

## **Canadian Pandemic Non-Proliferation Act**

An Act to establish authorities required to mitigate the threat of future pandemics through an early-alert system and to amend other Acts as a consequence

### **Preamble**

WHEREAS the Government of Canada wishes to safeguard Canadian public health and promote trade and commerce;

WHEREAS the proliferation of pathogenic, highly infective and transmittable diseases, such as (SARS-CoV-2), is a material threat to Canadian public health and trade and commerce;

WHEREAS the Government of Canada wishes to mitigate threats of future pandemics in a manner that is effective and efficient;

WHEREAS the effective and efficient mitigation of potential pandemic threats requires as an initial matter notification and immediate access by specialists to the area affected by a disease outbreak;

AND WHEREAS the Government of Canada wishes to integrate efficient and effective pandemic non-proliferation measures into extant trade law and practices;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

### **Short Title**

**1** This Act may be cited as the Canadian Pandemic Non-Proliferation Act

## Interpretation

### Definitions

The definitions in this section apply in this Act.

**Access** means the right of entry to a Geographic Area immediately upon Notification, including and the freedom of movement within the Geographic Area of Outbreak without undue restrictions.<sup>1</sup>

**Cooperation** means the timely granting all visas, permits or other required permissions or authority necessary to facilitate Access.

**Geographic Area of Outbreak** means the physical boundaries defined by a country, state, providence, district, city, town, territory, region, or locality that has or is experiencing an Outbreak.

**Country or Governmental Authority** means any sovereign state and/or any government, agency or instrumentality thereof, and/or any subset or sub-level government, agency, or instrumentality thereof at any level, which has full or partial jurisdiction or de facto control over the Geographic Area of Outbreak.

**Minister** means the Minister of Public Safety and Emergency Preparedness.

**Notification** means a writing sent immediately on identification of an Outbreak and received by the Director-General of the World Health Organization (WHO) and the Minister.

**Outbreak** means an infectious, transmittable pathogen expressed in a number of cases that exceeds normal expectations in a given population. This definition does not include pathogens that are subject to the Biological Weapons Convention.<sup>2</sup>

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<sup>1</sup> Right of Access is left rather 'undefined' to allow the Minister to accept reasonable conditions on Right of Access that a state might require, such as those that would not allow foreign specialists access to military installations or other areas subject to national security concerns. The Minister could determine on a case-by-case basis if a country's restrictions are reasonable and consonant with the purposes of this Act.

<sup>2</sup> This limitation is to avoid conflating this with more complex defence issues presented by bioweapons systems.

**Specialists** means person or persons designated by the WHO Director- General to travel to the Geographic Area of Outbreak to gather information and data relevant and necessary to assist with isolation and mitigation of the Outbreak.<sup>3</sup>

**Pandemic Risk-Offset Tariff** means a tariff on imports of 10 to 30 percent ad valorem, revenue from which will be transferred to the Public Health Agency of Canada to support pandemic preparedness measures.<sup>4</sup>

**Pandemic Risk-Offset Charges** means charges applied to arriving travelers from a country not complying with Notification. Access and Cooperation goals of this Act, such charges determined by the Minister to be commensurate with the perceived pandemic proliferation risk presented by the Country or Government Authority ; and revenue from which will be transferred to the Public Health Agency to support pandemic preparedness measures.

## **Responsibility**

### **Duties of the Minister**

1. Within 180 days of the effective date of this Act, the Minister shall determine if a Country or Governmental Authority from which goods are imported into Canada or from which aviation, naval or other travel originates have established by law or policy means of Notification, Access, and Cooperation consistent with the goals of this Act.
2. After 180 days of the effective date of this Act, the Minister, at his or her discretion, may impose Pandemic Risk-Offset Tariffs on goods originating from any Country or Governmental Authority that, in the assessment of the Minister, does not have established under law or policy a means of Notification, Access and Cooperation that is consistent with the goals of this Act.<sup>5</sup>

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<sup>3</sup> Canada (and perhaps other states) could arrange with WHO conditions governing the roster of specialists, to include terms of engagement, including any confidentiality limitations on the Specialists.

<sup>4</sup> This amount is actually more variable, as noted further in the Act, the Minister would have discretion to withdraw, suspend or modify. The percentage noted in the Act is high enough that it might compel compliance by trading partners. The thinking behind this is that a country might elect not to cooperate with respect to pandemic early-warning, but that would have financial consequences that would contribute to Canada's ability to mitigate pandemics.

<sup>5</sup> My intention here is to allow the Minister to make this determination at any time. That would allow the Minister to determine that a country had a satisfactory policy in place but failed to comply with it when an Outbreak occurred.

3. After 180 days of the effective date of this Act, the Minister, at his or her discretion, may impose Pandemic Risk-Offset Charges on persons arriving from any Country or Governmental Authority that, in the assessment of the Minister, does not have established under laws or policy of that Country or Governmental Authority a means of Notification, Access and Cooperation that is consistent with the goals of this Act.
4. The Minister may suspend, withdraw, or modify Pandemic Off-Set Charges on goods or persons in a manner consistent with the goals of this Act.
5. If the Minister determines that the conduct of a Country or Governmental Authority with respect to the goals of this Act materially threatens the public health and economy of Canada, the Minister may refer the matter to [Agencies] that may elect to pursue economic sanctions, export or import controls or other measures commensurate with the threat presented.<sup>6</sup>
6. The Minister shall cause the Canada Border Services Agency to implement regulations necessary to implement this Act.
7. Unless otherwise specified, nothing in the Act repeals, modifies, or affects other Canadian laws governing border security, trade and commerce, or public health.

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<sup>6</sup> This option is more for effect than application.