

**CANADA – NEW BRUNSWICK AGREEMENT
ON THE PROVISION OF FRENCH-LANGUAGE SERVICES
2005-06 TO 2008-09**

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THIS AGREEMENT was concluded in English and in French
This 18th day of August 2005

BETWEEN: **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**, hereinafter called
“Canada”, represented by the Minister of Canadian Heritage,

AND: **HER MAJESTY THE QUEEN IN RIGHT OF NEW BRUNSWICK**,
hereinafter called “New Brunswick”, represented by the Minister of
Intergovernmental and International Relations of New Brunswick.

WHEREAS English and French are the official languages of Canada, as recognized in the Constitution of Canada, the *Canadian Charter of Rights and Freedoms* and Canada’s *Official Languages Act*, and Canada acknowledges its responsibilities and commitments to them;

WHEREAS pursuant to the *Canadian Charter of Rights and Freedoms*, Canada’s *Official Languages Act*, the *Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* and New Brunswick’s new *Official Languages Act*, New Brunswick is unique in the status it grants to both official languages;

WHEREAS New Brunswick’s *Official Languages Act* reaffirms the right of New Brunswickers to communicate with provincial institutions and obtain services in the official language of their choice and to use the official language of their choice in provincial courts;

WHEREAS New Brunswick desires to affirm and protect in its laws the equality of status and the equal rights and privileges of the official linguistic communities;

WHEREAS Canada believes that, according to its *Official Languages Act* and its official languages policy, it is important to cooperate with provincial and territorial governments and with organizations and institutions in Canada to advance the equality of status and use of English and French and to promote the development and ensure the full participation of the official-language communities in Canadian society;

WHEREAS the Department of Canadian Heritage has the mandate on behalf of Canada to co-operate with provincial and territorial governments in order to foster the full recognition and use of English and French in Canadian society and to enhance the vitality and support the development of official-language minority communities across Canada, and to promote a co-ordinated approach by federal institutions in pursuit of these objectives;

WHEREAS, within the framework of its *Action Plan for Official Languages* (hereafter called “Canada’s Action Plan”) announced on March 12, 2003, Canada identifies federal-provincial/territorial collaboration for English- or French-minority language service delivery as one of the priority areas to foster renewed vitality to the country’s linguistic duality;

WHEREAS Canada and New Brunswick wish to establish, through this agreement, a general framework for the planning and implementation of various measures to increase the capability of New Brunswick to provision French-language services and support the development and vitality of the Acadian and French community of New Brunswick ;

AND WHEREAS New Brunswick, as a member of the Ministerial Conference on Francophone Affairs, agreed in 2002 to a series of principles to provide a supportive environment for life in French in Canada;

THEREFORE, this agreement confirms that the parties hereto agree as follows:

1. DEFINITIONS

- a) “Federal Minister” means the Minister of Canadian Heritage or anyone authorized to act on her behalf;
- b) “Provincial Minister” means the Minister of Intergovernmental and International Relations or anyone authorized to act on his behalf;
- c) “Ministers” means the Federal Minister, the Provincial Minister and any other Ministers of Canada and of New Brunswick involved in implementing this agreement;
- d) “Official languages” means English and French;
- e) “Fiscal year” means the period commencing April 1 of any year and terminating March 31 of the year immediately following;
- f) “Structuring Initiative” means a project or initiative intended to bring about a positive, structural and lasting change which will contribute to the development of the community;
- g) “Community” means a group of individuals who identify themselves as belonging to a structured or informal group centred on a shared Acadian and French identity basis;
- h) “Management Committee” means an administrative mechanism co-chaired and co-managed by the representatives designated by the signatories of this agreement and created for the term of this agreement to ensure its full implementation.

2. PURPOSE OF THE AGREEMENT

- 2.1 The purpose of this agreement is to provide a multi-year collaboration framework between Canada and New Brunswick to support the planning and provision of quality French-language services for the Acadian and French community of New Brunswick, and to support the structuring initiatives aimed at contributing to its development as presented in the provincial action plan set out in Schedule B of this agreement.

3. PURPOSE OF THE CONTRIBUTION

- 3.1 Subject to the provisions of Section 3 of this agreement, Canada agrees to meet a portion of the eligible expenditures made by New Brunswick to implement its provincial action plan (Schedule B).
- 3.2 For the purposes of this agreement, New Brunswick’s action plan (Schedule B) includes:
 - 3.2.1 a preamble:
 - a) describing the general orientations, objectives and priorities of New Brunswick for 2005-06 to 2008-09;
 - b) describing the level of community involvement in the development of the action plan;
 - c) describing how the actions reflect overall provincial priorities;
 - d) providing the strategy the province will use to implement the action plan and the data sources that will be used to measure the expected results; and
 - e) other special considerations, as required;
 - 3.2.2 a table describing:
 - a) the expected results up to 2008-09;
 - b) the strategies, initiatives and measures that will be undertaken to achieve these results;
 - c) the performance indicators selected to measure progress; and
 - d) the breakdown by priority of the eligible forecasted expenditures and the respective contributions from both levels of government.

4. MAXIMUM AMOUNT OF THE CONTRIBUTION OF CANADA

4.1 Subject to the appropriation of funds by Parliament, to the maintenance of current and forecasted budget levels to March 31, 2009 of the Development of Official-Language Communities Program, Community Life component, and to the Administrative Procedures and Conditions in Schedule A of this agreement, Canada agrees to contribute to the eligible expenses incurred by New Brunswick in implementing its action plan (Schedule B) for the purposes described in Section 2 of this agreement an amount not to exceed the lesser of six million eight hundred dollars (\$6,800,000) or 50% of the total eligible expenses incurred from 2005-06 to 2008-09. To that end, Canada’s contribution for each of the next four fiscal years shall be as follows:

2005-06	\$1,600,000
2006-07	\$1,700,000
2007-08	\$1,700,000
2008-09	\$1,800,000

4.2 Special Project Funding

For each fiscal year of this agreement, Canada may provide New Brunswick with financial support, over and above the amount identified in paragraph 4.1, for one-time measures and projects proposed by New Brunswick subject to approval by Canada. These measures and projects will be included in a document to be attached to New Brunswick’s action plan (Schedule B) and will form an integral part thereof. This document will include the following information on the measure or project: title, duration, objectives, expected results, total forecasted budget, as well as federal and provincial contributions.

4.3 Subject to the appropriation of funds by the Legislative Assembly of New Brunswick and the maintenance of current and forecasted budget levels of the Department of Intergovernmental and International Relations, New Brunswick agrees to contribute to the eligible expenses under the terms of its action plan (Schedule B) for 2005-06 to 2008-09.

4.4 The administrative procedures and conditions governing the payment of Canada’s contribution are included in Schedule A of this agreement.

5. ELIGIBLE EXPENSES

5.1 For the purposes of this agreement, eligible expenses may include, among others, expenditures related to the planning, study, research, development and implementation of the activities supporting New Brunswick’s action plan (Schedule B) on French-language services.

6. COORDINATION

6.1 The Federal Minister and the Provincial Minister shall each appoint a senior official who will co-chair the Management Committee.

6.2 Management Committee members may designate an official to replace them at meetings and may also call upon other federal or provincial departments as needed.

6.3 The Management Committee shall meet at least once a year to, among others,:

- a) review the strategic plan to ensure that the objectives and operating mechanisms are being achieved;
- b) meet representatives of other federal and provincial departments or agencies or other appropriate individuals in order to encourage the collaboration and participation of all concerned;
- c) approve the certified final report on outputs and actual expenditures, and evaluations mentioned in Sections 1, 3, and 7 of Schedule A of this agreement as well as other documents presented by New Brunswick in accordance with this agreement, and, if necessary, agree on modifying the action plan (Schedule B);

- d) ensure that the other duties or tasks set out in this agreement or assigned by the Ministers are performed;
- e) ensure that these undertakings are completed with diligence and within a timeframe considered satisfactory by both parties.

7. APPROVED ACTIONS/MEASURES AND BUDGETS

- 7.1 Canada and New Brunswick agree that the contributions referred to in paragraphs 4.1 and 4.2 apply only to the actions/measures described in New Brunswick's action plan (Schedule B), based on the federal and provincial budget breakdown included in this agreement.

8. ACCOUNTABILITY

- 8.1 Canada and New Brunswick agree that they must be accountable to Parliament, the provincial legislature and the general public for the proper use of funds provided under this agreement and the results achieved by these investments. Consequently, New Brunswick agrees to provide Canada, in the six (6) months following the end of each fiscal year, with a certified final report on the outputs and actual expenditures incurred by New Brunswick between April 1 and March 31 of each fiscal year.
- 8.2 The requirements pertaining to the submission and acceptance of the certified final report on outputs and actual expenditures are described in Section 3 of Schedule A of this agreement.

9. PARTNERSHIP

- 9.1 The parties recognize that this agreement does not constitute an association with the intent to form a company or a joint venture, nor to create an agency relationship between Canada and New Brunswick.

10. MEMBERS OF THE HOUSE OF COMMONS, THE SENATE OR THE LEGISLATIVE ASSEMBLY OF NEW BRUNSWICK

- 10.1 No member of the House of Commons, the Senate nor the Legislative Assembly of New Brunswick may take part in this agreement nor benefit from it in any way.

11. FORMER PUBLIC OFFICE HOLDERS AND PUBLIC SERVANTS

- 11.1 No official or employee of Canada shall be admitted to share in this agreement or to benefit from it without the written consent of the official's or employee's Minister. No former public office holder or public servant who is not in compliance with the *Conflict of Interest and Post-Employment Code for Public Office Holders* or the *Values and Ethics Code for the Public Service* may receive a direct benefit from this agreement.

12. COLLABORATION WITH OTHER PROVINCES AND TERRITORIES

- 12.1 Canada and New Brunswick agree that it is important to explore opportunities for collaboration between Canada, New Brunswick and other provinces and territories for the provision of quality services in French and support to the Acadian and French community vitality.

13. OTHER FEDERAL DEPARTMENTS (INTERDEPARTMENTAL CONSULTATION)

- 13.1 The Department of Canadian Heritage, in fulfilling its mandate to create and promote a concerted approach within federal institutions towards development of official-language communities and promotion of official languages, shall encourage these institutions to collaborate with their counterparts in New Brunswick on the implementation of services in French.

14. LIABILITY OF CANADA

- 14.1 Canada shall not be liable for any injury, including death, or for any loss or damage to the property of New Brunswick or anyone else, that occurs through the execution of this agreement by New Brunswick, unless such injury, loss or damage is caused by the negligence, wilful misconduct or bad faith of Canada, the Minister of Canadian Heritage, their employees, officers or agents.
- 14.2 Canada disclaims itself from any liability in the event that New Brunswick concludes a loan, rent-to-own contract or any other long-term contract involving the project for which the contribution is granted in this agreement.

15. INDEMNIFICATION

- 15.1 New Brunswick shall indemnify Canada, the Minister of Canadian Heritage and their employees, officers or agents, and release them from any liability for claims, losses, damages, expenses and costs related to any injury or death, or loss or damage to property caused or alleged to be caused by New Brunswick or its employees, officers or agents in carrying out the activities described in this agreement.

16. DISPUTE RESOLUTION

- 16.1 In the event of a dispute arising under the terms of this agreement, the parties agree to try to make a good faith attempt to settle the dispute. In the event that the parties cannot resolve the dispute through negotiation, they agree to submit to mediation. The parties will bear the cost of mediation equally.

17. BREACH OF COMMITMENTS AND RECOURSE

- 17.1 The following constitute breach of commitments:
- 17.1.1 New Brunswick, directly or through its representatives, makes or made a false declaration or a misrepresentation to Canada; or
- 17.1.2 One of the conditions or commitments included in this agreement has not been fulfilled.
- 17.2 In the event of breach of commitments, Canada may avail itself of one or more of the following remedies:
- 17.2.1 Reduce Canada's contribution to New Brunswick and inform them accordingly;
- 17.2.2 Suspend any payment of Canada's contribution, either with respect to amounts already owing or future payments;
- 17.2.3 Rescind this agreement and immediately terminate any financial obligation arising out of it;
- 17.2.4 By written demand, require repayment of amounts already paid that were spent contrary to the terms of this agreement, the amount claimed becoming a debt owing to the Crown as soon as the demand is made on New Brunswick. New Brunswick shall immediately comply with all written demands.
- 17.3 The fact that Canada refrains from exercising a remedy it is entitled to exercise under this agreement shall not be considered to be a waiver of such right and, furthermore, partial or limited exercise of a right conferred on it shall not prevent it in any way in the future from exercising any other right or remedy under this agreement or other applicable law.

18. ASSIGNMENT

- 18.1 This agreement, or any benefit thereunder, may not be assigned without prior written approval from Canada.

19. APPLICABLE STATUTES

19.1 This agreement shall be governed by and interpreted in accordance with the applicable statutes in New Brunswick.

20. COMMUNICATIONS

20.1 Any communication concerning this agreement intended for Canada shall be sent by mail to:

Director, Provincial Office
Department of Canadian Heritage
1045 Main Street, Unit 106
Moncton, New Brunswick E1C 1H1

20.2 Any communication concerning this agreement intended for New Brunswick shall be sent by mail to:

Director
Francophonie and Official Languages
Department of Intergovernmental and International Relations
Government of New Brunswick
P.O. Box 6000
Fredericton, New Brunswick E3B 5H1

20.3 Any communication sent in this way shall be deemed to have been received after the time required for a letter to reach its destination.

21. DURATION

21.1 This agreement binds New Brunswick and Canada for the period starting April 1, 2005, and ending on March 31, 2009, and all contributions to be provided by Canada in accordance with the provisions of this agreement are to be applied to the measures implemented and the expenses incurred by New Brunswick in carrying out its action plan (Schedule B).

22. AMENDMENT OR TERMINATION

22.1 The parties may, with mutual written consent, amend or terminate this agreement during the life of the said agreement.

23. DESCRIPTION OF THE AGREEMENT

23.1 This agreement, including the following schedules that form an integral part of this agreement and subsequent amendments to them, constitutes the entire agreement between the parties and supersedes all previous and future documents, negotiations, understandings and undertakings related to its subject matter. New Brunswick acknowledges having read this agreement and agrees with the contents.

SCHEDULE A – Administrative Procedures and Conditions

SCHEDULE B – New Brunswick’s Action Plan

SCHEDULE C – Model for the certified final report on outputs and actual expenditures

IN WITNESS WHEREOF the parties hereto have signed this agreement on the date that appears on the second page.

ON BEHALF OF CANADA

ON BEHALF OF NEW BRUNSWICK

(Signed) Liza Frulla

(Signed) Percy Mockler

Minister of Canadian Heritage and
Minister responsible for Status of Women

Minister of Intergovernmental
and International Relations
Minister responsible for Service New Brunswick
Minister responsible for the Culture and Sport
Secretariat

IN THE PRESENCE OF

IN THE PRESENCE OF

(Signed) Claudette Bradshaw

(Signed) Claude Williams

Witness

Witness

ADMINISTRATIVE PROCEDURES AND CONDITIONS

1. PAYMENT TERMS

1.1 Action Plan

1.1.1 Canada's contributions to New Brunswick's action plan (Schedule B), referred to in paragraph 4.1 of this agreement, shall be paid as follows:

- (a) an initial advance payment representing approximately one half (50%) of Canada's contribution for fiscal year 2005-06 shall be made upon receipt and acceptance of New Brunswick's action plan (Schedule B) and signing of this agreement and if all requirements for the previous payments have been met;
- (b) for each subsequent fiscal year, a first advance payment representing approximately one half (50%) of Canada's contribution for that year shall be made on or about April 15 upon receipt and acceptance by Canada, if necessary, of an updated action plan (Schedule B) and if all requirements for the previous payments have been met;
- (c) for each fiscal year of this agreement, a second and final advance payment, not exceeding the balance of Canada's contribution for that year, shall be made upon receipt and acceptance of:
 - i) a certified final report on outputs and actual expenditures for the previous fiscal year except for the first year of this agreement; and
 - ii) a certified interim financial statement reporting actual expenditures made by New Brunswick during the period ending September 30 of the current fiscal year and anticipated expenditures up to March 31 of the same fiscal year.

1.2 Special Projects

Canada's contribution to New Brunswick for special projects, referred to in paragraph 4.2 of this agreement, shall be paid as follows:

1.2.1 For one-year projects:

- (a) an initial advance payment representing approximately one half (50%) of Canada's contribution shall be paid following approval of the Minister of Canadian Heritage;
- (b) a second and final advance payment, not exceeding the balance of Canada's contribution for that year, shall be paid after receipt and acceptance by Canada of a certified interim financial statement reporting actual expenditures made by New Brunswick during the period ending September 30 of the current fiscal year and anticipated expenditures up to March 31 of the same fiscal year.

1.2.2 For multi-year projects:

- (a) an initial advance payment representing approximately one half (50%) of Canada's contribution shall be paid following approval of the Minister of Canadian Heritage;
- (b) for each subsequent fiscal year, a first advance payment representing approximately one half (50%) of Canada's contribution for that year shall be made on or about April 15 if all requirements for previous payments have been met;
- (c) for the first year of a multi-year project, a second and final advance payment, not exceeding the balance of Canada's contribution for that year, shall be paid after receipt and acceptance by Canada of a certified interim financial statement reporting actual expenditures made by New Brunswick during the period ending September 30 of the current year and anticipated expenditures up to March 31 of the same fiscal year;

(d) for each subsequent fiscal year, a second and final advance payment, not exceeding the balance of Canada's contribution for that year, shall be made upon receipt and acceptance by Canada of:

- i) a certified final report on outputs and actual expenditures related to the special project for the previous fiscal year; and
- ii) a certified interim financial statement reporting actual expenditures made by New Brunswick during the period ending September 30 of the current fiscal year and anticipated expenditures up to March 31 of the same fiscal year.

1.3 For all special projects, New Brunswick agrees to provide Canada with a certified final report on outputs and actual expenditures related to the special project. New Brunswick agrees to provide this report no later than September 30 of the fiscal year that follows the last year of the special project.

2. TRANSFERS

2.1 New Brunswick may transfer funds between measures for the same priority in order to meet the action plan (Schedule B) objectives, insofar as these transfers do not jeopardize the ability to achieve the expected results in the provincial action plan (Schedule B).

2.2 Canada and New Brunswick may agree to make transfers of funds between priorities in New Brunswick's action plan (Schedule B), subject to the provisions of paragraph 5.1 of this agreement, insofar as these transfers do not jeopardize the ability to achieve the expected results in the action plan (Schedule B). New Brunswick must present Canada with such a request in writing before February 15 of the fiscal year in question. This request for a transfer of funds between priorities will be subject to the approval of the federal co-chair of this agreement's Management Committee.

3. CERTIFIED FINAL REPORTS ON OUTPUTS AND ACTUAL EXPENDITURES

3.1 Within six (6) months following the end of each fiscal year, it is agreed that, for the purposes of this agreement, New Brunswick will present Canada with a final report on outputs for each fiscal year, based on the indicators set out in the provincial action plan (Schedule B), and the actual expenses, as per Section 1 of Schedule A of this agreement. This report will be certified by a senior project officer and a senior finance officer duly authorized by New Brunswick. This report provided by New Brunswick will be made according to the requirements set out for the certified final report on outputs and actual expenditures, with the necessary adjustments. It will be accompanied by a cover letter that will provide an overall interpretation of New Brunswick's outputs and examples of the province's most significant achievements in relation to its objectives, as mentioned in its preamble (Schedule B).

3.2 New Brunswick agrees to provide its certified final report on outputs and actual expenditures for each fiscal year no later than September 30 of the following fiscal year.

3.3 New Brunswick agrees to keep accounts and documents up to date and in due form on receipts and expenditures related to the content of this agreement, including all related invoices, receipts and useful supporting documents. New Brunswick will provide financial statements and other documents provided for in this agreement from time to time as required by Canada, and it will manage its financial affairs in accordance with generally accepted accounting principles and practices. For the purposes of this agreement, New Brunswick will retain all financial accounts, source documents and other useful documents for a period of at least five years following the expiration of this agreement.

4. NATIONAL REPORT ON RESULTS

4.1 Canada and New Brunswick agree that the group of Officials Responsible for Francophone Affairs network as well as the Ministerial Conference on Francophone Affairs shall constitute the multilateral forums for the development of the national report.

4.2 New Brunswick agrees to share information with Canada on best practices adopted to measure results. New Brunswick further agrees to develop indicators to measure progress made towards agreed upon objectives.

4.3 This report shall be produced and published by Canada during the third year of this agreement.

5. INFORMATION TO THE PUBLIC

5.1 Canada and New Brunswick agree to make the text of this agreement and its schedules available to the Canadian public, in particular on their respective Websites, within a reasonable timeframe following the signature of this agreement.

5.2 New Brunswick agrees to make available to the public copies of certified final report on outputs and actual expenditures as part of this agreement after these documents have been accepted by Canada. To obtain copies, interested individuals may contact New Brunswick in accordance with the provisions of paragraph 20.2 of this agreement.

5.3 New Brunswick agrees to give recognition to Canada's participation when conducting publicity for the measures for which financial assistance was provided by Canada. For the purpose of this agreement, publicity includes, without being limited to, news releases, provincial departmental and agency reports. New Brunswick agrees to provide Canada with samples of these different kinds of publicity.

5.4 Canada and New Brunswick agree to share, at the time of its publication, any report on French-language services that may be produced, to be used as complementary information.

5.5 Canada and New Brunswick agree that communications and publications for the general public regarding this agreement are to be issued in both official languages.

6. OVERPAYMENT

6.1 The parties agree that, if payments made to New Brunswick under this Agreement exceed the amounts to which New Brunswick is entitled, the overpayment shall be returned to Canada, failing which Canada may reduce its future contributions to New Brunswick by an equivalent amount.

7. FINANCIAL AUDITS

7.1 The parties agree that Canada reserves the right to audit or to have an audit conducted of the accounts and records of New Brunswick in connection with the provisions of this agreement to ensure compliance with these provisions, and New Brunswick agrees to make all records, documents and information relevant to this agreement available to auditors who may need them. The scope and extent of financial audits and the timing chosen to conduct them will be determined by Canada, and, if needed, these audits may be conducted by Department of Canadian Heritage officials or its agents.

7.2 Canada agrees to inform New Brunswick of the results of any financial audit, and to pay to the province, as soon as possible after the completion of the audit, any monies that the audit may show to be then due and owing to New Brunswick. New Brunswick agrees to pay to Canada, on being informed of the results of such financial audit, any monies that the audit may show to be then due and owing to Canada.

8. EVALUATION

8.1 New Brunswick is responsible for evaluating the measures funded under this agreement and shall determine the scope of the evaluation and methodology and procedures to be used. New Brunswick shall provide Canada with a report on the measures evaluated.

8.2 Canada is responsible for evaluating the Community Life component of the Development of Official-Language Communities Program. New Brunswick shall provide all relevant information necessary for this evaluation.

8.3 Canada and New Brunswick may agree on a joint evaluation for all or some of the measures funded under this agreement. In such cases, the two parties shall fund the evaluation on an equal basis.

9. CONSULTATIONS

9.1 New Brunswick has included in its action plan's preamble (Schedule B) information on the level of community involvement in the development of the document.

MODEL
CERTIFIED FINAL REPORT ON OUTPUTS AND ACTUAL EXPENDITURES FOR (fiscal year)
Canada – New Brunswick Agreement on the Provision of French-Language Services 2005-06 to 2008-09

GENERAL OBJECTIVE(s): *Statement of the overall agreement objective(s)*

Priority <i>(Statement of the priority)</i>				
Activity Sector <i>(Description of the activity sector)</i>				
PLANNED ACTIONS/MEASURES 2005-06 TO 2008-09	EXPECTED RESULTS <i>(fiscal year)</i>	PERFORMANCE INDICATORS	OUTPUTS ATTAINED <i>(fiscal year)</i>	ACTUAL EXPENDITURES TO MARCH 31, <i>(fiscal year)</i>
				Federal: <u>Provincial:</u> Total:

Certified by: _____ (Senior Program Officer)

Date: _____

Certified by: _____ (Senior Financial Officer)

Date: _____