can be revoked.

Proposed by the Global Compliance Research Project

For further information: contact: Joan Russow PhD at jrussow@gmail.com

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