

FIRST PROTOCOL OF AMENDMENT



**CANADIAN
FREE TRADE
AGREEMENT**

**ACCORD DE
LIBRE-ÉCHANGE
CANADIEN**

August 26, 2019

FIRST PROTOCOL OF AMENDMENT

The undersigned, Parties to the *Canadian Free Trade Agreement*, hereby agree to make the following additions, revisions and corrections to the *Canadian Free Trade Agreement*. This Protocol of Amendment enters into force on the day the last signature is submitted by a Party.

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

A. PROCUREMENT

1. Chapter Five (Government Procurement)

1.1. In Article 504 (Scope and Coverage), the following change is made:

(a) In paragraph 2(e), delete “Party’s Schedule to Annex 520.1” and replace it with “Party’s Schedule to Annex 519.1”.

1.2. Article 519 (Modifications to Coverage) is deleted in its entirety.

1.3. Article 520 (Exceptions) is renumbered as Article 519, and the following changes are made:

(a) In paragraph 1, delete “Party’s Schedule to Annex 520.1” and replace it with “Party’s Schedule to Annex 519.1”;

(b) In paragraph 2(a), delete “Schedule to Annex 520.1” and replace it with “Schedule to Annex 519.1”; and

(c) In paragraph 5(d), delete “Schedule to Annex 520.1” and replace it with “Schedule to Annex 519.1”

1.4. Article 521 (Government Procurement – Specific Definitions) is renumbered as Article 520, and the following change is made:

(a) In the definition of “procuring entity”, delete “Annex 520.1” and replace it with “Annex 519.1”

2. Annex 520.1 (Party-Specific Exceptions)

2.1. Delete the title “Annex 520.1: Party-Specific Exceptions” and replace with title “Annex 519.1: Party-Specific Exceptions”.

2.2. In the Schedule of British Columbia to Annex 520.1 (now numbered 519.1), at paragraph 3, delete “Article 520.5” and replace it with “Article 519.5”.

B. DISPUTE RESOLUTION

3. Annex 1001.4(c)(ii) (Irrevocable Standby Letter of Credit)

3.1 In Annex 1001.4(c)(ii) (Irrevocable Standby Letter of Credit), the following change is made:

(a) under the subheading “IRREVOCABILITY”, at paragraph (a), delete “Article 1214 (Accession and Withdrawal)” and replace it with “Article 1215 (Accession and Withdrawal)”.

C. CHAPTER TWELVE (FINAL PROVISIONS)

4. Chapter Twelve (Final Provisions)

- 4.1. In paragraph 6 of Article 1205 (Financial Services), replace the references to “Annex 520.1” with references to “Annex 519.1”.
- 4.2. Insert the following provisions as a new Article 1214 (Modifications to Party-Specific Exceptions) and renumber the existing Article 1214 (Accession and Withdrawal) as Article 1215.

Article 1214: Modifications to Party-Specific Exceptions

Specific Definitions

1. For the purposes of this Article:

modifying Party means a Party proposing to remove in its entirety, or amend, one of its Party-Specific Exceptions;

objecting Party means a Party objecting to the amendment of a Party-Specific Exception; and

Party-Specific Exception means an exception in:

- (a) a Party's Schedule in Part VII (Party Schedules); or
- (b) a Party's Schedule to Annex 519.1 (Party-Specific Exceptions).

Removal of Party-Specific Exceptions

2. Notwithstanding Article 1213, a modifying Party may remove in its entirety a Party-Specific Exception by providing written notice to the Parties and the Secretariat of the proposed removal.

The removal of the Party-Specific Exception becomes effective on the date specified by the modifying Party in the written notice or, if not specified, when such notice has been received by the Secretariat.

3. Within five days after the removal becomes effective, the Secretariat shall adjust the Party-Specific Exception in the version of this Agreement that is published on this Agreement's website and circulate the adjustment to the Parties.

Amendment of Party-Specific Exceptions

4. Notwithstanding Article 1213, a modifying Party may propose amendments to a Party-Specific Exception by providing written notice to the Secretariat.
5. A modifying Party shall not use this Article to amend a Party-Specific Exception in Part VII to decrease a modifying Party's conformity, as it existed immediately before the amendment, with Article 201 (Non-Discrimination), Article 301 (Right of Entry and Exit), Article 307 (Market Access – Services), Article 312 (Market Access – Investment), Article 313 (Performance Requirement), or any other obligation as identified by the modifying Party in Part VII.
6. The notification given pursuant to paragraph 4 shall include in French and English:
 - (a) a technical draft of the proposed amendment;
 - (b) an explanation of the likely consequences of the proposed amendments to this Agreement; and

(c) subject to paragraph 17, the date on which the proposed amendment becomes effective.

7. The Secretariat shall circulate the written notice to the Parties within five days of its receipt.

Objection to the Amendment

8. With respect to a Party-Specific Exception in Part VII, if an objecting Party considers that a proposed amendment is inconsistent with paragraph 5, it may notify the Secretariat of its objection to the proposed amendment.
9. If an objecting Party considers that a proposed amendment diminishes coverage of the modifying Party provided for in the modifying Party's Schedule to Annex 519.1, it may notify the Secretariat of its objection to the proposed amendment.
10. An objection pursuant to paragraph 8 or 9 shall be made by the objecting Party in writing and set out the reasons why the proposed amendment is inconsistent with paragraph 5 or diminishes the coverage referred to in paragraph 9. The objection shall be made within 45 days of receiving notice from the Secretariat pursuant to paragraph 7.
11. An objecting Party may withdraw its objection at any time by notifying the Secretariat in writing.
12. The Secretariat shall circulate the objection or withdrawal of objection to the Parties within five days of its receipt.

Consultations

13. With respect to a Party-Specific Exception in Part VII, the modifying Party and an objecting Party shall make every attempt to resolve the objection through consultations within 30 days of the objection being circulated to the Parties by the Secretariat.
14. With respect to a Party-Specific Exception in Annex 519.1, the modifying Party and an objecting Party shall make every attempt to resolve the objection through consultations within 30 days of the objection being circulated to the Parties by the Secretariat with the view to maintaining a balance of rights and obligations and a comparable level of mutually agreed coverage provided for in Chapter 5 (Government Procurement) of this Agreement.

Revised Amendment

15. The modifying Party shall notify the Secretariat of all revisions to the proposed amendment that result from the consultations.
16. The Secretariat shall circulate the revised proposed amendment to the Parties. Paragraphs 4 through 14 apply to the revised proposed amendment, with such changes as the context requires.

Effective Date of Amendment

17. A proposed amendment or revised proposed amendment becomes effective only if:

- (a) no Party submits an objection to the Secretariat pursuant to paragraphs 8 through 10; or
- (b) all objecting Parties have notified the Secretariat that they withdraw their objections.

18. Within five days after the amendment becomes effective, the Secretariat shall adjust the amended Party-Specific Exception in the annex of the version of the Agreement published on this Agreement's website and circulate the adjustment to the Parties.

Schedule of Procurement Exceptions – New Brunswick

19. Nothing in this Article shall supersede, supplant, amend, alter, repeal, or revoke, in any way, Condition 3 of the Schedule of New Brunswick to Annex 519.1.

CFTA: First Protocol of Amendment

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Ontario

Honourable Victor Fedeli

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