

Agreement on Internal Trade

**In the Matter of a
Dispute Concerning Certain Quebec Measures
Regulating Dairy Substitutes and Blends**

**Intervenor Submission of
THE GOVERNMENT OF BRITISH COLUMBIA**

I. Introduction

1. On June 24, 2013, the Government of Saskatchewan (“**Saskatchewan**”) requested the establishment of a dispute settlement Panel under Chapter Seventeen of the *Agreement on Internal Trade* (the “**AIT**”) to resolve a dispute between it and the Government of Quebec (“**Quebec**”) regarding certain Quebec measures governing the manufacture and sale in Quebec of dairy substitutes (“**Dairy Analogs**”) and products that are a blend of dairy products and dairy substitutes (“**Dairy Blends**”). Specifically, Quebec’s *Food Products Act* and the *Regulation Respecting Food* promulgated under the authority of that Act (collectively, the “**Measures**”) significantly restrict the manufacture and sale of Dairy Analogs and Dairy Blends in Quebec.
2. The Government of British Columbia (“**British Columbia**”) believes that the Measures are inconsistent with Quebec’s obligations under the AIT. British Columbia has a substantial interest in the matter under dispute. Consequently, pursuant to AIT Article 1703(9.1), on July 8, 2013, British Columbia notified the Internal Trade Secretariat of its intention to join the proceedings as an Intervenor.

II. The Measures Are Subject to the AIT

Summary Description of the Measures

3. Section 7.1 of Quebec’s *Food Products Act* contains measures prohibiting the manufacture of Dairy Blends, stating that: “No person shall mix a dairy product or constituent of a dairy product with a dairy product substitute, except to the extent provided by regulation.” The accompanying *Regulation Respecting Food* does not appear to contain any exceptions to this complete prohibition on such blended products.
4. Section 7.2 of the *Food Products Act* contains measures restricting the manufacture and sale of Dairy Analogs. This section states that: “[n]o person shall prepare, offer for sale, sell, deliver, process or keep, display or transport for the purpose of sale any dairy product substitute that is not designated by regulation.” Section 11.9.2. of the accompanying *Regulation Respecting Food* then designates a small number of Dairy Analogs that can be

made, transported and marketed within the Province (margarine, for example). Any type of Dairy Analog that is not specifically permitted by the Regulation (such as soya “cheese” for example), is thereby prohibited.

5. Section 1 of the *Food Products Act* defines a “dairy product substitute” as “any food product which may be substituted for a dairy product and which, in its external characteristic or its mode of use, resembles a dairy product.” British Columbia submits that, in addition to Dairy Analogs, Dairy Blends also meet the definition of a “dairy product substitute” because they can both be substituted for a dairy product and they resemble dairy products in their modes of use. For example, a dessert icing product containing a blend of vegetable oil and butter is substitutable for and is used the same way as an icing containing only butter. However, because such a product fits the definition of a “dairy product substitute” its manufacture and sale is prohibited in Quebec. Therefore, British Columbia submits that the combined effect of Sections 1, 7.1 and 7.2 of the Act is not only to prohibit the manufacture of Dairy Blends, but to prohibit their sale in Quebec as well.

The Measures Are Subject to AIT Chapter Nine

6. British Columbia submits that the Measures are clearly subject to AIT Chapter Nine (Agricultural and Food Goods).
7. The scope and coverage of AIT Chapter Nine is established by Article 902(1), which provides that: “[t]his Chapter applies to *technical measures* adopted or maintained by a Party *relating to internal trade in agricultural and food goods*.” Thus, in order for a measure to fall within the scope of the Chapter, it must be demonstrated that: (i) it is a “technical measure”; (ii) that relates to internal trade; (iii) in an agricultural or food good.
8. Article 907 defines both “agricultural good” and “food good” as follows:

“agricultural good means:

- (a) an animal, a plant or an animal or plant product; or
- (b) a product, including any food or drink, wholly or partly derived from an animal or plant;

but does not include fish or fish products or alcoholic beverages;

...

food good means an article manufactured, sold or represented for use as food or drink for humans, chewing gum, and any ingredient that may be mixed with food for any purpose whatever, but it does not include fish or fish products or alcoholic beverages...”

9. Dairy Analogs and Dairy Blends are clearly either, or both, agricultural goods or food goods (depending on their specific composition and use), being as they are plainly plant products as well as articles that are manufactured, sold or represented for use as food or drink for humans. Consequently, there can be no doubt that the Measures concern “agricultural and food goods”.
10. With regard to the requirement that the Measures are “relating to internal trade”, as the Measures effectively prohibit the importation and sale in Quebec of almost all Dairy Analogs and all Dairy Blends manufactured in any other Province, it is obvious that the Measures thereby “relate” to internal trade.
11. With regard to the requirement that the Measures be “technical measures”, that term is defined in AIT Article 907 to mean:

“...a measure that is a *technical regulation*, a standard, a sanitary or phytosanitary measure or a conformity assessment procedure but does not include purchasing specifications prepared for production or consumption requirements of a Party that are addressed in Chapter Five (Procurement), according to the coverage of that Chapter.” [emphasis added].

The term “technical regulation” is then further defined in Article 907 to mean:

“...a document or instrument of a legislative nature which defines product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory by law. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.”

12. The Measures are “technical regulations” because they are legislative in nature, they clearly define the characteristics of specific types of products (Dairy Analogs and Dairy Blends) and their process and production methods, they impose restrictions on their production and sale in Quebec, and compliance with them is plainly mandatory. Being as the Measures are “technical regulations” they thereby automatically fall within the scope of the definition of “technical measures”.

13. Consequently, British Columbia submits that the Measures are plainly “technical measures adopted or maintained by a Party relating to internal trade in agricultural and food goods” and are therefore fully subject to the disciplines of AIT Chapter Nine.

III. The Measures Are Inconsistent with Quebec’s Obligations Under the AIT

14. AIT Article 900 (Application of General Rules) establishes that all of the general rules of the Agreement, as found in Chapter Four (General Rules), apply to Chapter Nine, and consequently, apply to the Measures. British Columbia submits that the Measures are inconsistent with the General Rules found in Articles 401, 402 and 403, and cannot be justified as necessary to achieve a legitimate objective under Article 404. Further, British Columbia submits that the Measures are also inconsistent with the additional disciplines imposed on Technical Measures in Article 905.

Article 401 (Reciprocal Non-Discrimination)

15. AIT Article 401(1) provides the AIT’s basic non-discrimination obligation, stating that:

“...each Party shall accord to goods of any other Party treatment that is no less favourable than the best treatment it accords to:

- (a) its own *like, directly competitive or substitutable* goods...” [emphasis added]

16. The obligation requires Parties to accord to goods of the other Parties treatment that is no less favourable than the best treatment being extended by that Party to its own *like, directly competitive or substitutable goods*. It is important to note the broad application of this obligation and, in particular, the nature of the “comparator” that is to be taken into account when determining what the “best treatment” at issue may be. A previous AIT Panel reviewing a similar Quebec restriction relating to the colouration of margarine (itself a Dairy Analog) stated as follows regarding this expansive “comparator” intentionally incorporated into Article 401(1):

“This particular formulation of the so-called national treatment rule warrants attention. It is evident that the drafters intended to provide an expansive ‘comparator’ when it came to determining whether or not goods of another Party were accorded no less favourable treatment. In contrast to the formulation of GATT Article III, which deals with the treatment accorded to imported products in comparison to ‘like domestic products’,

Article 401 clarifies that the class of comparators includes not only like goods but 'directly competitive or substitutable goods'.

The comparison of the treatment accorded to 'goods of any other Party' is thus not only restricted to the treatment accorded by the Party to its own 'like goods', but also the treatment that it accords to the two other classes of goods. This is confirmed by the fact that the opening sentence of Article 401 requires each Party to accord 'treatment no less favourable than the *best* treatment it accords to' the three classes of goods.¹ [emphasis in the original]

17. In that previous case, the Panel determined that the relevant "comparator" to the Dairy Analog margarine was the best treatment being extended by Quebec to the competitive or substitutable dairy product – butter - noting that:

"The parties disagreed as to what was the appropriate good from which to compare treatment. Quebec argued that the comparator is margarine produced in the province. Alberta asserted that it is butter produced in the province.

In the Panel's view, the appropriate comparator is butter. It is butter that Quebec has sought to prevent being substituted by margarine having the same colour as butter and throughout the Regulation margarine is treated as a substitute for butter. *The measure must be evaluated in relation to how it treats any directly competitive or substitutable good such as margarine produced by another Party.*

In the Panel's view, by mandating by law that margarine cannot be coloured as the producer sees fit, yet permitting butter producers to leave butter uncoloured or to colour it as they see fit, Quebec *has accorded less favourable treatment to a directly competitive or substitutable good, contrary to Article 401.*"² [emphasis added]

18. British Columbia submits that that same logic has direct and complete application to this dispute. "Dairy product substitutes" (the phrase used in Quebec's own legislation) are, by their very definition, substitutable for and directly competitive with dairy products. Section 1 of the *Food Products Act* defines a "dairy product substitute" as "any food product which may be substituted for a dairy product and which, in its external characteristics or its mode of use, resembles a dairy product." For example, Dairy Analogs such as vegetable-oil-based products resembling cheese or vegetable-oil-based beverages resembling milk are substitutable for or are competitive with the dairy products they resemble. Dairy Blends are also substitutable for or directly competitive with the dairy products they resemble. For example, products that are a blend of vegetable-oil-based margarine and butter (or

¹ *Report of the Article 1704 Panel Concerning the Dispute Between Alberta and Quebec Regarding Quebec's Measure Governing the Sale in Quebec of Coloured Margarine*, June 23, 2005, found at Tab M of Saskatchewan's Submission, at page 24.

² *Id.*, at page 25.

“spreadable butter”) are substitutable for or competitive with non-blended butter and vegetable-oil-based whipped dessert toppings with the addition of dairy ingredients are substitutable for or competitive with whipped cream.

19. British Columbia therefore submits that the appropriate “comparator” here for purposes of Article 401 is *not* the best treatment being extended by Quebec to its own Dairy Blends or Dairy Analogs, but the best treatment being extended to its own dairy products.³
20. Consequently, under AIT Article 401(1), Quebec is required to extend to Dairy Analogs and Dairy Blends produced in other Provinces treatment that is no less favourable than the *best treatment* Quebec currently extends to its own substitutable dairy products. The Measures are clearly inconsistent with this non-discrimination obligation because they make the sale in Quebec of almost all Dairy Analogs and all Dairy Blends illegal, while imposing no such restrictions on the production and sale of its own dairy products.

Article 402 (Right of Entry and Exit)

21. AIT Article 402 states that:

“...no Party shall adopt or maintain any measure that restricts or prevents the movement of persons, goods, services or investment across provincial boundaries.”

22. British Columbia fully supports Saskatchewan’s submission regarding Article 402 that this obligation should be interpreted broadly to include restrictions on entry of a good or service into a Province. This interpretation is consistent with the rulings of the majority of previous Panels that have considered the application of this obligation.
23. British Columbia submits that the Measures are inconsistent with AIT Article 402. In prohibiting the sale in Quebec of almost all Dairy Analogs and all Dairy Blends produced in

³ Note that this is also the very same conclusion reached by two previous AIT Panels in challenges to substantially similar measures of Ontario which restricted the production and sale of Dairy Analogs and Dairy Blends. See *Report of the Article 1704 Panel Concerning the Dispute Between Alberta/British Columbia and Ontario Regarding Ontario’s Measures Governing Dairy Analogs and Dairy Blends*, November 10, 2004 (“**Dairy Analogs and Blends I**”), found at Tab L of Saskatchewan’s Submission, at page 18, and *Report of Article 1702(2) Summary Panel Regarding the Pre-Existing Dispute Concerning Ontario’s Measures Government Dairy Analogs and Dairy Blends*, 24 September, 2010 (“**Dairy Analogs and Blends II**”), found at Tab N of Saskatchewan’s Submission, at pages 18-19. Following the 2010 Panel Report in Dairy Analogs and Dairy Blends II, Ontario brought itself into compliance with the AIT by eliminating its restrictions on Dairy Analogs and Dairy Blends.

other Provinces, Quebec has thereby created, in fact, a barrier that restricts or prevents the movement of goods and related services and investment across Provincial boundaries.

Article 403 (No Obstacles)

24. AIT Article 403 states that:

“...each Party shall ensure that any measure it adopts or maintains does not operate to create an obstacle to internal trade.”

25. The Measures prohibit or severely limit the sale in Quebec of almost all Dairy Analogs and all Dairy Blends produced in other Provinces, and thus, clearly, create an “obstacle” to internal trade that is inconsistent with Article 403.

The Measures Cannot be Justified as Necessary to Achieve a Legitimate Objective under Article 404

26. As noted, all of the General Rules contained in AIT Chapter Four have been adopted into and apply to Chapter Nine. Each of the obligations discussed above are specifically made subject to the “legitimate objectives” exception found in Article 404. That Article states that:

“Where it is established that a measure is inconsistent with Article 401, 402, or 403, that measure is still permissible under this Agreement where it can be demonstrated that:

- a) the purpose of the measure is to achieve a legitimate objective;
- b) the measure does not operate to impair unduly the access of persons, goods, services or investments of a Party that meet that legitimate objective;
- c) the measure is not more restrictive than necessary to achieve that legitimate objective; and
- d) the measure does not create a disguised restriction on internal trade.”

27. The legitimate objectives exception in Article 404 generally allows a Party to maintain a measure that is otherwise inconsistent with Article 401, 402 or 403 provided that all four elements of the exception are met.

28. At this point in the dispute, British Columbia is not aware of whether Quebec intends to attempt to rely on Article 404 and, if so, on what basis. In any case, British Columbia does not believe that Quebec can reasonably argue that the requirements of Article 404 are fully satisfied here.

29. The onus is clearly on Quebec to demonstrate that it fully meets the requirements of Article 404. This is confirmed by Rule 11 of AIT Annex 1813 (Rules of Interpretation) which provides that a Party asserting that a measure is subject to an exception under the Agreement has the burden of establishing that the exception applies. This has also been further confirmed by numerous previous AIT Panels that have considered the application of that exception.
30. Previous Panels have also commented on the confined scope of the legitimate objectives exceptions in the Agreement and how these exceptions must be “narrowly construed and strictly applied” by Panels when considering their potential application.⁴
31. By way of further background, in two previous cases involving substantially similar measures of Ontario, application of the legitimate objectives exception was specifically and wholly rejected. In 2004, a Panel was established to rule on a dispute concerning Ontario’s measures restricting the manufacture and sale of Dairy Analogs and Dairy Blends. In that case, the Panel rejected Ontario’s argument that its measures could be justified as necessary to achieve the legitimate objectives of protection of human health and consumer protection.⁵
32. Following on from this 2004 dispute, in 2010, a second “Summary Panel” was established to consider the consistency of certain measures that Ontario had adopted in replacement of the measures that had previously been found to be inconsistent. Those replacement measures continued to restrict the manufacture and sale of Dairy Analogs and Dairy Blends in Ontario and were again found by the Summary Panel to be inconsistent with Ontario’s AIT obligations. This second Panel again wholly dismissed Ontario’s arguments that these replacement measures could be justified as being necessary to achieve any legitimate objective.⁶

⁴ *Report of Article 1703 Panel Regarding the Dispute between Manitoba and Ontario Concerning Ontario’s Notice of Measure with respect to Public Accountants*, January 13, 2012, attached hereto at Tab 1, at page 10. While this Panel was addressing the application of AIT Article 708 in that case, Article 708(1) is also a “legitimate objectives” exception which substantially replicates the provisions of Article 404. Therefore the Panel’s comments regarding the narrow scope of that exception have equal application to Article 404.

⁵ See Dairy Analogs and Blends I, *id.*, footnote 3, at pages 18-19.

⁶ See Dairy Analogs and Blends II, *id.*, footnote 3, at pages 21-24.

33. British Columbia submits that simply asserting that the purpose of a measure is to achieve a legitimate objective is insufficient. A Party attempting to rely on Article 404 must “demonstrate” that a necessary linkage exists between the measure at issue and the legitimate objective it is purporting to achieve. Thus, in order to demonstrate that the purpose of the Measures is to achieve a legitimate objective, it follows that Quebec will need to demonstrate that Dairy Analogs and Dairy Blends are, by their very nature, unsafe and that they pose a risk to human health or consumer safety.
34. With respect to the legitimate objective of “protection of human...life or health”, it is difficult to understand how food products that are Federally regulated, are safe to consume and can be legally sold in every other jurisdiction in Canada (and internationally) could pose health issues that are unique to Quebec consumers. With respect to the legitimate objective of “consumer protection”, it is not at all clear here exactly what consumers might require protection from. Consequently, British Columbia does not believe that the true purpose of the Measures is to achieve the legitimate objectives of protection of human health or protection of consumers.
35. The Measures are also plainly far more trade restrictive than is necessary to accomplish any of the legitimate objectives that Quebec might reasonable rely on. Even if, for example, there are valid concerns about the risks posed by Dairy Analogs and Dairy Blends, these concerns are already addressed by rules requiring the safe, hygienic preparation of food found the Federal *Food and Drugs Act* and accompanying Regulations which mandate safe preparation and prohibit deceptive marketing practices.⁷ British Columbia submits that an outright prohibition on the manufacture and sale of such products in Quebec is unnecessary given this existing Federal regulatory framework.
36. British Columbia further submits that the underlying and true purpose of the Measures is to prevent Dairy Analogs and Dairy Blends from competing with Quebec’s traditional dairy industry. “Protection of the production of a Party” is specifically noted as not being a “legitimate objective” – *ergo*, protection of production is an “illegitimate objective” so far as

⁷ The *Food and Drugs Act* and the *Food and Drugs Regulations* are found at Tab J and K of Saskatchewan’s Submission.

the AIT is concerned. As a consequence, British Columbia submits that the Measures clearly constitute a disguised restriction to internal trade.

37. As a result, in the event that Quebec does attempt to defend the Measures under Article 404, British Columbia submits that the requirements of Article 404 plainly cannot be met here.

The Measures are also Inconsistent with the Additional Disciplines of Article 905

38. Article 905 is a new obligation, having been added to Chapter Nine when the Chapter was most recently amended in November, 2010. Consequently, this obligation was not considered in any previous AIT disputes involving Chapter Nine, including Dairy Analogs and Blends I and Dairy Analogs and Blends II.
39. Article 905 serves three purposes. First, the Article, in paragraph 1, affirms that Parties remain able to maintain existing technical measures and to adopt new technical measures, including those necessary to achieve a legitimate objective, provided that in doing so they continue to meet the other obligations of the Chapter. There is nothing in paragraph 1 which in any way suggests that the purpose of Article 905 is to exclude application of the General Rules to technical measures.
40. Second, in paragraphs 5 and 6, Article 905 imposes two additional disciplines on Parties when they choose to adopt any technical measure (not just a technical measure being adopted to achieve a legitimate objective). First, where appropriate and to the extent practical, Parties are to specify their technical measures in terms of results, performance or competence. Second, Parties are to ensure that all technical measures have a scientific, factual or other reasonable basis and, where appropriate, that they are based on an assessment of risk.
41. Finally, in paragraphs 2 through 4, Article 905 applies supplementary disciplines to the legitimate objectives exception of Article 404 – that is, in any case where a Party is attempting to rely on the legitimate objective exception in Article 404 to “shield” an otherwise inconsistent technical measure, that Party must meet the four specified elements of Article 404 as those elements are further elaborated upon and supplemented by

paragraphs 2 through 4. These paragraphs both clarify the application of some of the elements of Article 404 as well as add a further element to the use of Article 404.

42. With regard to clarification, with respect to paragraph (c) of Article 404 (that the measure be no more trade restrictive than is necessary to achieve the legitimate objective), under paragraph 2 of Article 905, Parties are further required to take into account the risks that non-fulfillment would create and must ensure a proportionality between the trade restrictiveness of the technical measure at issue and the risk of non-fulfillment.
43. With respect to the new element, paragraph 3 of Article 905 provides that Parties must additionally ensure that any technical measure adopted for a legitimate objective does not arbitrarily or unjustifiably discriminate between or among Parties, including between that Party and the other Parties, where identical or similar conditions prevail. Thus, in the context of technical measures adopted for legitimate objectives only, this can be seen as adding an additional, or a fifth, element that Parties must further demonstrate has been met in order to successfully rely on Article 404.
44. British Columbia submits that the Measures are clearly inconsistent with Quebec's obligations under Article 905.
45. First, the Measures have no scientific, factual or other reasonable basis and are not based on any assessment of risk. Nor are the Measures based on results, performance or competence. This being the case, the Measures are clearly inconsistent with paragraphs 5 and 6 of Article 905.
46. Second, with regard to paragraph 2 of Article 905, as discussed above, Quebec is unable to meet the requirements of paragraph (b) of Article 404 and the Measures are plainly more restrictive than is necessary to achieve a legitimate objective. This inconsistency is then further compounded by the additional requirements of paragraph 2 of Article 905 in that plainly Quebec has undertaken no efforts whatsoever to ensure any proportionality between the trade restrictiveness of the Measures (virtually a complete prohibition) and the risk of not fulfilling the underlying legitimate objective (consumer protection or protecting human

health, for example). The Measures are clearly overly-restrictive compared with any health or consumer risk that might be at issue.

47. Finally, with respect to paragraph 3 of Article 905, the Dairy Analogs and Dairy Blends are produced, sold and consumed in all other Provinces and Territories of Canada. The consumers of such products in these jurisdictions are all substantially similar to consumers in Quebec, with substantially similar physiological make-ups and vulnerabilities or predispositions to substantially similar food-borne illnesses and diseases. Yet, most Dairy Analogs and all Dairy Blends are prohibited in Quebec, but are safely consumed in all other areas of Canada. British Columbia therefore submits that Quebec is clearly and unjustifiably discriminating between it and all other Parties where identical conditions prevail.

IV. The Measures Cause Injury to British Columbia

48. Previous AIT Panels have ruled that the “denial of an opportunity” caused by an inconsistent measure constitutes “injury in itself” for AIT purposes. More specific proof of injury is not required. For example, the Panel in a dispute relating to New Brunswick’s fluid milk licensing measures stated that:

“...a complainant is not required under the Agreement to prove a demonstrable dollar amount to establish injury, nor is a panel required to rule on the extent of injury. It is the view of the Panel that the denial of the opportunity to be considered for a fluid milk distribution license in a manner that is fair and consistent with the Agreement is injury in itself, as is the denial of the opportunity to participate on an equal footing in the New Brunswick market.”⁸

49. A subsequent Panel adopted this same reasoning in a labour mobility context in a dispute relating to Quebec’s measures governing the practice of public accounting:

“In the Panel’s view, the Complainant has demonstrated that CGAs to the extent they have been qualified to practice public accounting have been and are injured by the Respondent’s Agreement-inconsistent public measures. It is not necessary for this Panel

⁸ *Report of the Article 1716 Panel Concerning the dispute Between Farmers Co-operative Dairy Limited of Nova Scotia and New Brunswick Regarding New Brunswick’s Fluid Milk Licensing Measures*, September 13, 2002, found at Tab) of Saskatchewan’s Submission, at page 23.

to find a specific dollar amount of injury. In the Panel's view the mere denial of opportunity or competitive disadvantage that cannot be justified is injury itself."⁹

50. The Measures have plainly denied and continue to deny to nearly 300 British Columbia oilseed growers opportunities to sell their inputs to the manufacturers of Dairy Analogs and Dairy Blends because the market for these products is artificially restricted in Quebec. Individual packagers and manufacturers of Dairy Analogs in British Columbia have also been denied opportunities because their products are not permitted to enter into or be sold in Quebec. Consistent with previous Panel rulings, British Columbia submits that this denial of opportunity constitutes sufficient proof of injury for AIT purposes.

V. Requested Findings of Fact and Law

51. Based on the foregoing, British Columbia requests that the Panel make the following findings:

- (a) The Measures do not comply with Quebec's obligations under the AIT, particularly its obligations under AIT Articles 401, 402, 403 and 905;
- (b) The Measures cannot be justified as necessary to achieve any legitimate objective under AIT Article 404; and
- (c) The Measures are causing injury to British Columbia oilseed growers, and processors, packers and manufacturers of Dairy Analogs and Dairy Blends.

VI. Requested Remedies

52. British Columbia requests that this Panel make the following recommendations:

- (a) Quebec immediately bring itself into compliance with the AIT by eliminating the inconsistent Measures;
- (b) Pending compliant amendment of the Measures, Quebec cease to enforce the non-compliant provisions;
- (c) Quebec abstain from reintroducing similar, non-compliant measures; and

⁹ *Report of the Article 1716 Panel Concerning the dispute Between the Certified General Accountants Association of New Brunswick and Quebec Regarding Quebec's Measures Governing the Practice of Public Accounting*, August 19, 2005, attached hereto at Tab 2, at pages 22-23.

(d) Operational Costs in this dispute be apportioned substantially to Quebec.

All of which is respectfully submitted this 28th day of August, 2013.

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Jeffrey Thomas
Counsel to the Province of British Columbia
Borden Ladner Gervais LLP

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Matthew C. Carnaghan
Internal Trade Representative
Government of British Columbia

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