

Government of Alberta

Closing Submissions

Submitted to the Public Order Emergency Commission
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Mandy England
Stephanie Bowes
Hana Laura Yamamoto
Peter Buijs
Shaheer Meenai
Counsel for the Government of Alberta
Alberta Justice, Legal Services Division
Civil Litigation Team

Alberta

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Context of these Submissions of the Government of Alberta

- The submissions below constitute the written submissions of the Government of Alberta (“**Alberta**”) on eight Key Points that are relevant to both the mandate of the Commissioner and the interests identified by Alberta in its application for standing as a Party to the Public Order Emergency Commission (“**POEC**” or “**Commission**”).
- These submissions do not exhaustively reflect all points on which Alberta may have views; rather, in accordance with the Commissioner’s direction, they focus on the main points that Alberta would draw to the Commissioner’s attention.
- These submissions focus on the factual phase of the inquiry. They do not delve into substantive submissions on the legal merits of positions taken by various Parties on the interpretation of the *Emergencies Act*¹ (the “**Act**”).
- The mandate of the POEC, as set out in its establishing Order in Council² (the “**OIC**”), is to examine and report on the circumstances that led to the declaration of a public order emergency, and to examine and report on the measures taken to deal it.
 - The OIC, at (a)(iii), directs the Commissioner “to set out findings and lessons learned, including on the use of the Act and the appropriateness and effectiveness of the measures taken under the *Emergency Measures Regulations* [“**EMR**”³] and the *Emergency Economic Measures Order* [“**EEMO**”⁴], and to make recommendations... on the use or any necessary modernization of that Act, as well as on areas for further study or review”.
- Under (a)(vi)(A) of the OIC, the Commissioner is directed to “perform [his] duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization”.
 - There are currently four judicial review applications before the Federal Court, tasking it with making substantive legal determinations about the *vires* of the decision to invoke the Act.
 - Drawing legal conclusions about the meaning of the Act would constitute expressing conclusions about the civil liability of the Governor in Council, as this

¹ R.S.C., 1985, c. 22 (4th Supp.)

² P.C. 2002-392

³ SOR/2022-21

⁴ SOR/2022-22

may effectively be a conclusion on the *vires* of its actions and be tantamount to drawing a conclusion about its “civil liability” as related to those proceedings.

- Under (a)(vi)(B) of the OIC, the Commissioner is directed to “perform [his] duties in such a way as to ensure that the conduct of the [POEC] does not jeopardize, any... proceeding”.
 - The Federal Court will make substantive legal determinations in the four judicial review applications currently before it. Substantive legal conclusions by the POEC create a real danger of inconsistent decisions on a legal point.
 - Inconsistent findings have the potential to undermine the particular role of the Federal Court, and to undermine the public’s confidence in, and understanding of, the various checks on the government’s power.
- We further submit that drawing substantive legal conclusions is not appropriate where there has been no opportunity for proper legal argument in this matter. The Government of Canada has not offered any substantive legal arguments during the course of the factual phase of the POEC, and thus the Parties are unable to respond.
- It is not necessary for the Commissioner to draw such conclusions to complete his mandate. Rather, the mandate of the POEC is to make factual findings and recommendations for the future.
 - For example, instead of concluding whether the Act permits an interpretation including “economic harm” in the ambit of “threat to the security of Canada”, a potential output might be: a factual finding on whether “economic harm” was a factor, and a recommendation on whether or how the Act might be clarified or modernized if the Government of Canada believes it should be a consideration.
- It is within this context that Alberta respectfully offers its submissions below.

Key Point #1: Appropriate and adequate consultation with the Provinces, as required by the Act, must take place at a time before a decision to invoke the Act is debated by the Governor in Council.

- Consultation with the provinces is required under the Act, and is essential to the constitutional system and federalism in Canada. Consultation should not be treated as a checkbox before the Governor in Council invokes the Act; rather, it should be a true effort to hear and consider input from the provinces and territories (referred to as “**Provinces**”) on the prospective use of the Act in their jurisdiction.

- Consultation should be undertaken during a time when the potential use of the Act, and the possible measures under it, are still being considered and formed, not after the decision has essentially been made.
- The Governor in Council may only declare a public order emergency after consultation under s. 25 of the Act, which requires that the consultation take place with the lieutenant governor in council of each province in which the effects of the emergency occur before the Governor in Council issues the declaration.⁵
 - On the morning of February 14,⁶ just hours before the declaration, the Prime Minister convened a First Ministers Meeting (“FMM”) via a telephone call. It was during the FMM that the Act was discussed for the first time with the Provinces in relation to the “Freedom Convoy 2022”.
 - In the decision document provided to the Prime Minister, the Clerk of the Privy Council advised that this FMM met the requirements for consultation with the Provinces under the Act.
 - Clearly, the Governor in Council recognized that consultation with the Premiers must occur prior to the declaration.
- The evidence shows that:
 - Minister Lametti began considering use of the Act in response to the protests in Ottawa as early as January 30. More broad and formal consideration by the Governor in Council began on February 9.
 - On February 13, the Minister of Emergency Preparedness appeared on multiple national networks and indicated that the Act was being considered.
 - The FMM occurred at 10:15 am ET on the morning of February 14, over the course of an approximately hour-long phone call.
 - The decision document was provided to the Prime Minister that afternoon some time between 3:41 pm ET, when it was emailed to staff in his Office, and 4:30 pm ET, when the press conference to announce the declaration was scheduled.

⁵ Some latitude is granted for consultation to take place after the declaration if the Governor in Council's opinion is that a lieutenant governor cannot be adequately consulted without “unduly jeopardizing the effectiveness of the proposed action.” However, there has been no evidence that this is relevant in this case.

⁶ Unless otherwise noted, all dates in these submissions are in the year 2022.

- Canada gave two reasons for holding consultations mere hours before the Act was invoked: (1) once the potential use of the Act was in the public domain, the timeline to make a decision is “very short”, and (2) consultation could only occur once the federal government had “a very clear list of the things” it would do with the Act.
 - On the first rationale, consultation could have begun, but did not, when the federal government spoke to media about invoking the Act on February 13.
 - The second rationale suggests that the decisions both to invoke the Act and what measures to enact under it were already made prior to the FMM. Surely the purpose of consultation is, in part, to help inform the measures to be taken.
 - Neither rationale is grounded in the wording of the Act itself.
- Meaningful and good faith consultation should take place at a time before decisions are made to invoke the Act and to implement specific measures.

Supporting Evidence: Appendix A, Table 1 (page 17)

Key Point #2: Appropriate consultation with the Provinces, as required by the Act, must be conducted with adequate information and time being given to the provinces to prepare for the consultation.

- For consultation to be meaningful, the Provinces should be informed that it is consultation on the use of the Act, and afforded time to prepare so they can come to the consultation able to speak about the conditions, legislation, and resources in their jurisdiction.
- The Governor in Council seems to count engagement between various Ministers and officials at the federal and provincial level as “consultation”, despite no mention to the provincial Ministers and officials that the Act was being considered.⁷
- The evidence before the Commission is that the usual process for FMMs involves scheduling the meeting one week in advance with agendas and topics. In this case, the invitation to the FMM went out at 10:46 pm ET for a meeting at 10:15 am ET (8:15 am MT) the very next day and it contained no indication of the topic. As a result, there was no time to gather information or brief the Premier of Alberta on the Act.
 - Contrast this to the scheduling between February 10 and February 13 of three Cabinet meetings, and three Incident Response Group meetings, with as many

⁷ Report to the Houses of Parliament: *Emergencies Act Consultations* [SSM.CAN.00000579] (“**s. 58 Report**”)

as 54 attendees from numerous federal departments. The participants in those meetings had much greater opportunity to present relevant and material information for consideration by the Governor in Council.

- The Prime Minister testified that the Provinces may have been able to change his mind about invoking the Act if, for example, they said at the FMM, "...those six [measures] you're planning on doing, you don't need them because these are the tools we're going to use instead. We have the power..."
 - The fact that this was the threshold for information the Prime Minister needed from the Provinces at the FMM to change his mind, when they were just being told for the first time of the measures Canada planned to implement, illustrates exactly why the Provinces should have been given adequate information and time to prepare for the FMM.

Supporting Evidence: Appendix A, Table 2 (page 18)

Key Point #3: There should be clarification in the Act of the weight that should be given to the information obtained from the Provinces through consultation under s. 25 of the Act.

- There is no evidence before the Commission that any of the comments provided by the provinces during the FMM were given any weight or consideration by the Governor in Council before invoking the Act.
- Eight⁸ Provinces advised that there was no need for the invocation of the Act in their jurisdiction, and that they had sufficient capability and authorities to deal with any illegal protest activity. The Premier of Nunavut advised that there was no direct impact of the blockades in the North.
- There is no evidence that any of these comments were considered by the Governor in Council in the mere hours in between the conclusion of the FMM and the provision of the decision note by the Clerk of the Privy Council to the Prime Minister. Thus, it is fair to conclude that there was very little to no weight given to the view of the Provinces.
- This conclusion is supported by comparing the proposed measures presented to the

⁸ The Premiers making those statements were Premiers Horgan, Kenney, Moe, Stefanson, Legault, Higgs, King and Houston. (While Premier Horgan supported the use of the Act, notes reflect that he did advise that protests in British Columbia had been shrinking since January, and "local law enforcement has been able to manage".) [SSM.NSC.CAN.00000625_REL]

provinces during the FMM to those that were ultimately ordered under the EMR and the EEMO. As shown in the table below, the measures presented in the FMM were not modified in response to the input of the Provinces:

Minister Lametti's Remarks During FMM	<i>Emergency Measures Regulations, SOR/2022-21</i>
Regulation and prohibition of public assemblies that lead to a breach of the peace and go beyond lawful protest	Prohibition of public assembly that may reasonably be expected to lead to a breach of the peace (section 2) Prohibition of foreign nationals entering Canada with the intent of participating in such public assembly (section 3) Prohibition against travelling to or within an area where such public assembly is occurring (section 4) Prohibition of use, collection, making available, or inviting a person to provide property to facilitate such public assembly (section 5)
Designating and securing places where blockades are to be prohibited	Designation of protected places including critical infrastructure and Parliament Hill (section 6)
Directing persons to render essential services to relieve impacts of blockades on Canada's economy	Direction to render essential goods and services (sections 7, 8 and 9)
Authorizing or directing financial institutions to render essential services to relieve impact of blockades, including regulating and prohibiting the use of property to fund or support the blockades	<i>Emergency Economic Measures Order, SOR/2022-22</i>
Measures enabling the RCMP to enforce municipal by laws and provincial offences where required – giving all police officers the same powers to uphold laws in a given area	Permitting any peace officer to take necessary measures to ensure compliance with the Regulations and with any provincial or municipal laws and allow for prosecution for failure to comply (section 10(1))
The imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the Act	Making it an offence to fail to comply with the Regulations with the penalty of a fine or imprisonment or both (section 10(2))

- Ignoring the views of the Provinces does not meet the Act's requirement for consultation before the Governor in Council can declare a public order emergency, nor does it accord with principles of federalism. If the Act is not clear enough on this point, it should be.

Supporting Evidence: Appendix A, Table 3 (page 19)

Key Point #4: The “duty to cease dealings” contained in s. 2 of the EEMO was not appropriate because it was not necessary.

- “[D]esignated person” in the EEMO (s. 1) “means any individual or entity that is engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the [EMR].”
 - Since, generally speaking, they were intended to apply to “Freedom Convoy protesters”, we will substitute that phrase for “designated person” for illustration.

- Financial entities (as defined in the EEMO) were:
 - Required to “cease dealing in any property... that is owned, held or controlled, directly or indirectly, by a [Freedom Convoy protester] or by a person acting on behalf of or on the direction of that [Freedom Convoy protester]”. (s. 2(1)(a))
 - Prohibited from “making available any property, including funds or virtual currency, to or for the benefit of a [Freedom Convoy protester] or to a person acting on behalf of or at the direction of a [Freedom Convoy protester]”. (s. 2(1)(c))
 - Prohibited from “providing any financial or related services to or for the benefit of any [Freedom Convoy protester]”. (s. 2(1)(d))
- The scope of these provisions were overly broad and unclear. In the result, joint accounts held by a “Freedom Convoy protester” and another person who was *not* present at the protests were frozen.
- The EEMO contained no process to challenge being named a “designated person”, or to challenge the freezing of an account for a joint account holder with a “designated person”.
- Testimony at the POEC hearings was that there was no transparency provided by the financial institutions about the reasons for freezing the accounts.
- Numerous branches of law enforcement have testified that they did not require additional tools (which would include “duty to cease dealings”) in order to bring the protests and blockades to an end.
- There is no evidence that law enforcement requested such a “tool”.
- The Minister of Finance commented in text messages at the time that financial measures could be an “elegant approach”, and described worry that there would be “blood on the face of a child” as a motivation for implementing the EEMO.
 - There is no evidence that this was more than a fear held by the Minister at that time. There are no reports at any time that law enforcement, in carrying out their operations, caused harm or violence to children.
- Elegance or ease should not be acceptable as the threshold for including this kind of extraordinary measure. Instead, the threshold should be reasonable necessity.
- It is not appropriate to implement such broad and invasive measures:
 - They are not drafted in an adequately specific manner (i.e., they are overbroad

and capable of multiple interpretations), as demonstrated by freezing accounts jointly held by individuals who were not “designated persons”;

- They were not reasonably demonstrable to be necessary; and
- They impacted areas of provincial jurisdiction by applying to financial entities regulated or authorized by the Provinces (see ss. 3(b), (e), (g), (h), (j) of the EEMO), which is particularly problematic when such measures are not demonstrably necessary.

Supporting Evidence: Appendix A, Table 4 (page 20)

Key Point #5: Subsection 17(2) of the Act requires that the scope of the declaration of a public order emergency is to be limited to “the areas of Canada to which the effects of the emergency extend”. It is not appropriate to modify this to focus instead on “the areas of Canada to which the Governor in Council wishes the measures to apply”.

- Premier Akeegok advised the Prime Minister at the FMM that Nunavut was not experiencing effects from the “emergency”.
- Eight other provinces advised at the FMM that they did not believe that the situation in their province exceeded their capacity or authority (and so, by definition under s. 3(a) of the Act, they were not experiencing a “public order emergency”).
- The evidence before the POEC was that there was no connection between the various protest groups across the country, so the effects of the protests were truly limited to the particular geographical location they were in. Canada’s repeated statements that this was a situation akin to “whack-a-mole” has no evidentiary basis.
- The focus on the scope of the declaration, as set out in s. 17(2) of the Act, is on the areas of Canada in which the effects of the emergency extend. It is not on the areas to which the government wants to be able to apply measures.
- Expanding the scope of the declaration nationwide for the purpose of achieving a certain end (e.g. freezing accounts at financial institutions Canada-wide) is a reversal of the legislative requirement.
 - It is the scope of the *effects of the emergency* that dictate the scope of the emergency that can be declared; it is not the scope of the *measures to resolve the emergency* that dictate the scope of the emergency that can be declared.
- As noted in Key Point #4, the measures taken impacted areas of provincial jurisdiction.

The constraint on the scope of the declaration as set out in s. 17(2) of the Act also provides constraint on such an intrusion into provincial jurisdiction, which is an important limit on the powers of the Government of Canada in accordance with the principles of federalism.

Supporting Evidence: Appendix A, Table 5 (page 22)

Key Point #6: Information available to the Governor in Council about the capacity or authority of a province to deal with the purported emergency, and about the ability to address it using existing laws of Canada, must inform a determination of whether s. 3(a) of the Act is met. Gathering that information should be part of the consultation process, and the s. 58 Report should address specifically how those authorities are inadequate.

- A “public order emergency” under the Act is an emergency that: (a) arises from threats to the security of Canada, and (b) is so serious as to be a national emergency.
- “National emergency” is defined under s. 3 of the Act. A national emergency is an urgent and critical situation of a temporary nature that either:
 - (a) Seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or
 - (b) Seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada, and that cannot be effectively dealt with under any other law of Canada.
- The Memorandum for the Prime Minister from the Clerk of Privy Council indicates that the recommendation to invoke the Act was made on the basis of s. 3(a) of the Act, taking the view that the situation could not be “effectively dealt with uniquely by the provinces or territories.”⁹
- The evidence before the Commission, however, clearly demonstrates that the illegal aspects of the protests, including blockades of international ports of entry, did not exceed the capacity or authority of the provinces to deal with.
- The circumstances in Alberta demonstrate both that Alberta had sufficient legislative tools and the capability to deal with the blockade at Coutts:

⁹ Memorandum for the Prime Minister from the Deputy Clerk of Privy Council [SSM.NSC.CAN.00003224]

- Alberta had legislative tools that the RCMP, as police of jurisdiction, could use to respond to illegal activity. That legislation included the *Criminal Code*, the *Traffic Safety Act*,¹⁰ and the *Critical Infrastructure Defence Act*.¹¹
- The RCMP in Alberta were able to set up checkpoints on the highway to prevent people from travelling to the Coutts protest site to join the protest there.
- Although faced with difficulty in acquiring towing services during the initial stages of the Coutts blockade, Alberta solved the problem by purchasing used towing equipment on the private market. The RCMP provided a list of the equipment it needed and Alberta quickly sourced and purchased the equipment, and began moving it to southern Alberta to be staged for RCMP use as needed. Alberta also located both operators and people in the private sector that would provide training.
- Alberta could have chosen to invoke its own emergency legislation, the *Emergency Management Act*, which contains the power to compel private tow operators to provide towing services.
- Alberta made use of Article 9 of the Provincial Police Services Agreement upon RCMP request, allowing RCMP officers from British Columbia to relieve Alberta RCMP officers. The RCMP officers were then able to return to British Columbia on the weekend of February 13/14.
- Alberta provided provincial Sheriffs to assist the RCMP with patrolling highways, including around other ports of entry in Alberta.
- During periods of blockades at the Coutts port of entry, the CBSA and USCBP worked cooperatively to adjust hours and accommodate commercial and agricultural loads at other ports of entry with diversion to Coutts/Sweetgrass for necessary inspections, including veterinary inspections.
- The RCMP successfully conducted an undercover investigation, executed search warrants, and made arrests connected to alleged criminal activity at the protest in Coutts.
- Protesters chose to leave the Coutts protest upon learning about the RCMP

¹⁰ RSA 2000, c T-6

¹¹ SA 2020, c C-32.7

investigation. On February 14, they negotiated moving vehicles off of Highway 4 and turning in their keys to the RCMP so that they could begin packing up and cleaning the protest site before completely departing on February 15.

- Alberta provided a legal protest site near Milk River for protesters to use, some of whom chose to continue a legal protest at that site for weeks or months after the blockade cleared.
- Protests across Alberta took place in January and February without blockades or major incidents and were policed by local police of jurisdiction.
- Canada was well aware of Alberta's ability to deal with the protests in the province. The approved response to Alberta's February 5 request for assistance was that "...Alberta has the required legal authorities necessary to enforce compliance..." and that "...the use of federal resources may be reconsidered at a future date once all other provincial options and capabilities have been exhausted."
- There was also clear indication in Ontario that the province had the capacity and authority to deal with illegal protest activity. The Ambassador Bridge was effectively dealt with and the bridge reopened prior to invocation of the Act. In Ottawa, an operational plan was in place, and approved by all involved police forces, to deal with the occupation near Parliament Hill under existing authorities and prior to the invocation of the Act.
- Commissioner Lucki was of the view that police had "...not yet exhausted all available tools that are already available through the existing legislation." The PMO agreed that it "was obvious to everyone who was watching what was going on, on the ground" that there were law enforcement tools that still existed that weren't yet being used.
- All of this was before the Prime Minister when he ultimately made the decision to invoke the Act. Although in his testimony the Prime Minister said that he would not have invoked the Act had he been convinced that the other orders of government or any other law in Canada was sufficient to deal with the circumstances, he also said: "I'm not going to pretend it's the only thing that could have done it, but it did do it."¹²
- What is clear now, just as it was at the time the decision was made to invoke the Act, is that the provinces did have the ability to deal with illegal components of the protests and did not require the invocation of the Act.

¹² Transcript of Evidence of Prime Minister Trudeau, TRN00000031, 69:7-69:8

- Requiring more timely and informed consultations, and requiring the Governor in Council to specifically address in its s. 58 Report its consideration of provincial capability and authority (in addition to its consideration of other laws of Canada, such as the *Criminal Code*), should be required to prevent any future occurrence of such a situation.

Supporting Evidence: Appendix A, Table 6 (page 23)

Key Point #7: Measures for which there is already legal authority should not be included in regulations or orders issued under the Act.

- Law enforcement gave evidence that authority for several of the measures set out in the EMR already existed.
 - Police have the authority, under common law, to create exclusion zones.
 - In Alberta, the provincial *Emergency Management Act*¹³ provides authority to compel tow truck drivers to assist, and contains provisions for indemnity.
 - Alberta also has the *Critical Infrastructure Defence Act*.¹⁴
- There was evidence given about the consideration that went into what authorities law enforcement might need, and some indication that the thinking was that it was better to have authorities clear and easily compiled in one document, so that it could be pointed to as authority when explaining to protesters.
- However, the Act is not a tool of convenience. It is drafted as a tool of last resort.
- Measures included in Orders and Regulations should reflect the idea that it is a tool of last resort. Measures should not be included as “belt and suspenders”, to make existing powers more convenient to locate or easier to explain. Measures should only be included if they are truly necessary. (We submit that they must also be proportionate, but that is not strictly relevant to this point.)

Supporting Evidence: Appendix A, Table 7 (page 27)

¹³ RSA 2000, c E-6.8

¹⁴ SA 2020, c C-32.7

Key Point #8: Expanding the scope of what may constitute a “threat to the security of Canada” to include “economic harm” must be done by clear legislative amendment to the Act, properly debated and approved.

- More than one member of Cabinet testified that economic harm factored into their decision to invoke the Act.
- Section 16 of the Act, applicable to public order emergencies, provides that “threats to the security of Canada has the meaning assigned by section 2 of the *Canadian Security Intelligence Service Act*”.
- In the s. 58 Report, the Governor in Council referred to the following element of s. 2 of the CSIS Act as underlying the decision: “Threats to the security of Canada include the threat or use of acts of serious violence against persons or property for the purpose of achieving a political or ideological objective.”
- Reading this element to include economic harm, whether actual or prospective, is an interpretation that is not clear on the face of the language used in that legislative phrase.
- It is in the interests of all Canadians to have the parameters under which the Act can be invoked described in clear language that does not invite ambiguity in interpretation.
- If the Government of Canada proposes that “economic harm” or “economic threat” should be a basis upon which a public order emergency can be declared (subject to the other requirements of the Act in invoking such an emergency), the best course of action is to seek to amend the Act to make that clear.
- Adding a criterion of this substantive nature should be subject to the rigorous process and examination that comes with legislative amendment, so there can be a robust debate about the parameters of such a proposal.
 - The concern here is what constitutes an “economic threat” may be dependent on the policies of the government of the day.
 - For example, in this case, highlighted economic harm related to the auto manufacturing sector (both in relation to the U.S. contemplating a shift in relying on Canada in its supply chain, and in relation to electric vehicle tax credits that the Government of Canada had been negotiating). Witness testimony spoke to the importance of these factors to the automotive sector.
 - However, there have been protests affecting pipelines, which may have

economic and investor impacts in the oil and gas sector. Yet, these have not been described as a “threat to national security”.

- In noting the difference between these situations, it cannot be missed that one of them (the EV initiative and concern for the automotive sector) aligns with the priorities of the current government, whereas the other (promoting growth in the oil and gas sector) does not.
- Without clear parameters about what constitutes “economic harm” sufficient to be classified as a “national security threat”, we risk the Government of Canada being able to equate “harm to our current policy priorities” with “threat to national security”. This will create uncertainty, and introduces a political element to the invocation of the Act that is undesirable.

Supporting Evidence: Appendix A, Table 8 (page 28)

Summary of Alberta’s Position

- Alberta’s closing submissions target key points for the Commissioner’s consideration in making factual findings and recommendations for future uses of the Act.
- Guidance on future consultations with the Provinces prior to the invocation of the Act would be beneficial.
 - It is essential that input from the Provinces be before the Governor in Council while the matter is being debated, rather than solicited after Cabinet meetings and Incident Response Group meetings have already been held.
 - The Premiers should be provided with an adequate opportunity to prepare for any consultations. This will allow them to provide the relevant information, in sufficient detail, to properly inform the Governor in Council of material facts and assessments for the determinations that must be made under the Act.
 - Guidance on the weight to be provided to the input from the Premiers would be beneficial. One suggestion is that the Governor in Council would not merely list the dates of contact with the Provinces in the s. 58 Report, but would include substantive information about the inputs received, how they factored into decisions, and why they were given the weight they were in the decision made.
- Further guidance about the nature of the measures that can be implemented when the

Act is invoked for a public order emergency would also be beneficial.

- The necessity of the measure should be a guiding principle. The Act was drafted as a tool of last resort, and was intended to be available only when no other tools were available. Any measures introduced when the Act is invoked should be restricted to tools that are necessary and do not otherwise exist.
 - If sufficient measures already exist to bring an end to the public order emergency in a reasonable timeframe, such as law enforcement authorities, then the Governor in Council should be precluded from adding new measures just because they may be easier or more convenient. This limitation also promotes the principles of federalism.
 - The scope of the declaration of public order emergency should be limited to the areas in which the effects of the emergency extend, as set out in the Act. The desired scope of the proposed measures should not be a justification for expanding a declaration of emergency; rather, the permitted measures should be tailored to the scope of the emergency. This limitation again promotes the principles of federalism.
- The Act would benefit from further clarity in the manner in which “threat to the security of Canada” is to be determined.
 - Evidence was given that the Governor in Council considered economic harm in assessing whether there was a “threat to the security of Canada”. However, the legislation is not clear that “economic harm” is a relevant consideration.
 - If the Governor in Council does wish to consider factors that may not be apparent on the face of the legislation, that should be proposed to Parliament as a legislative amendment, properly debated, and assessed by Parliament and the Senate as to its advisability as an amendment.
 - Alberta thanks the Commissioner again for this opportunity to participate in the POEC as a Party, and to make these submissions for consideration by the Commissioner for his recommendations.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 9th day of December, 2022.

Mandy England
Stephanie Bowes
Hana Laura Yamamoto
Peter Buijs
Shaheer Meenai
Counsel for the Government of Alberta
Alberta Justice, Legal Services Division
Civil Litigation Team

Appendix A: Supporting Evidence

Table 1: Supporting Evidence for Key Point #1

Timing of Consultations with Province		
Record Reference	Document Description	Summary of Evidence
SSM.CAN.00007845	Text Messages between Minister Lametti and Mr Steinhouse	Text from Minister Lametti to his Chief of Staff on January 30 raising the Act.
TRN00000029, 55:8-56:11	Transcript of Minister Lametti	Minister Lametti began thinking about use of the Act on the first weekend of the protest in Ottawa, describing the worst case scenario as one being where it was needed "...and we were not ready to use it because we haven't done the kinds of consultations necessary or asked the appropriate questions to the appropriate people in order to get it done."
SSM.CAN.00007850	Text Messages between Minister Lametti and Mr Steinhouse	Text message to Minister Lametti from his Chief of Staff on February 4, 2022 referencing "...the incoming the emergencies act [sic]."
TRN00000029, 57:11-28	Transcript of Minister Lametti	Minister Lametti had discussions on February 4 regarding preparing for the possibility of using the Act.
TRN00000026, 298:23-301:7	Transcript of evidence of Ms Charette, Clerk of the Privy Council, and Ms Drouin, Deputy Clerk of the Privy Council	Canada first considered using the Act on February 9.
TRN00000026, 300:6-300:20	Transcript of evidence of Ms Charette, Clerk of the Privy Council, and Ms Drouin, Deputy Clerk of the Privy Council	Ms., Drouin stating that Canada was "quite aware that the moment that we talk publicly about the <i>Emergency Act</i> , the timeline to take a decision is very short."
TRN00000031, 56.3-46.13, 57.3-57.27	Transcript of evidence of Prime Minister Trudeau	The consensus at the February 13 IRG was the Act should be invoked.
TRN00000031, 58:1-58:26, 59:1-59:11	Transcript of evidence of Prime Minister Trudeau	The consensus at the February 13 Cabinet Meeting was the Act should be invoked.
TRN00000031, 59:26-60:8, 60:17-61:3	Transcript of evidence of Prime Minister Trudeau	Prior to the FMM, the Prime Minister advised Caucus that he was going to discuss the Act with the Premiers.

TRN00000031, 122:3-15	Transcript of evidence of Prime Minister Trudeau	Consultation was done when Canada had “a very clear list” of the measures it would use under the Act.
PB.CAN.00001132	Transcript of Minister Blair’s appearance on Global News on February 13	Minister Blair indicated publicly on February 13 that the Act was under consideration “...right from the first day...”
TRN00000027, 303:17-304:4	Transcript of evidence of Minister Blair	Minister Blair appeared on Rosemay Barton Live on February 13 discussing consideration of the Act.
SSM.NSC.CAN.00003224	Memorandum for the Prime Minister from the Clerk of the Privy Council	The Clerk of the Privy Council advised that the February 14 FMM met the requirements for consultation with the provinces under the Act
SSM.NSC.CAN.00003218	Email: PM Note (Decision) – Invoking the Emergencies Act to End Nation-Wide Protests and Blockages	The email shows the decision document was provided to the Prime Minister on February 14 some time between 3:41 pm ET, when it was emailed to staff in his Office and the 4:30 pm ET press conference.

Table 2: Supporting Evidence for Key Point #2

Content of Consultations		
Record Reference	Document Description	Summary of Evidence
MAN00000048	FMM Invitation	The invitation to the FMM was sent on February 13 at 10:46 pm ET for a meeting at 10:15 am ET on February 14 and it did not indicate the topic of discussion.
TRN00000031, 62:17-62:22	Transcript of evidence of Prime Minister Trudeau	The FMM lasted approximately one hour.
TRN00000021, 62:1-28	Transcript of Assistant Deputy Minister Degrand	The usual process for FMMs involves scheduling the meeting one week in advance with agendas and topics. There was no time to gather information or brief the Premier of Alberta on the Act because there was no advance notice of the meeting or the topic.
SSM.CAN.00000121	Report to Houses of Parliament:	Description of consultation.

	<i>Emergencies Act</i> Consultations	
TRN00000031, 62:22-63:25, 120:17-121:7	Transcript of evidence of Prime Minister Trudeau	The Prime Minister indicated the Premiers could have changed his mind if they had said that they did not need the six items planned within the Act and described the tools, power, and plan they had. There were things the Premiers could have said that would have convinced the Prime Minister to wait a few days or not invoke the Act at all, but his personal threshold was not met.
TRN00000031, 121:8-121:24	Transcript of evidence of Prime Minister Trudeau	The PM felt the Premiers did not need notice to prepare for the FMM because in the two weeks leading up to the meeting there was engagement with the provinces.
WTS00000063, pg 7	Interview Summary: Privy Council Office – Intergovernmental Affairs Secretariat Panel	Intergovernmental Affairs was responsible for preparation of the Consultations Report. To the best of DM Vandergrift and ADM Baird's knowledge, the Act was not brought up in any of the meetings or communications listed in the "engagement section" of the Consultations Report.
SSM.CAN.0000095_REL	IRG Minutes 2022-02-13	54 attendee names are listed in the Minutes for this meeting.
SSM.NSC.CAN.00000625	First Ministers' Conference Call – Emergencies Act February 14, 2022	Notes of the FMM with the PM, Minister LeBlanc, Minister Lametti, and Minister Mendicino.
SSM.NSC.CAN.00003224, pgs 3-4	Memorandum – Invoking the <i>Emergencies Act</i> to end Nation-wide Protests and Blockades	On February 14, 2022 – the FMM was convened to express a variety of views. The closest to the situation were supporting of the Act, a number of Premiers expressed concern about inflaming the underlying sentiment, and these Premiers were not seeing the local manifestations of this movement yet in their jurisdictions. Took position that the FMM would meet the requirements for consultation with the provinces under the Act.

Table 3: Supporting Evidence for Key Point #3

Weight given to views of Province after Consultation		
Record Reference	Document Description	Summary of Evidence
TRN00000031, 65:12-65:16	Transcript of evidence of Prime Minister Trudeau	Many Premiers expressed that the Act was not needed in their Province and asked if it could be invoked only in Ontario.

SSM.CAN.0000099	Talking Points of Minister Lametti at FMM	Minister Lametti's remarks at the FMM presented the six measures the Act would be used for.
SSM.NSC.CAN.00003224	Memorandum to Prime Minister	Decision document with brief description of Premiers' views expressed during the FMM.
MAN00000053, SAS00000120, SSM.NSC.CAN.00002941, SSM.NSC.CAN.00000625	Notes from FMM made by Manitoba, Saskatchewan, Brian Clow, other	Various notes from discussions during FMM on February 14.
SSM.CAN.00000126_REL.0001	Letter to Prime Minister Trudeau from Premier Kenney February 17, 2022	Premier Kenney wrote to the Prime Minister to inform him that there was not adequate consultation and that the Act was not required. Alberta had the legal authorities and tools. Alberta did not declare a state of emergency within the Province.

Table 4: Supporting Evidence for Key Point #4

Emergency measures must truly be necessary; inappropriate as a pre-emptive deterrent to protest		
TRN00000030, 51:26-53:19	Transcript of Evidence of Minister Freeland	Testimony of Minister Freeland that she was worried about "blood on the face of a child" and that was a key consideration that shaped the development and use of the financial measures
TRN00000030, 63:22-66:10	Transcript of Evidence of Minister Freeland	Describing the EEMO's function as a deterrent "virtual tow truck" by permitting action against vehicle insurance policies, even other evidence confirmed real tow trucks were available, and the RCMP did not use the EEMO against insurance policies.
TRN00000030, 127:26-129:6	Transcript of Evidence of Minister Freeland	Testimony of Minister Freeland that financial measures were "much better and peaceful" option to existing legislation.
TRN00000023, 193:24-194:2	Transcript of Evidence of Commr. Lucki and D/Commr. Duheme	Testimony of D/Commr. Duheme about deterrence being the primary purpose of the EEMO.
SSM.CAN.00003764	Memo from Deputy Minister Sabia to Minister Freeland,	This undated memo (likely February 9: TRN00000030, 48:4 to 48:15) discussed "[p]otential measures to address the use of Canada's financial system to fund activities harmful to Canada's economy".
EEMO not needed for Coutts		
TRN00000019, 260:1-262:20	Transcript of Evidence of Marco Van Huigenbos	Testimony of Marco Van Huigenbos about protesters at Coutts deciding to leave on the morning of February 14, as a result of the RCMP's enforcement action.

PB.CAN.00001385	Email from John Ossowski to Minister Mendicino and others	Email dated February 15, 2022 regarding the protest at Coutts: “the RCMP has reported that protesters and their vehicles were leaving the blockade sites around 15:00 local time on February 14”.
DOJ.IR.00000011, para 50	Institutional Report of the RCMP	The only protest location with respect to which RCMP used the EEMO was the protest in Ottawa.
Finance Canada responsible for EEMO; banks did not have genuine discretion about freezing accounts		
TRN00000025, 60:1-60:6; 72:17-72:28	Transcript of Evidence of Finance Canada Panel	Testimony of Deputy Minister Sabia and Isabelle Jacques about Finance Canada’s role regarding the EEMO.
TRN00000025, 66:7- 67:10	Transcript of Evidence of Finance Canada Panel	Testimony of Isabelle Jacques about the likely action of financial institutions upon the RCMP identifying a “designated person” under the EEMO.
TRN00000023, 217:8-217:11	Transcript of Evidence of Commr. Lucki and D/Commr. Duheme	Testimony of D/Commr. Duheme about financial institutions’ liability for making funds available to protesters.
PB.CAN.00000781, Exh “A”	Affidavit of Denis Beaudoin, sworn on April 4, 2022	Template for information provided by RCMP to financial institutions about “designated persons” under the EEMO.
EEMO’s impact on innocent persons and lack of humanitarian exceptions		
TRN00000014 at 120:26-124:7	Transcript of Evidence of Christopher Barber	Testimony of Christopher Barber about the freezing of his bank accounts and that his CIBC bank manager would give him details, he could not get a hold of anyone at TD and never got an explanation.
TRN00000015 at 112:17-113:25	Transcript of Evidence of Keith Wilson	Testimony about how people found out in real time and at different times that their accounts were frozen, and were not given notice from the banks in advance.
TRN00000025, 74:11-76:19	Transcript of Evidence of Finance Canada Panel	Testimony of Isabelle Jacques about the <i>EEMO</i> ’s impact on innocent persons.
TRN00000025, 111:27-112:20	Transcript of Evidence of Finance Canada Panel	Testimony of Isabelle Jacques about, in hindsight, the possibility of including humanitarian exceptions in the <i>EEMO</i> .
TRN00000025, 106:2-106:15	Transcript of Evidence of Finance Canada Panel	Testimony of Isabelle Jacques about financial institutions’ liability for granting humanitarian exceptions.
CBA00000002, pg 1	List of questions and issues by the Canadian Bankers’ Association, draft dated February 15, 2022	One of the matters raised in this document: “Can banks make humanitarian or other exceptions/accommodations ... Consider example of spouse conducting inappropriate activity and impact on spouse who may a [<i>sic</i>] joint accountholder and is unable to cover basic necessities”.
SSM.CAN.00001828	Readout of “Bank CEO call” involving Minister Freeland and others, dated February 21, 2022	Statement attributed to Minister Freeland: “The RCMP has told they have heard from protestors as they were leaving the blockades that they did so because their families said their accounts were frozen, so get the hell out of there”.

Table 5: Supporting Evidence for Key Point #5

Consultation with Provinces inadequate		
Record Reference	Document Description	Summary of Evidence
TRN00000025, 133:28-134:5	Transcript of Evidence of Finance Canada Panel	Testimony of Deputy Minister Sabia and Isabelle Jacques about Finance Canada not consulting provincial governments on use of the Act.
TRN00000025, 50:16-53:26	Transcript of Evidence of Finance Canada Panel	Testimony of Deputy Minister Sabia about Finance Canada consulting banks on what ought to be done in response to the protests, including feasibility of then-contemplated measures under the Act.
TRN00000025, 134:6-134:8, 138:19-138:28	Transcript of Evidence of Finance Canada Panel	Testimony of Deputy Minister Sabia and Isabelle Jacques about Finance Canada not consulting credit unions on use of the Act, even though credit unions have a significant market share in some provinces.
SSM.NSC.CAN.00000625	Summary of FMM on February 14	Meeting convened by Prime Minister Trudeau to discuss invocation of the Act.
There was not any substantial organizational connection between the convoys.		
TRN00000023, 351:9-352:19	Transcript of Evidence of D/Commr. Zablocki	D/Commr. Curtis Zablocki confirming understanding that there is no information to suggest organized effort between individuals charged in Alberta and individuals involved in Ottawa.
TRN00000005, 284:13-285:3	Transcript of Evidence of Supt. Patrick Morris	Supt. Morris stated there RCMP determined that protests in Coutts had "very little connection to Ottawa"
TRN00000016, 208:19-208:28	Transcript of Evidence of James Bauder	Mr. Bauder had no contact with truckers organizing Coutts, Emerson, or Surrey.
TRN00000016, 335:10-336:5	Transcript of Evidence of Tamara Lich	Ms. Lich had no communication with any other protestors outside of Ottawa.
TRN00000017, 176:7-177:18	Transcript of Evidence of Jeremy MacKenzie	Mr. MacKenzie had no communication with any protestors while they were in Coutts.
TRN00000017, 248:6-248:20.	Transcript of Evidence of Daniel Bulford	Mr. Bulford had no communication with any other protestors outside of Ottawa.
TRN00000019, 172:3-173:14	Transcript of Evidence of Paul Leschied	Mr. Leschied had no communication with any convoy organizers in Ottawa other than brief exchange with Pat King.
PB.NSC.CAN.00008508	February 17 RCMP K Division Intel Brief	"To date, there has been no information uncovered to suggest that there is an organized effort between the individuals charged in Alberta and individuals involved in the Ottawa protest."

Table 6: Supporting Evidence for Key Point #6

Alberta acquired its own tow trucks prior to the invocation of the Act.		
Record Reference	Document Description	Summary of Evidence
TRN00000021, 42:9-42:23; 48:8-51:23; 126:8-127:23, 128:1-129:3	Transcript of Evidence of ADM Degrand	Testimony of ADM Degrand on the purchase of tow trucks by the Government of Alberta and securing operators.
ALB.IR.00000001, pages 7-13	Institutional Report of the Government of Alberta	Detailed description, with supporting documents, of the purchase of tow truck equipment by the Government of Alberta
TRN00000023, 319:1-320:18	Transcript of Evidence of D/Commr. Curtis Zablocki	Testimony of D/Commr. Zablocki confirming timing and availability of tow trucks purchased by the Government of Alberta.
SSM.NSC.CAN.00000625	Notes from FMM on February 14	Premier Kenney stated “Have procured on market for equipment and have drivers in place. Unless an unexpected surprise, should open Coutts border crossing today.”
ALB00001328.0001	Email dated February 12, 2022 from Deputy Minister Keenan to Deputy Minister Lajeunesse and others	Deputy Minister of Transport Canada to the Deputy Minister of Alberta Transportation and others on February 12: “First and foremost, well done in terms of your fast actions on purchasing tow trucks... But simply having a few trucks available is a game changer.”
RCMP resolved the Coutts blockade prior to the invocation of the Act.		
TRN00000021, 34:27-37:4	Transcript of Evidence of ADM Marlin Degrand	Testimony of ADM Degrand on the law enforcement action and end of blockade. ADM Degrand was advised around 7 or 7:30AM on February 14 they would be leaving.
TRN00000021, 95:5-95:15; 114:2-114:9; 118:13-120:10	Transcript of Evidence of ADM Degrand	ADM Degrand confirms RCMP arrests at Coutts were in early morning of February 14 and prior to invocation of Act.
TRN00000023, 322:22-324:3; 325:17-327:12; 331:3-331:9; 332:6-333:5	Transcript of Evidence of D/Commr. Zablocki	D/Commr. Curtis Zablocki confirming timing of RCMP enforcement action and arrests in early morning of February 14 and protestors decided to leave later that day (“mid to late afternoon”)
ALB.IR.00000001, page 6	Institutional Report of the Government of Alberta	Detailed description, with supporting documents, of the RCMP arrests and break up of the blockade.
TRN00000020, 23:21-26:17; 73:9-73:21	Transcript of Evidence of Mayor Willett	Testimony of Mayor Willett on timing of end of protest and confirming the Act had nothing to do with it.

TRN00000019, 260:1-262:20	Transcript of Evidence of Councillor Van Huigenbos	Testimony of Councillor Van Huigenbos that the decision for Coutts protestors to leave was made on the morning of February 14 th and communicated to RCMP by noon.
TRN00000024, 16:13-17:22	Transcript of Evidence of John Ossowski	Mr. Ossowski confirming that protestors were leaving Coutts as of February 14 and border re-opened as of February 15.
TRN00000024, 237:11-238:3	Transcript of Evidence of Deputy Minister Keenan and Christian Dea	Deputy Minister Keenan confirming that Coutts was cleared by early morning of February 15 without the use of any powers under the Act.
SSM.NSC.CAN.00000625	Notes from FMM on February 14	Premier Kenney stated "We believe the situation has been secured."
TRN00000027 297:14-297:22	Transcript of Evidence of Minister Blair	Minister Blair confirming that issue of tow trucks in Coutts "had become somewhat moot because ... after the investigation by the RCMP ... most of those people skedaddled."
TRN00000031, 55:3-55:11; 81:8-81:25; 122:23-125:6	Transcript of Evidence of Prime Minister Trudeau	Prime Minister Trudeau confirming the Premier Kenney said Coutts was under control at the FMM but he doubted it would be true.
TRN00000030, 219:18-221:2	Transcript of Evidence of PMO Panel	John Brodhead agreed that Premier Kenney was clear during FMM that the Act was not needed in Alberta at that time.
PB.CAN.00001385	February 15 email from John Ossowski to Minister Mendicino about re-opening of Border	"RCMP has reported that protestors and their vehicles were leaving the blockade sits around 15:00 local time on February 14. Around 20:30, the CBSA was advised that the RCMP had removed the conveyances blocking the lanes. ... Subsequently, and in light of no further signs of public disorder, the CBSA is in position to reopen the Coutts POE today."
Police resolved the Windsor blockade prior to the invocation of the Act.		
TRN00000018, 64:24-68:2; 86:26-87:9	Transcript of Evidence of Mayor Drew Dilkens	Mayor Dilkens confirmed the bridge was re-opened on February 13 th and before the Act was invoked.
TRN00000018, 221:2-221:11; 285:16-285:28.	Transcript of Evidence of Deputy Chief Jason Crowley	Deputy Chief Crowley confirmed the police operation to clear the bridge was completed successfully on February 13 th and Windsor had sufficient tow capacity on its own.
TRN00000019, 62:25-64:3; 66:11-67:20; 69:14-69:23; 97:16-97:20	Transcript of Evidence of Supt. Earley	Confirming the police had sufficient resources and the operation to clear the bridge was completed successfully on February 13 without the Act.
WIN00002295, pgs12-14	Text messages between Mayor Dilkens and Minister Mendicino	Mayor Dilkens informing Minister Mendicino on February 12 that he is thinking protests will end that day. On the morning of February 13 saying police have full control of the area.
WPS.IR.00000001, pgs 18-25	Institutional Report of the Windsor Police Service	Detailed description, with supporting documents, of WPS clearing blockade on February 12 and 13 before the invocation of the Act. Just after midnight on February 14, WPS announced the Ambassador Bridge was open to traffic.

The Act was not necessary for resolving Ottawa		
TRN00000006, 144:8-145:14; 178:25-179:14; 186:16-186:26	Transcript of Acting Deputy Chief Ferguson	Confirming that the Act was helpful but not necessary. Ottawa had tow trucks secured prior to the invocation of the Act.
TRN00000006, 37:9-38:3; TRN00000007, 107:3-107:27	Transcript of Evidence of Supt. Abrams	Confirming his opinion that Ottawa could be resolved short of the Act. Resources needed and operational plan would have happened without the Act.
TRN00000007, 179:14-180:23; 218:21-221:20; 254:4-255:2	Transcript of Evidence of C/Supt. Pardy	The Act was helpful but police would have reached the same resolution in the same timeline without it. Act assisted in obtaining tow trucks but tow trucks were secured prior to invocation. Police developed and approved operational plan by February 13 without the Act.
TRN00000008, 215:23-218:1; 242:5-242:13; 251:23-251:28.	Transcript of Evidence of Interim Chief Bell	Interim Chief Bell confirming that police had an operational plan in place that did not substantially change with invocation of the Act; "In the absence of the invocation of the <i>Emergencies Act</i> , the OPS, the OPP, the RCMP, as part of a unified command were going to clear the protests."
TRN00000010, 30:2-31:21; 34:1-34:14; 147:7-147:13; 150:3-150:23	Transcript of Evidence of Supt. Bernier	Supt, Bernier confirming that prior to invocation of the Act, police had all the authorities they needed to take action and had secured tow trucks; the police operation would have proceeded without the Act.
TRN00000011, 240:26-241:11	Transcript of Evidence of Commr. Carrique	Commr. Carrique agrees operational plan for enforcement in Ottawa was going to happen without the Act.
ONT00000179	February 16 emails between MTO and OPP	Sets out the tow trucks that OPP was able to ultimately secure.
Police had sufficient legislated tools available		
TRN00000024, 31:18- 33:1; 83:18-84:21	Transcript of Evidence of John Ossowski	Mr. Ossowski confirming that Alberta had provincial powers to compel tow trucks under the <i>Emergency Management Act</i> .
TRN00000023, 327:27-328:3; 330:7-330:13; 331:10-332:1	Transcript of Evidence of D/Commr. Zablocki	D/Commr. Zablocki confirming RCMP in Alberta had tools available under <i>Criminal Code</i> , <i>Traffic Safety Act</i> , and <i>Critical Infrastructure Defence Act</i> to deal with blockade, including setting up checkpoints to limit travel. RCMP also had the towing capacity necessary to conduct enforcement action.
TRN00000006, 277:18-281:16; TRN00000007, 102:6-102:28	Transcript of Evidence of Supt. Abrams	Supt. Abrams describing existing police powers without the Act to maintain exclusion zone and close roads and block streets.
TRN00000007, 178:21-179:13; 255:12-257:11	Transcript of Evidence of C/Supt. Pardy	C/Supt. Pardy stating police did not need Act to tow vehicles; provisions under the Ontario <i>Emergency Management and Civil Protection Act</i> could be equally helpful for an indemnity.
TRN00000007, 253:21-254:3	Transcript of Evidence of C/Supt. Pardy	C/Supt. Pardy stating police did not need Act to set up integrated command or operational plan.
TRN00000008, 242:14-245:12; 248:18-251:22	Transcript of Evidence of Interim Chief Bell	Interim Chief Bell confirming that police had powers to create exclusion zones in other circumstances; Interim Chief Bell stated the Act was "beneficial" but would not comment on whether it was necessary.

TRN00000010, 31:22-33:28; 147:26-148:4; 149:16-150:23	Transcript of Evidence of Supt. Bernier	Supt. Bernier confirming the police had existing powers to create exclusion zone, to seize and tow vehicles, and to compel and supply tow trucks; the Act was helpful but not necessary
TRN00000011, 122:9-123:11; 232:22-236:25; 312:5-314:8	Transcript of Evidence of Commr. Carrique	Commr. Carrique agrees that police had not yet exhausted all available tools through existing legislation as of February 13; police have powers to enforce without the Act (unlawful assembly, riot, injunctions); police could enforce exclusion zone with Ontario Declaration of Emergency
TRN00000012, 192:25-193:27	Transcript of Evidence of Former Chief Sloly	Mr. Sloly stated the challenge with Ottawa was resources and not additional legislation or powers.
TRN00000023, 66:5-72:7	Transcript of Evidence of Commr. Lucki	Commr. Lucki's opinion on February 13 was that police had not exhausted all available tools available through existing legislation
TRN00000030, 222:6-222:9	Transcript of Evidence of PMO Panel	Brian Clow testified that it "was obvious to everyone who was watching what was going on, on the ground" that there were law enforcement tools that still existed that weren't yet being used.
SSM.NSC.CAN.00002266 & PB.NSC.CAN.00003245	February 13 email from Commr. Lucki to Jody Thomas and Minister Mendicino	Commr. Lucki telling the NSIA and Minister Mendicino enforcement at Windsor has started; RCMP is on the cusp of enforcement at Coutts; RCMP is currently moving protestors blocking border in BC; in Ottawa, the RCMP and OPP developed a strategic plan with foremost experts which has the support of the Commr. Lucki, Commr. Carrique, and Chief Sloly.
PB.NSC.CAN.00003256_REL.0001	February 13 email from Commr. Lucki to Mike Jones	Commr. Lucki telling Chief of Staff of Minister Mendicino: "I am of the view that we have not yet exhausted all available tools that are already available through the existing legislation"
EEMO not needed for Coutts		
TRN00000019, 260:1-262:20	Transcript of Evidence of Marco Van Huigenbos	Testimony of Marco Van Huigenbos about protestors at Coutts deciding to leave on the morning of February 14, as a result of the RCMP's enforcement action.
PB.CAN.00001385	Email from John Ossowski to Minister Mendicino and others	Email dated February 15, 2022 regarding the protest at Coutts: "the RCMP has reported that protestors and their vehicles were leaving the blockade sites around 15:00 local time on February 14".
DOJ.IR.00000011, para 50	Institutional Report of the RCMP	The only protest location with respect to which RCMP used the EEMO was the protest in Ottawa.
SSM.CAN.NSC.00002689	Email chain: Minister Blair, Radey Barrack, Zita Astravas et al, February 11, 2022	The approved response to Alberta's February 5 request for assistance was that "...Alberta has the required legal authorities necessary to enforce compliance..." and that "...the use of federal resources may be reconsidered at a future date once all other provincial options and capabilities have been exhausted."

Table 7: Supporting Evidence for Key Point #7

Key Point: The power to compel tow trucks was not needed		
Record Reference	Document Description	Summary of Evidence
TRN00000011, 124:11-127:1	Transcript of Evidence of Commr. Carrique	Commr. Carrique confirming that power to compel two trucks was never used in Ontario, although the indemnity under the Act was helpful
TRN00000020, 110:19-111:18	Transcript of Evidence of ADM Freeman	Ontario secured tow trucks without compelling under the Act.
TRN00000021, 376:3-379:1; 222:3-222:10	Transcript of Evidence of DSG Di Tommaso	The <i>Emergency Management and Civil Protection Act</i> had ways to ameliorate concerns of towing companies and had “more teeth” than the Act.
SSM.NSC.CAN.00000625	Notes from FMM on February 14	Premier Kenney stated “If we need to seize or compel people, we are prepared to use our own <i>Emergencies Act</i> .”
CCF00000009	<i>Emergency Management Act</i> (Alberta)	
CCF00000038	<i>Emergency Management and Civil Protection Act</i> (Ontario)	
PB.NSC.CAN.00005777	Email from OPP to RCMP	February 20 email re: Tows and EA : “I do not believe the EO was used to make them tow”
Police had power to create exclusion zones		
TRN00000006, 277:18-281:16; TRN00000007, 102:6-102:28	Transcript of Evidence of Supt. Abrams	Supt. Abrams describing existing police powers without the Act to maintain exclusion zone and close roads and block streets.
TRN00000008, 242:14-245:12; 248:18-251:22	Transcript of Evidence of Interim Chief Bell	Interim Chief Bell confirming that police had powers to create exclusion zones in other circumstances; Interim Chief Bell stated the Act was “beneficial” but would not comment on whether it was necessary.
TRN00000010, 31:22-33:28; 147:26-148:4; 149:16-150:23	Transcript of Evidence of Supt. Bernier	Supt. Bernier confirming the police had existing powers to create exclusion zone, to seize and tow vehicles, and to compel and supply tow trucks; the Act was helpful but not necessary
TRN00000011, 122:9-123:11; 232:22-236:25; 312:5-314:8	Transcript of Evidence of Commr. Carrique	Commr. Carrique agrees that police had not yet exhausted all available tools through existing legislation as of February 13; police have powers to enforce without the Act (unlawful assembly, riot, injunctions); police could enforce exclusion zone with Ontario Declaration of Emergency

Table 8: Supporting Evidence for Key Point #8

Consideration of “economic harm” in the context of “threat to national security” by the Governor in Council.		
Record Reference	Document Description	Summary of Evidence
TRN00000030, 5:23-8:20	Transcript of Examination of Minister Freeland	Testimony of Minister Freeland on the economic concern from the U.S. electric vehicle tax credit.
TRN00000030, 17:24-18:4	Transcript of Examination of Minister Freeland	Parliament did not have time to legislate because of the “scale and speed with which the damage [to the economy] was mounting.”
TRN00000030, 21:19-22:26	Transcript of Examination of Minister Freeland	Recounts “dangerous moment” in conversation with Brian Deese recognizing interconnected supply chains between US-Canada in auto manufacturing, which “was a seminal one for [her], and it was a moment when [she] realized, as a country, somehow we had to find a way to bring this to an end.”
TRN00000030, 39:12-40:15	Transcript of Examination of Minister Freeland	Describing how concerns re: impact on business investment in Canada and relation to Canadian jobs affected her decision.
TRN00000030, 45:8-46:2, 97:20-97:26	Transcript of Examination of Minister Freeland	Describing the extent to which the economic concerns informed her thinking in respect of the blockades.
TRN00000030, 52:16-53:19	Transcript of Examination of Minister Freeland	Discussing concern about “blood on the face of a child” as factor in her objective to create financial measures as a deterrent.
TRN00000030, 72:16-74:24	Transcript of Examination of Minister Freeland	Discussing her views on the relationship between economic security and threat to the national security of Canada.”
TRN00000030, 76:13-76:25	Transcript of Examination of Minister Freeland	Speaking to impression that Canadians felt threat to their economic security was threat to personal security, and may feel government not protecting them.
TRN00000030, 105:5-105:11	Transcript of Examination of Minister Freeland	Describing the role that concerns about the impact on trade relationships played in her assessment of the need “to act”.
SSM.CAN.00004121, SSM.CAN.00004119	Text exchange on February 7 between Minister Freeland and Minister Lametti	Minister Freeland reaches out to Minister Lametti: “...I think there is something smart we could do, but I need your help and advice.” After a reply that lawyers are working on possibilities with Deputy Minister Sabia, Minister Freeland responds: “Yay! Thank you! Let’s definitely talk in the morning. This could be an elegant approach for us to take as a govt.”
TRN00000029, 253:5-254:10	Transcript of Examination of Minister Alghabra	Describing the factors that led to him believe that invoking the Act was necessary, including anxiety about Canada’s economic well-being and interactions in which industry associations expressed panic and business impacts; “And it felt like we had to do something.”
TRN00000031, 76:17-77:9	Transcript of Examination of Prime Minister Trudeau	Description of the Prime Minister’s view on how economic security relates to the Act threshold.
SSM.NSC.CAN.00003224, pgs 2, 5, 8	Memorandum – Invoking the <i>Emergencies Act</i> to end Nation-wide Protests and Blockades	Several mentions of “economic stability”, “economic impact” and “international relations” or “international reputation” are made in the decision memorandum from the Clerk of the Privy Council to the Prime Minister provided on February 14.