



## News Release

### Summary Panel releases report on trade dispute between Alberta and Ontario

**October 25, 2010** – A Summary Panel has ruled on an outstanding dispute between Alberta and Ontario under the *Agreement on Internal Trade* (AIT) regarding access to the Ontario market for certain vegetable and vegetable oil seed food products known as imitation dairy blends. Alberta, supported by British Columbia, Saskatchewan and Manitoba filed a request for a summary panel against Ontario in March 2010 under new AIT dispute resolution provisions which permit a review of an existing case which remains unresolved. In a previous panel ruling (2004), Ontario measures governing imitation dairy products had been found to be inconsistent with AIT obligations.

The Summary Panel issued its report to the disputing Parties on September 24, 2010. The full report can be found on the AIT website: [www.ait-aci.ca](http://www.ait-aci.ca). The Summary Panel, comprised of: Bryan Schwartz (Chair) Madeleine Renaud and Lorne Seitz, held a public hearing in Toronto on July 22, 2010.

Among its findings, the Summary Panel concluded:

- That provisions of Ontario regulations 753 and 761 that prohibit the production and sale of dairy blends or regulate them in a discriminatory manner are inconsistent with Articles 401 (reciprocal non-discrimination), 402 (right of entry and exit); and 403 (no obstacles) of the AIT, and are not permissible under Article 404 (legitimate objectives);
- That Ontario did not comply with Articles 406 and 907 (transparency) of the AIT nor with the 2004 Panel Report recommendation when it amended its regulations on dairy blends; and
- That the 2004 Panel Report findings on injury were legally and factually correct, and that the same kind of injury continues as a result of Ontario's replacement measures

Accordingly, the Summary Panel has recommended as follows:

- In respect of its regulation of the products at issue in this case, Ontario should bring itself into compliance with the AIT no later than February 1, 2011; and that
- Ontario should take careful note of all provisions of the AIT concerning transparency if it decides to consider and implement new measures

The AIT is an intergovernmental trade agreement signed by Canadian First Ministers in July 1994. Its purpose is to reduce and eliminate, to the extent possible, barriers to the free movement of persons, goods, services, and investment within Canada so as to establish an open, efficient, and stable domestic market. Access to the dispute resolution mechanisms of the AIT is open to governments, individuals and businesses.

For more information on the AIT and its dispute resolution procedures, visit [www.ait-aci.ca](http://www.ait-aci.ca) and/or contact: Anna Maria Magnifico, Executive Director, Internal Trade Secretariat, T: 204 - 987-8094 or email: [amagnifico@ait-aci.ca](mailto:amagnifico@ait-aci.ca)

## **Biographical Notes – Panel Members**

**Bryan Schwartz** is the Asper Professor of International Business and Trade Law at the University of Manitoba and counsel to the Pitblado Law Firm. He is the author of seven books and over seventy academic articles, and often appears as a media expert on matters of law and political process. Bryan's experience as an advocate has included writing briefs or presenting argument in over a dozen cases at the Supreme Court of Canada. His experience as an arbitrator has included labour cases and serving on panels under NAFTA.

**Madeleine Renaud Ad.E.** is a partner in the law firm of McCarthy Tétrault. A member of the firm's Competition Group, Ms. Renaud advises a broad range of Canadian and international clients on all aspects of Canadian competition law and practises litigation focussing on administrative, constitutional and regulatory law. She is a frequent speaker at national conferences and has published widely on competition law and other topics. In 2006-07, she was part of an external task force of lawyers and experts economists selected by the Competition Bureau to advise on the reform of the cartel legislation. She was awarded the title *Advocatus Emeritus* by the Quebec Bar in 2007 in recognition of her professional excellence, outstanding contribution to the profession and exceptional outreach.

**R. Lorne Seitz** is a former deputy minister in the British Columbia government, serving in several portfolios including Agriculture, Fisheries and Food and International Business and Immigration. He also served as C.E.O of the B.C. Trade Development Corporation and the B.C. Assets and Land Corporation. From 1993 to 1995 he was a lead negotiator for B.C. in the negotiations leading to the Agreement on Internal Trade (AIT). Prior to joining the B.C. government, he served as Senior Vice-President, International, of the Canadian Chamber of Commerce during the Canada-U.S. Free Trade Agreement negotiations. More recently, Mr. Seitz served as Vice-Chair of the B.C. Agriculture Land Commission and Director of the British Columbia Safety Authority.