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**Submission to the  
Canadian Association of Pension  
Supervisory Authorities (“CAPSA”)**

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**Re: Proposed Funding Principles  
For a  
Model Pension Law**

**November 30, 2005**

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## **EXECUTIVE SUMMARY**

The Multi-Employer Benefit Plan Council of Canada (*MEBCO*) represents the interests of Canadian multi-employer pension plans (*MEPPs*) and multi-employer health and benefit plans (*MEPPs*) and includes representative of all persons and disciplines involved in *MEPPs* and *MEBPs*, including union and employer trustees, professional third party administrators, non-profit or "in-house" plan administrators and professionals.

Among *MEBCO*'s many constituents are multi-employer pension plans, which provide pensions to their Members. There are approximately 360 *MEPPs* in Canada that have Membership with an estimated 1,000,000 individuals. Annual Employer, and where applicable Member, contributions to *MEPPs* are estimated to exceed \$2.0 billion. Many Canadians who participate in *MEPPs* earn middle to low incomes.

*MEPPs* in Canada are a unique Labour and Management response for meeting the retirement needs of workers and their dependents. Without the formation of *MEPPs* and *MEBPs*, a substantial portion of the Canadian population would not have access to the benefits of Death, Disability, Health and or Dental plans, nor would they have an employment program to provide additional lifetime retirement income beyond the floors provided by the Canada (*or Quebec*) Pension Plan, Old Age Security and the Guaranteed Income Supplement. This role should not only be recognized by government, but also should be preserved and indeed encouraged.

The purpose of our submission is to both assist *CAPSA* in meeting its objectives to simplify and harmonize pension regulation in Canada, while protecting Member's rights and benefits and to represent the interests of our Members with respect to retirement and taxation issues.

We do not believe that now is the time to require strengthened funding rules. We understand that all pension regulators have internal guidelines when reviewing the financial position of a pension plan. As beneficiaries of *MEPPs* bear different risks than other pension plans, regulator internal guidelines should reflect these differences. *MEBCO* believes that pension plan trustees should be allowed to manage their plans in the best interest of plan beneficiaries.

Although we believe that a 15 year amortization period is appropriate, we also believe that an amortization period based on the plan's expected remaining service life may also be appropriate. MEBCO does not believe that any constraints are in the best interests of plan members (for example, enhanced early retirement benefits). We believe that the ability to improve benefits should be based on each plan's circumstances. MEBCO does not believe that PfADs should be required for all plans, but determined on a plan by plan basis by the plan's actuary. We note the Canadian Institute of Actuaries is currently considering this issue.

MEBCO strongly agrees funding rules should reflect the different nature of the risks that MEPPs face. We note that risk sharing is different from other types of pension plans and the risk of plan termination is very low. As a result, funding should not be influenced by the solvency position of the MEPP, but rather should be based on the going concern financial position. We agree that pension plan members should be advised of the wind-up funding level of the pension plan.

MEBCO concurs that pension plans should consider adopting a written Funding Policy. Although the proposed elements are reasonable, any required elements should reflect the fact that not all state elements are appropriate for MEPPs.

MEBCO agrees that MEPPs face different risks from single employer pension plans and that any funding rules should address these differences in particular that the risk of plan termination is very low. Financial risk should focus on going concern not solvency financial position.

Based on our meeting on September 19, 2005 we understand the proposal for amortization of solvency deficiency on pension plan termination would not apply to MEPPs.

MEBCO would be pleased to meet with representatives of CAPSA to discuss all or any aspect of our submission, and to dialogue as to how regulation of Multi-Employer Pension Plans and specifically Negotiated-Contribution, Defined Benefit ('specified') Multi-Employer Pension Plans can be improved.

## HIGHLIGHTS OF OUR SUBMISSION

MEBCO urges CAPSA to continue to focus pension reform legislation on harmonization of pension legislation across Canada. MEBCO attended the initial session with CAPSA on the Model Law in February, and continued to have representatives attend many of the 'road-show' presentations across English Canada held in April and early May, in order to present the position of Multi-Employer Plans within the public portion of the CAPSA consultation process. MEBCO is concerned that CAPSA may give insufficient consideration to the unique nature of negotiated-contribution, defined benefit MEPPs. Thus, in addition to making this formal submission within CAPSA's stated time-frame, MEBCO offers to meet with CAPSA to review the unique requirements of MEPP's, in hopes that funding principles for a Model Pension Law will ensure that pension legislation and regulations does not focus solely on single-employer plans, and plans that are outside the bound of a negotiated-contribution, defined benefit MEPP.

MEBCO's constituents include many national plans. The disparate nature of various pension legislation adds a significant cost to the administration of these pension plans. As contributions are essentially fixed, the consequences of additional costs translate into lower benefits provided to plan beneficiaries. Our submission voices our support for initiatives that mandate consistent benefits shall be provided regardless of provincial residence.

MEBCO submits that the Multi-Employer Pension Plans are, by their very nature, distinctly different from most Single-Employer Pension Plans (*SEPPs*) and what the earlier provincial consultations have referred to as Multi-Unit Pension Plans (*MUPPs*). MEBCO sees MUPPs as distinct from MEPPs, possibly by having an employer-bias, and as such, possibly requiring more stringent regulations to protect the interest of Plan beneficiaries. For example, surplus assets may be an issue with SEPPs and/or MUPPs. Surplus is never an issue with MEPPs, as MEPPs will always acknowledge that all contributions and all assets can only be used for the interests of beneficiaries, and such funds can never revert to employers.

In all cases, MEPPs are formed under the responsibility of a Board of Trustees. Labour must appoint at least half of the Board Members. Management can appoint not more than half of Board Members. The role of the Board of Trustees in a MEPP is very important. Trustees have a fiduciary responsibility to act solely in the best interests of Plan beneficiaries. Labour Trustees are either elected specifically by Plan beneficiaries, or appointed by Union officials who were democratically elected by Plan beneficiaries. MEBCO submits that either approach is perfectly satisfactory. These Trustees recognize that they must act responsibly, and in accordance with their fiduciary obligations at law.

MEBCO offers input only on aspects of the Funding Principles that impact MEPPs.

MEBCO would like to specifically reiterate its position that a MEPP should test its funding adequacy by using only the "going-concerns" valuation. MEBCO specifically supports the Paper produced by the Canadian Institute of Actuaries Task Force on Multi-Employer Pension Plans, which can be found at <http://actuaries.ca/publications/2001/20145e.pdf>. Solvency funding of any form is in MEBCO's view, inappropriate for MEPPs. Going concern funding only should apply.

Before commenting on the principles directly, we would first like to comment on the use of the acronym N.C.D.B. or negotiated contribution defined benefit plan. Most MEPPs are funded solely by contributions pursuant to negotiated Collective Agreements where the employers' obligation is limited to timely contributions under the terms of those contracts. In a typical MEPP, for instance in the construction industry, Union and managements negotiate a total compensation package and the decision as to the amount to be distributed to pension, health benefits or an increase in base wages is left to a decision by the Union. However, once a decision has been made as to the allocation of the total compensation increase, the components, including the pension contributions are difficult to alter since any change constitutes an amendment to the Collective Agreement and normally requiring a reduction in the wage package and subject to ratification by the Union and the employers' organization.

## INTRODUCTION

### *Who we are*

The Multi-Employer Benefit Plan Council of Canada was established in 1992 to represent the interests of Canadian multi-employer pension and benefit plans in relation to existing or proposed federal and provincial legislation and policies affecting multi-employer plans (*MEPs*). MEBCO is a federal non-share capital corporation, operating on a not-for-profit basis. MEBCO's Board of Directors consists of representatives from a diverse cross-section of the pension and employment benefits field. MEBCO represents all persons and disciplines involved in MEPPs and MEBPs.

MEBCO's Membership includes

- Union (*Labour*) trustees
- Employer (*Management*) trustees
- Non-profit or "in-house" plan administrators
- Professional third party administrators, and
- Professional including actuaries, benefit consultants, investment managers insurers, lawyers and accountants

MEBCO currently has over 190 Members in jurisdictions across Canada. There are hundreds of MEPs (*MEPPs and MEBPs*) in Canada covering well over one million workers, and the dependents of those workers, in industries such as

- Building and construction
- Food service
- Retail
- Hotel and Restaurant
- Graphic Arts
- Garment Manufacturing
- Security
- Textile
- Transportation, and
- Entertainment

A MEP may be national, regional, provincial or local in coverage. Anywhere from two to over one thousand employers may contribute to a single MEP pursuant to one or many Collective Bargaining Agreements.

MEBCO is please to respond to *CAPSA's* initiative to take the first step(s) toward a Model Pension Law for Canada.

MEBCO responds only on those Key Principles that impact MEPPs. Where no input is provided, MEBCO may support the Key Proposal, deem it not relevant to MEPPs, or may be relatively neutral.

## **SECONDARY OBJECTIVES:**

CAPSA proposes to minimize inter-cohort and intergenerational inequity among groups of plan members.

### **MEBCO's RESPONSE**

We note that most MEPPs have already addressed the issue of intergenerational equity through benefit improvements in the more distant past and benefit reductions in the more recent past.

## **OTHER CONSIDERATIONS #1**

CAPSA states a minimum funding requirement should promote stability in the funded status of the plan while promoting stable contribution rates for plan sponsors.

### **MEBCO's RESPONSE**

Contributions by definition are stable in a MEPP and the stability of funded ratio can only be assessed in terms of going concern valuation. Many MEPPs have been managed in this regard by way of a more conservative actuarial basis.

## **OTHER CONSIDERATIONS #2**

CAPSA desires to maintain employment pensions as an integral part of Canada's retirement income system while recognizing the competitive pressures facing Canadian companies operating in a Global environment.

### **MEBCO's RESPONSE**

Application of solvency funding rules generally resulted in benefit reductions for an event (plan termination) that is highly unlikely for most MEPPs. As a result, many plans faced pressure by plan members to terminate the plan. Managing the plan on a conservative going concern basis rather than applying solvency funding rules would assist in achieving this objective.

## **PRINCIPLE #9**

Rules for negotiated contribution defined benefit plans.

### **MEBCO's RESPONSE**

MEBCO supports this principle in respect of going concern special payments provided that it does not include solvency special payments. If the actuary cannot demonstrate contribution sufficiency, we do not support the position that benefit reductions are available as a last resort only. We believe that the trustees should have the flexibility to manage the plan in the best interests of all plan members.