

Fifth Protocol of Amendment

The undersigned, Parties to the Agreement on Internal Trade, hereby agree to make the following additions, revisions and corrections to the Agreement on Internal Trade.

Note: All changes relate to both the English and French versions of the Agreement, except where noted.

1. Chapter Five (Procurement)

1.1 Annex 502.1A, Annex 502.2A, and Annex 502.2B

Delete the lists in each Annex and replace the lists with the following note to be placed under the title of each Annex:

“The Parties agree to provide the Internal Trade Secretariat with a list of their entities covered by this Annex and to advise the Secretariat immediately of:

- a) the addition of a newly created entity to the list of entities covered by this Annex;
- b) any changes to an entity covered by this Annex resulting from a change of name, the amalgamation of two or more entities, the restructuring of an entity into two or more entities, the dissolution of an entity; or the privatization of an entity; and
- c) any movement of entities from one annex to another annex that offers a higher level of coverage under Chapter Five.

Changes resulting from actions other than the ones listed above require the consent of the Parties. The Secretariat shall amend the list after every notification of such changes, shall maintain an up to date copy of the list, shall forward the list to all Parties after every change and shall make it readily available.”

1.2 Annex 508.3: Transitional and Non-Conforming Measures

Under Column II, delete the name of Newfoundland and the two non-conforming measures listed thereunder.

2. Chapter Six (Investment)

2.1 Article 602: Scope and Coverage

In paragraph 1 of the English version, change “investors of a Party and enterprises” to “investors and enterprises of a Party”.

2.2 Article 607: Performance Requirements

a. In paragraph 1 of the English version, delete the “or” at the end of (b).

b. In paragraph 1, delete the period at the end of (c) and add:

“; or

(d) achieve a certain level of sales in the territory of another Party.”

2.3 Annex 608.3: Code of Conduct on Incentives

a. Between paragraphs 1 and 2, add the following new paragraph 1P5:

“1P5. Parties shall not influence or direct municipalities, regional development authorities or any other entity, or apply incentive practices through same, so as to circumvent the intent and provisions of this Annex.”

b. In paragraph 4, delete the word “other” in the phrase “of any other Party”. Also, delete the period at the end of the sentence and add the following:

“or to the territory of any other Party.”

c. In paragraph 9, delete the words “endeavour to”.

d. In paragraph 10, delete the period at the end of the first sentence and everything that follows the period, and replace the deleted text with the following:

“from that other Party. A Party may also request any other information relating to a Party’s investment incentive programs or individual incentive packages offered or implemented. The other Party shall respond promptly to any such requests.”

2.4 Article 614: Consultations

After paragraph 3, add the following new paragraphs:

“4. A Party may not make a request for consultations in the case of a matter arising under Annex 608.3 if more than two years have elapsed from the date when the Party first acquired, or should have first acquired, knowledge of an incentive and knowledge that the Party had incurred injury.

5. A Party shall not have recourse to Chapter 17 (Dispute Resolutions Procedures) unless a request is made further to Article 1702 within two years of a request for consultations under Annex 608.3 unless the disputing Parties otherwise agree.”

2.5 Article 615: Working Group on Investment

In paragraph (d), delete “other” from the phrase “any other investment matter”. Also, delete the period at the end of the sentence and add the following:

“; and

(e) examine any other investment matter.”

3. Chapter Thirteen (Communications)

3.1 Article 1303: Committee on Communications-Related Measures

In paragraph 1, delete “The Parties” and replace with the following:

“When so requested by a Party, the Parties”.

3.2 Article 1305: Saskatchewan Provision

Delete the article.

4. Chapter Fourteen (Transportation)

4.1 Annex 1410.1: Listed Measures

a. Under the listing for Newfoundland, delete the first entry and replace it with the following:

“*Motor Carrier Act and Motor Carrier Regulations (Consolidated Newfoundland Regulations, CNR 965/96 as amended)* relating to the economic entry test (reverse onus), rate and service regulation for passenger bus service operating on the Trans Canada Highway, and the economic entry test (public convenience and necessity) and rate regulation for ambulance service.”

- b. Under the listing for Canada, delete the *Western Grain Transportation Act*, R.S.C., c. W-8.

4.2 Annex 1411: Phase Out of Non-Conforming Measures

- a. Under the listing for British Columbia, delete the non-conforming measure and replace it with “NIL”.
- b. Under the listing for Canada, delete the non-conforming measure and replace it with “NIL”.

5. **Chapter Fifteen (Environmental Protection)**

Annex 1507.2: Non-Conforming Environmental Measures

Delete the name of Alberta and the non-conforming measure listed thereunder.

6. **Chapter Seventeen (Dispute Resolution Procedures)**

6.1 Annex 1706.1: Panel Rules of Procedure

- a. In the English version of Rule 17, change “routine administrative manners” to “routine administrative matters”.
- b. In the French version of Rule 31, add the following text to the end of the rule:

“Le Secrétariat fera parvenir des copies des observations écrites à chacun des participants.”

6.2 Article 1716: Request for Panel

In paragraph 4, change “five members” to “three members”.

6.3 Annex 1718.3: Costs

Delete paragraph 6.

7. Fourth Protocol of Amendment

In the French version of the Fourth Protocol of Amendment, replace the wording of item number 4.11, which amends Article 1717: Establishment of Panel, with the following:

“Dans le paragraphe 1, remplacer « deux membres » par « un membre »;
« des membres » par « un membre »; et « inscrits » par « inscrit ».”