

ASSEMBLY OF FIRST NATIONS



ASSEMBLÉE DES PREMIÈRES NATIONS

Overview of Bill C-5: An Act to enact the Free Trade and Labour Mobility in Canada Act (Part 1) and the Building Canada Act (Part 2)



Presentation Objectives

- To provide a general overview of the context surrounding Bill C-5
- To provide a brief, technical overview of the main elements within Bill C-5
- To identify some procedural and substantive concerns with the proposed Bill C-5



Bills in Ontario and British Columbia

- Bill 5, *Protect Ontario by Unleashing our Economy Act*
 - Omnibus bill involves modifying several important pieces of legislation.
 - *Special Economic Zones Act* gives the province broad powers to designate “special economic zones” (SEZs) within which “trusted proponents” or “designated projects” are exempt from the requirements of other provincial laws, regulations, including municipal laws and by-laws.
 - The Minister of Economic Development, Job Creation and Trade may designate a project based on criteria established by cabinet. Once a project is designated, Cabinet can pass a regulation to exempt the project from legislation and regulations.
- Bill 15, *Infrastructure Projects Act*
 - Minister of Infrastructure and the provincial cabinet (through the Lieutenant Governor in Council) could designate projects as “provincially significant.”
 - Minister could then require regulators to prioritize those projects and issue permits and certificates to push the projects along.
 - Cabinet could waive or modify statutory requirements relating to land use, planning, and permitting, as well as create measures to replace “constraints” that would impede a project.
 - Key terms, criteria, and procedures to be established through regulations.



Context of Bill C-5

- During a First Ministers meeting on June 2, 2025, in Saskatoon, First Ministers agreed to work together to accelerate major projects in support of building a strong, resilient, and united Canada and discussed projects of national interest.
- The press release asserted that the proposed legislation:

“will accelerate the realization of major, nation-building projects that will help Canada become the strongest economy in the G7, deepen our trade relationships with reliable partners, and create good Canadian jobs.”



Bill C-5, *One Canadian Economy Act*

- Bill C-5, *An Act to Enact the Free Trade and Labour Mobility in Canada and the Building Canada Act*, was tabled by the Honourable Dominic LeBlanc, President of the King's Privy Council for Canada and Minister responsible for Canada-U.S. Trade, Intergovernmental Affairs and One Canadian Economy on June 6, 2025.
- Bill C-5 has two parts:
 - Part 1: Free Trade and Labour Mobility in Canada Act
 - Part 2: Building Canada Act



Where Bill C-5 is in the Legislative Process



- Bill C-5 has been referred to the House Standing Committee on Transport, Infrastructure, and Communities (TRAN) on an expedited process
- Concurrently, the Senate will be convened as a Committee of the Whole (COW)
- Each will welcome a limited number of witnesses, with work expected to be done before the end of session (could be extended)



Proposed Timeline *(per the Motion before the House of Commons)*

TRAN meets to hear from witnesses.

COW to hear from Minister Leblanc, Alty, and other witnesses.

Bill C-5 proceeds to Report stage and debate.

The absolute final sitting day targeted for Bill C-5 to complete all legislative stages and proceed to Royal Assent.

Wed. 18 June

Fri. 20 June

Tue. 17 June

Thu. 19 June

Fri. 27 June

TRAN meets until 12:00am for witness testimony and clause-by-clause review.

By 11:59pm all amendments, whether debated or not, will be put to vote.

The House of Commons will not adjourn until Bill C-5 passes third reading.



Structure of *Building Canada Act*

- The proposed *Building Canada Act* is designed to **streamline project approvals for specified projects** by exempting or varying the requirements of various legislation and regulations.
 - **Schedule 1** - The Governor in Council, based on the advice of a Minister to be designated by the Governor in Council (“Minister”), may amend Schedule 1 of the *Building Canada Act* to list a specific project as a National Interest Project.
 - **Schedule 2** - The Governor in Council may pass regulations, on the recommendation of the Minister responsible for a specific statute or regulation, exempting one or more National Interest Projects from the application of, or vary the application of, any provision of that statute or regulation provided the statute or regulation is listed in Schedule 2 to the *Building Canada Act*.
 - **Document** - The Minister is required to issue to the proponent of a national interest project, a document that is deemed to be the authorization for all the authorizations set out in the document. The document must also set out the conditions that apply with respect to each authorization.



Key Sections of *Building Canada Act*

- **Key sections of *Building Canada Act***
 - (3) – Designated Minister
 - (4) – Purpose
 - (5) – National Interest Projects
 - 5.6 – Factors
 - (11/15/ 19) – Nuclear Safety and Control Act, Canadian Energy Regulator Act, and Impact Assessment Act
 - (21) – Amendments to Schedule 2
 - (22) / (23) – Regulations
 - (24) – Review of Act



Purpose

4. The purpose of this Act is to enhance Canada's prosperity, national security, economic security, national defence and national autonomy by ensuring that projects that are in the national interest are advanced through an accelerated process that enhances regulatory certainty and investor confidence, while protecting the environment and respecting the rights of Indigenous peoples.



National Interest Projects

- In deciding whether to add or remove a project from Schedule 1, the Governor in Council **may consider any factor that the Governor in Council considers relevant, including** the extent to which the project can:
 - (a) strengthen Canada's autonomy, resilience and security,
 - (b) provide economic or other benefits to Canada,
 - (c) have a high likelihood of successful execution,
 - (d) advance the interests of Indigenous peoples, and;
 - (e) contribute to clean growth and to meeting Canada's objectives with respect to climate change.



Conditions Document

- To give effect to any authorizations or approvals, the Minister must issue to the proponent of a National Interest Project a public document that is deemed to be each authorization that is specified in the document in respect of the project.
- The document must also set out the conditions that the National Interest Project must fulfill for each of the authorizations granted.
- Proponents would not be exempted from the requirement to take all measures that they are required to take, under an enactment, in respect of those authorizations.



Consultation with Indigenous Peoples

- There are several places within the proposed *Building Canada Act* where consultation with Indigenous Peoples is required, framed as “*Indigenous peoples whose rights recognized and affirmed by section 35 of the Constitution Act, 1982 may be adversely affected by the carrying out of the project...*”
- This includes:
 - prior to adding, amending or deleting that project from the schedule of National Interest Projects (Clause 5.7),
 - prior to issuing or amending a document setting out authorizations and conditions (Clause 7.1); and
 - prior to the issuance of a “conditions” document to the proponent.
- The Minister is responsible for conducting consultations for the addition, amendment or deletion of projects from the schedule of National Interest Projects and for consultations on the amendment of a document.
- Consultations must also be conducted prior to the issuance of a document but the proposed legislation does not specify who will conduct those consultations.



Impacts on other Legislation

- Schedule 2 outlines different legislative (part 1) and regulatory (part 2) requirements that could be exempted for major projects outlined in Schedule 1. These include, but are not limited to:
 - Legislation: *Fisheries Act, Indian Act, Canadian Navigable Waters Act, Migratory Birds Convention Act, Canadian Environmental Protection Act, Species at Risk Act.*



Impacts on other Legislation

- There are also special requirements for Projects within the application of the *Canadian Energy Regulator Act*, the *Nuclear Safety and Control Act* and the *Impact Assessment*.
 - CERA: must consult with the Commissioners on conditions set out in the document, as well as any amendments, cannot proceed if it compromises “the safety or security of persons or regulated facilities”
 - NSCA: the Minister must consult with the CNSC on the issuing of or amending a conditions document, only if it “will not compromise the health or safety of person, national security, or the implementation of international obligations...”
 - IAA: Certain provisions are not-applied, such as *designation by the Minister (s.9)*; *early planning stage (s. 10-15)*; *the requirement of whether an impact assessment (s. 16)*; *extension the timeline for the issuance of the Notice of Commencement of the impact assessment (s. 18)*



Regulations

Regulations — enactment

22 The Governor in Council may, on the recommendation of the minister responsible for an enactment, make regulations

(a) exempting one or more national interest projects from the application of any provision of that enactment or any provision of regulations made under that enactment; and

(b) varying the application of any provision referred to in paragraph (a) in relation to one or more national interest projects.

Regulations — this Act

23 The Governor in Council may make regulations

(a) exempting one or more national interest projects from the application of any provision of this Act;

(b) varying the application of any provision of this Act in relation to one or more national interest projects; and

(c) generally for carrying out the purposes and provisions of this Act.



Preliminary Concerns

- There are significant procedural and substantive concerns for First Nations within the *BCA*.
- First Nations were not consulted on the *BCA* prior to tabling. Given the rushed timelines and deficiencies in the Parliamentary process, Canada has not fulfilled their consultation and consent obligations to First Nations on a Bill that has significant implications for the protections of Aboriginal and Treaty rights.
- *BCA* allows the federal Cabinet to take discretionary power to bypass key pieces of legislation and regulation (such as the *Impact Assessment Act*, *Canadian Energy Regulator Act*, *Indian Act*, etc.) to support the development of major projects in the 'national interest'.



Other Considerations

- The establishment of an office (called a Federal Major Projects Office in the press release) to coordinate the exercise of powers and the performance of duties and functions, though not named expressly in the proposed legislation.
- The Government of Canada has also committed to the establishment of an “Indigenous Advisory Council with First Nation, Inuit, and Métis representatives” as part of the Federal Major Projects Office and the allocation of capacity funding to strengthen Indigenous Peoples’ participation, but not is also not contained within the legislation.
- No specific timelines are outlined in the legislation, however, the Prime Minister has alluded to a two-year expectation for major project reviews.



Other Considerations

- Bill C-5 would empower the Government of Canada to bypass or vary the application of important federal legislation and regulations in order to expedite project approvals, assessments and permitting.
- The broad powers contained in the proposed legislation may impact opportunities for First Nations participation in regulatory processes and could be utilized to shorten project timelines or exempt projects from certain procedural or substantive requirements.
- The specific application of Bill C-5 may vary from project to project.