



# **Amendment to the Memorandum of Understanding between the Treasury Board of Canada Secretariat and the United States Office of Information and Regulatory Affairs regarding the Canada-United States Regulatory Cooperation Council.**

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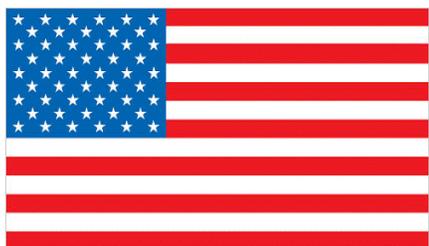
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Aussi offert en français sous le titre : Modification du Protocole d'entente entre le Secrétariat du Conseil du Trésor du Canada et l'Office of Information and Regulatory Affairs des États-Unis concernant le Conseil de coopération Canada–États Unis en matière de réglementation.

# Memorandum of Understanding between the Treasury Board of Canada Secretariat and the United States Office of Information and Regulatory Affairs regarding the Canada-United States Regulatory Cooperation Council

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**The Treasury Board of Canada Secretariat and the United States (U.S.) Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget,** hereinafter referred to as the “Participants”,

**Ensuring** the continuity and long-term stability of the Canada-U.S. Regulatory Cooperation Council (RCC),

**Reaffirming** the RCC as a practical and proven bilateral forum devoted to reducing, eliminating or preventing unnecessary regulatory differences between their two countries,

**Prioritizing** economic growth, innovation, competitiveness, and job creation as an objective of the RCC, while maintaining high levels of protection for health, safety, and the environment,

**Committing** to the promotion and implementation of good regulatory practices that are an essential prerequisite to effective regulatory cooperation,

**Understanding** that their countries may take different approaches to address similar issues, and

**Seeking** to reduce or eliminate unnecessary regulatory differences between their two countries through the greater alignment of regulatory measures and systems,

**Have come** to the following understanding:

1. The Participants intend that:
  - i. their respective regulations continue to apply;
  - ii. their activities focus on closer alignment of existing regulatory systems at the federal level, consistent with their respective national law and policies;
  - iii. regulatory outcomes for consumer protection, health, safety, security, and the environment not be compromised;
  - iv. cooperation initiatives be pursued on a voluntary basis;
  - v. cooperation initiatives not unnecessarily duplicate the efforts, mandates, or coordination mechanisms of existing agencies and departments;
  - vi. cooperation opportunities be considered throughout the regulatory life-cycle (i.e. research, consultation, development, implementation, review);
  - vii. new or modified regulatory measures be designed to foster regulatory alignment, to the extent feasible and appropriate and with the impacts considered;
  - viii. mechanisms (e.g. co-development, co-funding) to facilitate future alignment be considered, including ways to best address new and emerging technologies;
  - ix. transparency, participation by regulatory departments and agencies, and stakeholder engagement inform all RCC activities; and
  - x. future efforts build on current work and successes to date.
2. The Participants intend that the Secretary of the Treasury Board and the Administrator of OIRA continue to serve as co-chairs of the RCC's governing Council (the Council) in order to provide strategic direction on regulatory cooperation initiatives, including the setting of priorities and objectives.
3. The Participants intend to:
  - i. have the RCC meet at least once a year;
  - ii. hold senior-level discussions to identify and address challenges and opportunities regarding regulatory cooperation; and
  - iii. have their staffs serve as the RCC Secretariat and help coordinate RCC activities, including interactions with departments, agencies, and stakeholders.
4. The Participants understand that senior officials from regulatory departments and agencies may be invited to be a part of the RCC.
5. As the participation of regulatory departments and agencies is essential to the RCC's work, the Participants intend to work closely with them to, among other things, identify opportunities for cooperation in new and emerging areas.
6. The Participants understand that:

- i. efforts towards regulatory alignment are expected to be led by the appropriate regulatory departments and agencies, under broad guidance from the RCC and in consultation with impacted stakeholders; and
- ii. regulatory departments and agencies are expected to work with:
  - A. the RCC Secretariat to identify and develop substantive work plans or other public documents that include concrete timelines and objectives; and
  - B. their counterpart regulatory departments and agencies to establish technical working groups made up of departmental and agency officials, as necessary, to advance initiatives and to update the public on progress achieved on a regular basis.

7. The Participants intend to:

- i. meet with interested industry and stakeholders to foster discussion, engagement, and collaboration on regulatory cooperation issues and solutions; and
- ii. carry out other activities, including a biennial RCC regulator-stakeholder forum and online and face-to-face domestic engagements, to inform the planning and implementation of RCC initiatives.

8. The Participants understand that the RCC activities are expected to be carried out in accordance with their respective national law.

9. The Terms of Reference for the Canada-U.S. RCC are set out in Annex I and replace all previous RCC terms of reference.

10. This MOU is intended to commence on the date of the signature of its English version by the Participants.

11. The Participants may modify this MOU upon their mutual written consent.

12. A Participant may cease its participation under this MOU by giving a written notice to the other Participant.

**Signed** in duplicate at the White House, on this 4th day of June 2018, in the English language. The Participants intend to sign the French language version within 90 days.

**For the Treasury Board of Canada  
Secretariat**

Peter Wallace  
Secretary of the Treasury Board

**For the United States Office of Information  
and Regulatory Affairs**

Neomi Rao  
Administrator of the Office of Information  
and Regulatory Affairs

**For the Treasury Board of Canada  
Secretariat**

The Honourable Scott Brison  
President of the Treasury Board

**For the United States Office of  
Management and Budget**

Mick Mulvaney  
Director, Office of Management and Budget

# **Annex I: Terms of Reference for the Canada-United States Regulatory Cooperation Council**

The Participants understand that:

## **1. Objectives**

The objectives of the Canada-United States (U.S.) Regulatory Cooperation Council (RCC) are to:

- i. facilitate coordination between agencies and departments in both countries, enable engagement between stakeholders and regulators, and promote opportunities for cooperation; and
- ii. foster alignment of existing federal regulatory activities where feasible and appropriate or, absent such alignment, explore the possibility of adopting other measures in order to reduce, eliminate or prevent unnecessary regulatory differences between both countries while maintaining high levels of protection for health, safety, and the environment.

## **2. Principles**

The RCC is expected to carry out its activities in accordance with the following principles:

- i. each country maintains its sovereign regulation regulatory decision-making, which is consistent with national law;
- ii. to inform their regulatory decisions, each country should consider the regulatory system of the other;
- iii. regulatory outcomes for consumer protection, health, safety, security, and the environment are not compromised;
- iv. new or modified regulatory measures are designed with the goal of achieving regulatory alignment, to the extent feasible and appropriate; and
- v. opportunities are pursued that provide benefits to both Canada and the U.S.

## **3. Mandate**

The mandate of the RCC is to:

- i. serve as a forum to discuss, coordinate, and provide broad guidance on regulatory cooperation initiatives between Canada and the U.S.;
- ii. conduct senior-level discussions to proactively identify and discuss challenges, opportunities, and lessons learned regarding Canada-U.S. regulatory cooperation;
- iii. identify opportunities to bring significant economic benefits to both countries through increased regulatory alignment within key existing and emerging sectors of the North American economy;
- iv. help resolve existing unnecessary divergences and develop mechanisms to facilitate and secure future alignment based on transparency and early engagement between countries and with stakeholders; and
- v. design new regulatory activities with the goal of achieving regulatory alignment, to the extent feasible and appropriate.

#### **4. Regulatory Cooperation**

In seeking to identify opportunities for increased alignment and cooperation, the Participants intend to give particular consideration to:

- i. sectors that are characterized by high levels of integration and a history of cooperative regulatory approaches and supporting activities;
- ii. sectors that have well developed pre-existing regulatory frameworks that are designed to achieve similar outcomes but are currently a barrier to increased integration and activity;
- iii. sectors that offer significant, emerging growth potential and that are characterized by rapidly evolving technologies where regulatory approaches are anticipated or are currently in early stages of development; and
- iv. sectors where regulatory cooperation are intended to support export growth in North America.

#### **5. Shared Commitment to Good Regulatory Practices**

Canada and the U.S. share a commitment to good regulatory practices (GRP) and recognize the importance of GRP as an essential prerequisite to effective regulatory cooperation.

#### **6. Membership**

- i. The RCC's governing Council (the Council) is intended to be co-chaired by the Secretary of the Treasury Board and the Administrator of the Office of Information and Regulatory Affairs (OIRA) as heads of the federal bodies responsible for regulatory oversight. The co-chairs are expected to:
  - A. provide coordination necessary to achieve the mandate; and

- B. review work plans.
- ii. The RCC co-chairs may also invite senior officials from regulatory departments and agencies (e.g. Canadian deputy heads and U.S. assistant secretaries) to be a part of the RCC. Such officials are expected to provide insights and experiences on departmental, agency and sectoral trends, opportunities and challenges, and to champion regulatory cooperation and RCC initiatives within their respective departments and agencies.

## **7. RCC Secretariat**

The Participants intend to provide the RCC Secretariat support, which is expected to:

- i. act as a central single window to receive proposals for alignment from regulators and stakeholders;
- ii. examine opportunities raised by the Council, regulators, and stakeholders for enhanced collaboration;
- iii. provide guidance on cooperation to departments and agencies to support work plan progress, advance regulatory cooperation as a good regulatory practice, and bring in new initiatives under the RCC;
- iv. assist in identifying appropriate counterparts;
- v. review the establishment of technical working groups and work plans;
- vi. coordinate consultation processes through the Canada Gazette and U.S. Federal Register or via other means, as necessary;
- vii. coordinate RCC and stakeholder engagements; and
- viii. coordinate progress reporting.

## **8. Meetings**

- i. The Council is expected to meet a minimum of once annually aiming:
  - A. to set high level direction and priorities for work to pursue; and
  - B. to review previous work progress, address set-backs, and adjust strategic direction and priorities in response to changes as required.
  - C. Council members may, by mutual consent, invite other officials, or experts to take part in the Council meetings in support of agenda items and discussion topics.
- ii. The RCC co-chairs are expected to solicit the active involvement of regulatory agencies, depending on the specific cooperative activities being addressed.

## **9. Roles in Support of the RCC**

- i. Regulatory Departments and Agencies are expected to:
  - A. lead efforts towards regulatory alignment in consultation with the RCC Secretariat and impacted stakeholders;

- B. work with the RCC Secretariat to identify and develop substantive sectoral work plans and initiatives that include concrete timelines and objectives;
  - C. work with counterpart departments and agencies;
  - D. establish technical working groups as necessary to achieve progress on their planned initiatives; and
  - E. update the public on progress achieved on a bi-annual basis.
- ii. Technical Working Groups made up of departmental and agency officials may be organized to advance the work of regulatory departments and agencies.
  - iii. The RCC co-chairs may consult with appropriate departments and agencies of both countries to help ensure that regulatory cooperation efforts are consistent with pertinent international obligations and to assist in identifying opportunities to enhance regulatory cooperation.

## 10. Stakeholder Engagement

- i. Members of the RCC, the secretariat, and representatives from regulatory departments and agencies may meet with interested industry and citizen stakeholders to foster discussion, engagement, and collaboration on regulatory alignment issues and solutions.
- ii. A regulator-stakeholder forum is intended to be held every two years to enable discussion between stakeholders and regulators on specific issues and themes as set by the Council.
- iii. Ongoing online and face-to-face domestic engagements are intended to take place throughout the two-year cycle as well as broad consultations to solicit new ideas for improved alignment using the Canada Gazette process and the U.S. Federal Register or other means as appropriate.
- iv. Each Participant intends to maintain a centralized RCC website with updates on cooperation activities and points of contact.

## 11. Other

Nothing in these Terms of Reference is intended to restrict the ability of counterpart agencies in Canada or the U.S. to engage agency-to-agency in bilateral cooperation and collaboration initiatives outside the remit of the RCC.

The Participants understand that activities carried out by the RCC are intended to be consistent with the national law of both countries.

### **Date modified:**

2020-11-18