

1995 BILL 44

Third Session, 23rd Legislature, 44 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 44

INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS IMPLEMENTATION ACT

MR. RENNER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 44
Mr. Renner

BILL 44

1995

INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS IMPLEMENTATION ACT

(Assented to , 1995)

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Preamble	WHEREAS the Government of Alberta recognizes the benefits of and supports increased liberalization of international trade and international investment; and

WHEREAS the Government of Canada has entered and from time to time does enter into international trade and investment agreements; and

WHEREAS the Government of Alberta has responsibility and authority to implement the provisions of international trade and investment agreements that affect a matter within the jurisdiction of the Province of Alberta;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act, “international trade and investment agreement” means an agreement entered into by the Government of Canada or a Minister, agency or official of the Government of Canada, and

- (a) one or more foreign countries or states, or any agency or official of those foreign countries or states, or
- (b) an international organization,

related to trade in goods or services or investment among the countries to which the agreement applies.

Purpose

2 The purpose of this Act is to provide a mechanism for the Government of Alberta to declare its approval of any international trade and investment agreement that affects a matter within its jurisdiction and to implement it.

PART 1

APPROVAL OF INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS

Approval of agreements

3 The Government of Alberta may declare its approval of an international trade and investment agreement, or any provision of it, that affects a matter within the jurisdiction of the Government of Alberta and is in the public interest of Albertans by an order of the Lieutenant Governor in Council or of the Minister of Federal and Intergovernmental Affairs.

PART 2

IMPLEMENTATION OF INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS

Application of agreements	4 This Part applies to international trade and investment agreements entered into before or after this Act comes into force.
Regulations	5(1) The Lieutenant Governor in Council may make regulations <ul style="list-style-type: none">(a) to give effect to an international trade and investment agreement or any provision of it;(b) to give effect to the suspension of the application of any benefits, concessions or obligations under the international trade and investment agreement to another party to the agreement;(c) to resolve any inconsistency between an Act or regulation and an international trade and investment agreement, or any provision of it, in which case the regulation prevails to the extent of the inconsistency until it is repealed under subsection (2). <p>(2) A regulation made under subsection (1)(c) is repealed on the earliest of</p> <ul style="list-style-type: none">(a) the coming into force of an enactment that resolves the inconsistency;(b) the coming into force of a regulation that repeals the regulation made under subsection (1)(c);(c) 2 years after the regulation comes into force. <p>(3) The repeal of a regulation under subsection (2) does not affect anything done or incurred under the authority of the regulation before the repeal of the regulation.</p>
Consent to commence action	6 No person has a cause of action and no proceedings of any kind may be taken to enforce or determine any right or obligation that is claimed or arises solely under or by virtue of an international trade and investment agreement without the consent of the Minister of Justice and Attorney General.

PART 3

NAAEC AND NAALC PANEL DETERMINATIONS

Definitions

7 In this Part,

- (a) “appropriate Commission” means
 - (i) in respect of a panel determination as defined in Annex 36A of the Environmental Cooperation Agreement, the Commission for Environmental Cooperation established under Article 8 of that Agreement;
 - (ii) in respect of a panel determination as defined in Annex 41A of the Labor Cooperation Agreement, the Commission for Labor Cooperation established under Article 8 of that Agreement;
- (b) “Environmental Cooperation Agreement” means the North American Agreement on Environmental Cooperation entered into between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America and signed on September 14, 1993, as amended from time to time in accordance with Article 48 of that Agreement;
- (c) “Labor Cooperation Agreement” means the North American Agreement on Labor Cooperation entered into between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America and signed on September 14, 1993, as amended from time to time in accordance with Article 52 of that Agreement;
- (d) “panel” means an arbitral panel convened under Article 24 of the Environmental Cooperation Agreement or under Article 29 of the Labor Cooperation Agreement;
- (e) “panel determination” means a panel determination as defined in Annex 36A of the Environmental Cooperation Agreement or Annex 41A of the Labor Cooperation Agreement;
- (f) “Canadian Intergovernmental Environmental Agreement” means the Canadian Intergovernmental Agreement Regarding the North American Agreement on Environmental Cooperation entered into by the Government of Canada and the Province of Alberta and signed by the Province of Alberta on August 15, 1995;

- (g) “Canadian Intergovernmental Labour Agreement” means the Canadian Intergovernmental Agreement Regarding the North American Agreement on Labor Cooperation entered into by the Government of Canada and the Province of Alberta and signed by the Province of Alberta on May 31, 1995.

Enforcement
of
determination
orders

8 An appropriate Commission may file a certified copy of a panel determination with the clerk of the Court of Queen’s Bench of Alberta and, on being filed, the determination is enforceable as an order of the Court of Queen’s Bench.

Panel
determinations
enforceable
against the
Crown

9(1) Notwithstanding sections 17 and 25 of the *Proceedings Against the Crown Act* and subject to subsections (2) to (5) of this section, a panel determination that is enforceable as an order of the Court of Queen’s Bench under section 8 is enforceable against the Crown in the same manner as any other order of that Court could be enforced against a defendant who was not the Crown.

(2) Proceedings for enforcement of a panel determination that is enforceable as an order of the Court of Queen’s Bench under section 8 may be taken against Her Majesty in right of Alberta only in that Court and only by the appropriate Commission.

(3) Any proceedings referred to in subsection (2) shall be heard and determined in a summary way, but in no case may the proceedings be taken or enforced against a Minister or an official in his official or personal capacity.

(4) If any question of fact or interpretation of a panel determination arises in any proceedings referred to in subsection (2), the Court of Queen’s Bench shall refer the question to the panel that made the determination, and the decision of the panel on the question is binding on that Court.

(5) No person or body may intervene in any proceedings referred to in subsection (2).

Panel
determinations
not subject to
appeal

10(1) Panel determinations, including panel determinations that are enforceable as orders of the Court of Queen’s Bench under section 8, and orders and decisions made by the Court of Queen’s Bench in any proceedings referred to in section 9(2) are final and may not be appealed to the Court of Appeal.

(2) No panel determination, including a panel determination that is enforceable as an order of the Court of Queen’s Bench under section 8, and no determination or proceedings of a panel made or carried on or purporting to be made or carried on under the

Environmental Cooperation Agreement or the Labor Cooperation Agreement shall be questioned, reviewed or restrained by any proceeding in the nature of an application for judicial review or otherwise in any court.

Withdrawal
from
Agreements

11 In the event that the Province of Alberta withdraws from the Canadian Intergovernmental Environmental Agreement or the Canadian Intergovernmental Labour Agreement pursuant to Article 14 of those respective Agreements, this Part ceases to apply in respect of that Agreement 6 months after Article 14 is satisfied.

Coming into
force

12 *This Part comes into force on Proclamation, and the Proclamation of this Part or any provision of it may relate to either or both of the Agreements.*