

PROPOSED AMENDMENTS TO ONTARIO'S PARTY-SPECIFIC EXCEPTIONS FOR ENERGY IN THE CANADIAN FREE TRADE AGREEMENT

On April 3, 2019, Ontario's Minister of Economic Development, Job Creation and Trade, Todd Smith, sent a letter to the Chair of Committee on Internal Trade (CIT) expressing the province's support for the pan-Canadian development of pipeline infrastructure for oil and gas. Consistent with this support, the letter conveyed Ontario's intent to liberalize aspects of its Party-specific energy exceptions within the Canadian Free Trade Agreement (CFTA).

Ontario has provided CFTA Parties with a copy of the attached amendments that the province intends to make to its Annex I, exception #1 for energy, and Annex II exception #1 for energy. By amending these exceptions, Ontario would be providing open and equal access for the development of oil and gas pipeline infrastructure in Ontario.

Pursuant to Article 1213 (Amendments) of the CFTA, Ontario is seeking written approval from all Parties to amend the CFTA to see the attached changes to its energy exceptions incorporated into the latest version of the Agreement. Upon receiving written approval from all Parties, the Internal Trade Secretariat would update the latest English and French versions of the CFTA's text, bringing these changes into force. The Secretariat would also post updated copies of the Agreement on the CFTA's website (<https://www.cfta-alec.ca/>).

**AMENDMENT OF
ONTARIO ANNEX I, EXCEPTION 1, AND
ANNEX II, EXCEPTION 1**

IN WITNESS WHEREOF,
the undersigned, being duly authorized,
approve the attached amendment to the Canadian Free Trade Agreement

Canada
[Redacted]

British Columbia
[Redacted]

Nunavut
[Redacted]

Ontario
[Redacted]

Prince Edward Island
[Redacted]

Québec (Trade)
[Redacted]

Saskatchewan
[Redacted]

Québec (Intergovernmental)
[Redacted]

Alberta
[Redacted]

Nova Scotia
[Redacted]

Newfoundland & Labrador
[Redacted]

New Brunswick
[Redacted]

Northwest Territories
[Redacted]

Manitoba
[Redacted]

Yukon
[Redacted]

Attachment: Proposed Amendments to Ontario's Energy Exceptions in the CFTA

Annex I, Exception 1

Sector:	Ores and Minerals; Electricity; Gas; and Water
Sub-Sector:	Natural gas; electrical energy
Industry Classification:	CPC 120, 17, 334, 713, 887
Type of Exception:	Article 201 (Non-Discrimination), Article 307 (Market Access - Services), Article 312 (Market Access - Investment), Article 313 (Performance Requirements)
Measure(s):	<p><i>Ontario Energy Board Act, 1998, SO 1998, c 15, Schedule B</i> <i>Electricity Act, 1998, SO 1998, c 15, Schedule A</i> <i>Green Energy Act, 2009, SO 2009, c 12, Schedule A</i> <i>Green Energy and Green Economy Act, 2009, SO 2009, c 12</i> <i>Municipal Franchises Act, RSO 1990, c M-55</i></p>
Description:	<p>The Government of Ontario and its energy authorities, entities, and agencies, including Independent Electricity System Operator, Ontario Power Generation Inc., Hydro One Inc. and the Ontario Energy Board, and their successors or assigns, may permit one or more persons or entities to establish or expand pipelines and electricity and gas infrastructure, and/or to produce, transmit, distribute, conserve, manage (demand and load), store, sell, retail or market energy (including electricity, natural gas and/or renewable energy) in any region in Ontario including on corridor lands. Further, the Government of Ontario and/or one of its energy authorities, the Ontario Energy Board, or its successors or assigns, may regulate the rates, storage, standards, and/or services provided by energy producers, distributors, transmitters, sellers, retailers, marketers, and storage companies in Ontario.</p> <p>Without limiting the generality of the foregoing, measures and actions taken by Ontario and energy authorities, entities, and agencies mentioned above and their successors or assigns, may involve discretionary decisions, based on factors that may afford preferential treatment in favour of:</p> <p>(a) residents of Ontario; and/or</p> <p>(b) entities established under the laws of Canada or a Province thereof and having a place of business in Ontario.</p> <p>For greater certainty, any enterprise formed under the laws of Ontario and having a place of business in Ontario, shall be treated in the same manner as an enterprise that is a resident of Ontario.</p> <p><u>For greater certainty, nothing in this exception applies to hydrocarbon pipelines.</u></p>

Annex II, Exception 1

Sector:	Energy
Sub-Sector:	Production, transmission, and distribution of electricity, gas, steam, and hot water; crude petroleum and natural gas; transport services via pipeline (except for hydrocarbon pipelines); petroleum gases and other gaseous hydrocarbons, except natural gas; services incidental to energy distribution
Industry Classification:	CPC 17, 120, 334, 713, 887
Type of Exception:	Article 301 (Right of Entry and Exit), Article 307 (Market Access – Services), Article 312 (Market Access – Investment)
Measure(s):	None listed
Description:	<p>Ontario reserves the right to adopt or maintain a measure limiting market access in the exploration, production, generation, extraction, importation, exportation, transportation, transmission, distribution, storage, sale, retailing, marketing, conservation, demand/load management, and development of energy (including electricity, natural gas, and renewable energy), with the exception of measures imposing limitations on the participation of foreign capital in terms of a maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment.</p> <p>Ontario reserves the right to adopt or maintain any measure limiting market access in the granting of exclusive rights to own and/or operate a transmission or distribution system, or to produce, generate, store, sell, retail, or market energy (including electricity, natural gas, or renewable energy).</p> <p>For greater certainty, this exception is without prejudice to the right of Ontario to impose limitations on the participation of foreign capital when selling or disposing of its equity interests in, or the assets of, an existing state enterprise or an existing governmental entity involved with the above activities.</p> <p><u>For greater certainty, nothing in this exception applies to hydrocarbon pipelines.</u></p>