

**CANADA- NEW BRUNSWICK COOPERATIVE AGREEMENT
FOR THE NATIONAL COORDINATION OF
INTERGOVERNMENTAL FRANCOPHONE AFFAIRS**

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THIS AGREEMENT has been concluded in English and in French on this 6th day of January, 2005

BETWEEN: HER MAJESTY THE QUEEN IN RIGHT OF CANADA, hereinafter referred to as “Canada”, represented by the Minister of Canadian Heritage and Minister responsible for Status of Women

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

WHEREAS by virtue of the Constitution of Canada and the *Official Languages Act*, English and French are the official languages of Canada and Canada recognizes its responsibilities and commitment towards those languages;

WHEREAS Canada has the mandate 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 communities in a minority situation across Canada;

WHEREAS Canada and New Brunswick recognize the importance of intergovernmental cooperation with respect to French-language services and the development of francophone and Acadian communities;

WHEREAS New Brunswick is prepared to provide administrative support through the project, National Coordination of Intergovernmental Francophone Affairs, with the assistance and guidance of the Group of Officials responsible for Francophone Affairs within the framework of directions and decisions taken at the Ministerial conferences on Francophone Affairs;

THEREFORE, given the reciprocal agreements contained herein, this Agreement bears witness to the fact that the parties agree on the terms and conditions hereinafter.

1. OBJECTIVE

1.1 The contribution is to financially support the project, *National Coordination of Intergovernmental Francophone Affairs*, (more fully described in Appendix "A") to increase the offering of French-language services by facilitating and improving intergovernmental cooperation and coordination of activities related to services provided in French amongst provincial and territorial governments within the framework of directions and decisions taken at the Ministerial conferences on Francophone Affairs.

2. DEFINITIONS

2.1 The following definitions apply to this Agreement:

- a) “Eligible expenditures” means expenditures such as salaries and benefits, travel, meetings, translation, secretarial and contract work, communications, and office and administrative costs and other costs which are incurred in order to carry out the project;
- b) “Fiscal year” means the period commencing on April 1st of any year and ending on March 31st of the year immediately following.

3. CANADA'S CONTRIBUTION

3.1 Subject to the appropriation of funds by Parliament, to the maintenance of the current and forecasted budget levels of the Development of Official Languages Communities Program and to the terms of this Agreement, Canada agrees to contribute up to a maximum of \$390,000 towards the eligible expenditures incurred by New Brunswick for the implementation of activities fully described in Appendix "A". Canada's contribution shall be as follows:

Fiscal year 2004-05	\$130,000
Fiscal year 2005-06	\$130,000
Fiscal year 2006-07	\$130,000.

3.2 In addition to the funding made available under section 3.1, Canada may also provide a supplementary contribution for inter-provincial/territorial/regional or pan-Canadian projects. Parties will agree that projects of this nature are coordinated by the Office of National Coordination of Intergovernmental Francophone Affairs. These projects will be included in a document to be attached annually to this Agreement and will form an integral part thereof or, where appropriate, constitute an auxiliary agreement. Canada will require that such measures or projects be subject to financial statements, activity reports and evaluation mechanisms that are separate from those for the activity funded under this agreement.

4. NEW BRUNSWICK'S CONTRIBUTION

4.1 Canada and New Brunswick recognize and agree that New Brunswick will only be liable for a portion of the provincial/territorial contributions in kind contained and referred to in Appendix A of this agreement.

5. APPENDICES

5.1 Canada and New Brunswick agree that the appendices will constitute an integral part of this agreement.

6. PAYMENTS

6.1 The contribution referred to in section 3.1 has received approval from the Minister of Canadian Heritage and shall be paid for each fiscal year to New Brunswick as follows:

- a) for 2004-05, a first payment representing one half (50%) of Canada's contribution will be paid after the signature of this agreement;
- b) in each subsequent year, the first payment representing one half (50%) of Canada's contribution for that year will be paid on or about April 15 on condition that the requirements for the previous payments have been met;
- c) in each year of the agreement, the second and final payment, representing one half (50%) of Canada's contribution for that year, will be paid on or about October 15 subject to receipt and acceptance of:
 - i) a certified final financial statement of expenditures for the preceding year, except for the first year of the agreement;
 - ii) a report on results achieved in the preceding year except for the first year of the agreement; and
 - iii) a certified interim financial statement reporting actual expenditures incurred for the period ending September 30 and anticipated expenditures up to March 31 of the current fiscal year.

- 6.2 Canada's supplementary contribution referred to in Clause 3.2 will be subject to the Minister's approval and shall be paid as follows:
- (a) the first payment representing one half (50%) of Canada's contribution shall be paid following the Minister of Canadian Heritage's approval;
 - (b) the second payment, representing the balance of the special project funding, shall be paid following receipt and acceptance by Canada of:
 - i) a certified final financial statement of expenditures related to the Agreement for the previous fiscal year, except for the first year of the Agreement;
 - ii) a report on results achieved for the Agreement in the previous fiscal year, except for the first year of the Agreement; and
 - iii) a certified interim financial statement of actual expenditures incurred as of September 30 of the current fiscal year and of anticipated expenditures up to March 31 of the current fiscal year related to the supplementary contribution.

7. ACCOUNTABILITY

- 7.1 The parties recognize that the contribution made by Canada under this agreement is made solely for the purpose of attaining the objectives set out in Appendix A. To this end, New Brunswick agrees to provide Canada with financial statements and other related information each year which substantiates whether Canada's contributions are related to the costs incurred in implementing the objectives of this agreement.

8. ACCOUNTS AND FINANCIAL STATEMENTS

- 8.1 New Brunswick agrees to keep accounts and records of the revenues and expenditures for the subject matter of this agreement. Canada and New Brunswick agree that New Brunswick's responsibility is limited to the keeping of accounts and does not extend to the approval of expenditures.
- 8.2 For each fiscal year, New Brunswick shall provide certified final statements of expenditures for Canada's contribution within six months following the end of each fiscal year.
- 8.3 For the purposes of this agreement, a senior financial officer, so authorized by New Brunswick, shall certify statements of expenditures provided by New Brunswick to Canada.

9. FINANCIAL AUDIT

- 9.1 Canada reserves the right to undertake, or cause to have undertaken, a financial audit of the accounts and records of New Brunswick concerning the measures and projects funded by Canada's contribution, and New Brunswick shall make available to such auditors any records, documents and information that the auditors may require. The scope, coverage and timing of such financial audits shall be as determined by Canada and, if conducted, may be carried out by officials of the Department of Canadian Heritage or their agent(s).

10. OVERPAYMENT

- 10.1 Where, for any reason, New Brunswick is not entitled to the contribution or Canada determines that the amount of the contribution disbursed exceeds the amount to which New Brunswick is entitled, any such amount is a debt due to Her Majesty and is recoverable as such.

- 10.2 When Canada performs an audit of the financial statements of New Brunswick and an overpayment is identified, the overpayment shall be repaid to Canada no later than 30 days after the date of the notice by Canada.
- 10.3 Where any amount due to Canada has not been repaid, an amount equal to the amount due may be retained by way of deduction from or set-off against any sum of money that may be due or payable to New Brunswick.

11 EVALUATION

- 11.1 In light of the national scope of this project, Canada is committed to undertaking a full or partial evaluation of the project funded under this agreement, six months before the end of this agreement, and New Brunswick agrees to participate in this evaluation.

12. PUBLIC INFORMATION AND CONSULTATION

- 12.1 Canada and New Brunswick agree that the text of this agreement and the attached appendices shall be made available to the Canadian public upon request.

13. PARTNERSHIP

- 13.1 The parties recognize that this agreement does not constitute an association with the intent to form an agent relationship between Canada and New Brunswick.

14. MEMBERS OF THE HOUSE OF COMMONS, SENATE AND PROVINCIAL OR TERRITORIAL LEGISLATURES

- 14.1 No member of the House of Commons, Senate or any Provincial or Territorial Legislature shall be eligible to participate to any share or part of this agreement or to any benefit arising therefrom.

15. CONFLICT OF INTEREST

- 15.1 New Brunswick confirms that no current or former holder of a public office in the Government of Canada will obtain any direct or indirect benefit from this agreement or that, if he or she does, he or she has satisfied the requirements of the *Conflict of Interest and Post-Employment Code for Public Service Holders* or the *Values and Ethics Code for the Public Service*.

16. LIABILITY OF CANADA

- 16.1 Canada is not liable for any injury, including fatal injury, or material damage suffered by New Brunswick or anyone else as a result of the implementation of this agreement by New Brunswick unless such injuries or damages are attributable to the fault of an employee or agent of Canada in the course of his or her duties.
- 16.2 Canada disclaims itself from any liability in the event that New Brunswick concludes a loan, rent-to-own contract or another long-term contract involving the project for which the contribution is granted in this agreement.

17. INDEMNIFICATION

- 17.1 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, costs and expenses 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 unless such injury, loss or damage is caused by the negligence, wilful misconduct or bad faith of Canada, the Minister of Canadian Heritage or their employees, officers or agents.

18. DISPUTE RESOLUTION

18.1 In the event of a dispute arising under the terms of the agreement, the parties agree 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.

19. CONTINGENCY FEE

19.1 New Brunswick certifies that it has not directly or indirectly paid or agreed to pay and represents that it will not directly or indirectly pay a contingency fee for the solicitations, negotiation or obtaining of this agreement to any person other than an employee acting in the normal course of the employee's duties.

19.2 All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of this agreement shall be subject to the Accounts and Financial Statements provisions of this agreement.

19.3 If New Brunswick certified falsely under this section, Canada may exercise any of the remedies provided in this agreement.

19.4 In this Article:

- a) "Contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining an Agreement or negotiating the whole or any party of its terms;
- b) "Employee" means a person with whom New Brunswick has an employer/employee relationship;
- c) "Person" includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes an individual who is required to file a return with the registrar pursuant to Section 5 of the *Lobbyist Registration Act*, R.S. 1985, c.44 (4th Supplement) as the same may be amended from time to time.

20. BREACH OF COMMITMENTS AND RECOURSE

20.1 The following constitutes breach of commitments:

20.1.1 New Brunswick, directly or through its representatives, makes or made a false declaration or a misrepresentation to Canada; or

20.1.2 Canada is reasonably of the opinion that one of the material conditions or commitments included in this agreement has not been fulfilled.

20.2 In the event of a material breach of commitments, Canada may avail itself of one or more of the following remedies:

20.2.1 reduce the level of the contribution paid to New Brunswick and inform it accordingly;

20.2.2 suspend any payment of Canada's contribution, either with respect to amounts already owing or future payments;

20.2.3 rescind this agreement and immediately terminate any financial obligation arising out of it;

20.2.4 by written demand, require repayment of amounts already paid that were spent contrary to the terms of the 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 such a written demand.

20.3 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 from exercising any other right or remedy under this agreement or other applicable law.

21. ASSIGNMENT

21.1 This agreement, or any benefit thereunder, may not be assigned without prior written approval of Canada and New Brunswick.

22. APPLICABLE STATUTES

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

23. COMMUNICATIONS

23.1 Any notice concerning this agreement intended for Canada shall be sent by mail to the following address:

Canadian Heritage
Official Languages Programs Branch
Operations and Regional Coordination Directorate
15 Eddy Street, 7th Floor
Gatineau, Quebec
K1A 0M5

23.2 Any notice concerning this agreement intended for New Brunswick shall be sent by mail to the following address:

Assistant Deputy Minister
Francophonie and International Relations
Intergovernmental and International Relations
Government of New Brunswick
P.O. Box 6000
Fredericton, New Brunswick
E3B 5H1

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

24. DURATION

24.1 This agreement binds New Brunswick and Canada for the period starting April 1, 2004 and ending March 31, 2007, and all contributions payable by Canada under the terms of this agreement shall be paid in accordance with the activities carried out and expenditures made by New Brunswick during the period from April 1, 2004, to March 31, 2007.

25. AMENDMENT OF AGREEMENT

25.1 This agreement may be amended by the mutual written consent of both parties.

26. ENTIRE AGREEMENT

26.1 This agreement constitutes the entire agreement between the parties and supersedes any prior or future agreement, understanding or undertaking related to its subject matter, unless duly amended in writing by the parties hereto.

IN WITNESS WHEREOF, the parties have signed this agreement.

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

(Signed) Andrée Martineau

(Signed) Mirelle Cyr

Witness

Witness

**NATIONAL COORDINATION OF
INTERGOVERNMENTAL FRANCOPHONE AFFAIRS**

Objective: New Brunswick will perform the administrative overview of a project to facilitate intergovernmental cooperation on Francophone Affairs and coordination of activities between provincial/territorial governments to enhance the active offer of French-language services.

Means of implementation: The project will be carried out through the provision of services by a National Coordinator of Intergovernmental Francophone Affairs for cooperation activities and projects guided by the Group of Officials responsible for Francophone Affairs within the framework of directions and decisions taken at the Ministerial conferences on Francophone Affairs.

MEASURES AND ACTIVITIES FOR THE NATIONAL COORDINATOR
<p>Preparing Ministerial conferences on Francophone Affairs. Preparing meetings of Officials responsible for Francophone Affairs. Providing information for provinces and territories requesting appropriate models to offer services to their Francophone community. Facilitating intergovernmental cooperation on Francophone Affairs. Developing and maintaining links and working relationships between officials responsible for Francophone Affairs and other governmental, para-governmental and community organizations, as may be required, for pertinent files on Francophone Affairs. Coordinating actions recommended at Ministerial conferences on Francophone Affairs. Coordinating some inter-provincial/territorial/regional or pan-Canadian projects. Preparing relevant reports and documents. Other relevant tasks as may be determined by the Group of Officials responsible for Francophone Affairs.</p>

Expected outcomes
<p>Francophone communities in minority situations receive enhanced services in French. Governments collaborate on various files and work with their Francophone communities for more effective planning and delivery of services in French.</p>

Performance indicators
<p>Ministerial conferences focus on important issues and provide clear direction for intergovernmental cooperation. Meetings of officials responsible for Francophone Affairs deal with matters of common interest and guide specific intergovernmental initiatives. Provinces/Territories seeking to implement French-language services in a pragmatic fashion obtain useful information and models for that purpose. New or strengthened intergovernmental agreements are developed to facilitate the preparation and implementation of strategic plans on French-language services. Enhanced or new partnerships are in place to facilitate the active offer of French-language services. New courses of actions are explored and pursued as a result of more effective meetings and discussions on Francophone Affairs.</p>

*** ELIGIBLE EXPENDITURES AND PROJECTED FEDERAL AND
PROVINCIAL/TERRITORIAL CONTRIBUTIONS**

1) ESTIMATED ELIGIBLE COSTS AND EXPENDITURES TIMETABLE

ACTIVITY	2004-05	2005-06	2006-07
Salaries and Benefits	\$90,000	\$95,000	\$100,000
**Other Expenses (e.g. translation, office and administrative expenses, travel, secretarial communications)	\$80,000	\$85,000	\$90,000
TOTAL	\$170,000	\$180,000	\$190,000

2) PROJECTED CONTRIBUTIONS

SOURCES	2004-05	2005-06	2006-07
CANADA	\$130,000	\$130,000	\$130,000
**PROVINCES/TERRITORIES	\$40,000	\$50,000	\$60,000
TOTAL	\$170,000	\$180,000	\$190,000

* *With the prior written authorization of Canada, New Brunswick may transfer funds between Salaries/benefits and other expenses provided New Brunswick submits a request before March 1st of the end of the fiscal year.*

** *The provincial/territorial contributions will be in kind and help provide some secretarial work, translation and document production, as well as cover some traveling and meeting expenses.*