

New West Partnership Trade Agreement

SECOND PROTOCOL OF AMENDMENT

The Governments of British Columbia, Alberta and Saskatchewan, Parties to the *New West Partnership Trade Agreement* (the “**Agreement**”), hereby agree to make the following amendments to the Agreement:

1. PART I: OPERATING PRINCIPLES

1.1 In the first line of the Operating Principles insert “Manitoba,” before “British Columbia”.

2. PART II: A. EXTENT OF OBLIGATIONS

2.1 In Article 1: Relationship to the *Agreement on Internal Trade*, replace paragraph 2 with the following:

“In the event of an inconsistency between any provision in Parts II and V of this Agreement and any provision of the *Agreement on Internal Trade* or any other agreement to which all Parties are signatories, the provision that is more conducive to liberalized trade, investment and labour mobility prevails among the Parties. In the event that such a provision of the *Agreement on Internal Trade* or any other agreement to which all Parties are signatories is determined to be more conducive to liberalized trade, investment and labour mobility, that provision is hereby incorporated into and made part of this Agreement.”

3. PART II: B. GENERAL RULES

3.1 In Article 9: Transitional Measures, insert the following after paragraph 4:

“5. For greater certainty, subject to paragraph 6, nothing in Appendix I affects the rights and obligations of this Agreement as among British Columbia, Alberta and Saskatchewan.

6. No Party or person shall have recourse to Part IV regarding any measure of British Columbia, Alberta or Saskatchewan falling within the scope of one of the subject matters specified in Appendix I, as that measure applies to Manitoba or a Manitoba person, during the transition period provided to Manitoba for the same subject matter.”

4. PART II: C. SPECIAL PROVISIONS

4.1 In Article 13: Labour Mobility, replace paragraph 4 with the following:

“Any worker certified to practice a trade under the Red Seal Program shall be recognized as qualified to practice that trade by the Parties.”

5. PART IV: A. DISPUTE RESOLUTION MECHANISM

5.1 In Article 25: Consultations:

- a. In paragraph 4, replace the period at the end of subparagraph (b) with a semicolon and add the following as a chaussette to that paragraph:

“and not more than six months have elapsed since the date the person delivered the request under paragraph 2.”

- b. Replace subparagraph 5(b) with the following:

“provide the factual basis for the matter, including the measure or proposed measure at issue;”

5.2 In Article 31: Judicial Review, in paragraph 1, delete the “and” at the end of subparagraph (b), insert an “and” at the end of subparagraph (c) and add the following as subparagraph (d):

“(d) clauses 45(1)(c) and (f) through (i) of *The Arbitration Act* (C.C.S.M. c. A-120) if the responding Party is Manitoba;”

6. PART IV: B. BID PROTEST MECHANISM

6.1 In Article 41: Judicial Review, in paragraph 1, delete the “and” at the end of subparagraph (b), insert an “and” at the end of subparagraph (c) and add the following as subparagraph (d):

“(d) clauses 45(1)(c) and (f) through (i) of *The Arbitration Act* (C.C.S.M. c. A-120) if the responding Party is Manitoba;”

7. PART V: SECTION I - INVESTMENT EXCEPTIONS (ALBERTA)

7.1 Delete paragraph 2 and re-number paragraph 3 accordingly.

8. PART V: MANITOBA EXCEPTIONS

8.1 Insert the following after Section P of Part V:

“MANITOBA

Q. Investment

1. Residency requirements under *The Wild Rice Act* and, for hunting, and trapping under *The Wildlife Act*.

R. Energy

1. Energy measures adopted or maintained relating to the use of dams, reservoirs and generation facilities provided that such measures are not used for the purpose of preventing access to electricity transmission facilities.
2. Provisions of *The Manitoba Hydro Act* that:
 - (a) ensure domestic customers of Manitoba Hydro receive the benefit of the utility's low cost resources through rates; and
 - (b) prohibit Manitoba Hydro from selling or otherwise disposing of, a major facility for generating, transmitting or distributing power.

S. Agriculture

1. Existing regulatory measures adopted pursuant to *The Farm Products Marketing Act* which restrict trade or investment in agricultural products or production regulated thereunder."

9. Part VI: DEFINITIONS

- 9.1 Replace the definition of "**existing**" with the following:

"**existing** means existing as of the date of the entry into force of this Agreement. In the case of a Party that subsequently accedes to the Agreement "**existing**" means existing as of the date of that Party's accession to the Agreement;"

- 9.2 Delete the definition of "**financial service**".

- 9.3 In subparagraph (d) of the definition of "**standard**" delete the backslash between "sanitary" and "phytosanitary" and insert an "and".

10. APPENDIX I: TRANSITIONAL MEASURES

- 10.1 In Appendix I, delete the phrase "[intentionally left blank]" and insert the following:

"TRANSITIONAL MEASURES MANITOBA

A. Procurement

1. Article 14(3) does not apply to ministries until January 1, 2018.
2. Article 14 does not apply to the procurement of engineering services by ministries until January 1, 2017.
3. Article 14 does not apply to Crown corporations; government-owned commercial enterprises; other entities that are owned or controlled by the Party through ownership interest; regional, local, district or other forms of municipal government; school divisions or publicly-funded academic, health and social service entities, as well as any corporation owned or controlled by one or more of the preceding entities until January 1, 2019.

B. Investment

1. Article 11 does not apply to *The Consumer Protection Act* and *The Prearranged Funeral Services Act* until January 1, 2018.
2. Article 11(1)(a) does not apply to measures relating to business registration and reporting requirements until January 1, 2020.
3. Measures adopted or maintained relating to regulated marketing under *The Fisheries Act* until January 1, 2018.
4. Measures relating to the leasing, permitting, granting or other disposition of rights to the haying, foraging, grazing or cropping on lands that are owned or managed by Manitoba until January 1, 2018.

C. Transportation

1. Article 16(2) and Article 16(3) do not apply until January 1, 2018.

D. Standards and Regulations

1. Existing standards and regulations not otherwise expressly addressed in this Agreement until January 1, 2019.

E. Financial Services

1. Measures related to financial services until January 1, 2020. For purposes of this provision “financial services” means any service or product of a financial nature that is subject to, or governed by, a measure adopted or maintained by Manitoba or by a Manitoba public body that exercises regulatory or supervisory authority delegated by law and includes, but is not limited to:
 - (a) deposit-taking;
 - (b) loan and investment services;

- (c) insurance;
- (d) estate, trust and agency services;
- (e) securities; and
- (f) all forms of financial market intermediation including, but not limited to, the distribution of financial products.”

11. SCHEDULE 1: FORM OF CONSULTATION REQUEST UNDER ARTICLE 25(2)

11.1 In Schedule 1 to the Agreement (Form of Consultation Request Under Article 25(2)), insert “Manitoba” between “British Columbia” and “Saskatchewan” in the second, sixth and seventh lines.

12. SCHEDULE 2: FORM OF CONSULTATION REQUEST UNDER ARTICLE 25(1) AND 25(4)

12.1 In Schedule 2 to the Agreement (Form of Consultation Request Under Article 25(1) and 25(4)), insert “Manitoba” between “British Columbia” and “Saskatchewan” in the second, sixth and last lines.

13. SCHEDULE 4: FORM OF CONSENT TO ARBITRATION

13.1 In Schedule 4 to the Agreement (Consent to Arbitration Article 26(4)), insert “Manitoba” between “British Columbia” and Saskatchewan” in the first line of section 4.

14. ENTRY INTO FORCE

14.1 The amendments to the Agreement provided for in this Protocol shall enter into force at 11:59 PM on December 31, 2016, subject to:

- (a) the Government of Manitoba having signed a Protocol of Accession to the Agreement to take effect immediately following the entry into force of this Protocol of Amendment; and
- (b) the Parties having exchanged written notifications certifying the completion of each of their internal approval procedures.