

PART IV
SPECIFIC COMMITMENTS AND RULES

Chapter Six
Labour Mobility

Article 6.1: Objective

1. The objective of this Chapter is to eliminate or reduce measures adopted or maintained by the Parties that restrict or impair labour mobility between the Parties and, in particular, to enable any worker certified for an occupation by a regulatory authority of one Party to be recognized as qualified for that occupation by the relevant regulatory authority of the other Party.
2. For the purposes of this Chapter, a reference to a Party adopting or maintaining a measure or standard, regulating an occupation, or agreeing to certify, includes such action by a regulatory authority of a Party.

Article 6.2: Scope and Coverage

1. Annex 6.2 sets out those occupations for which workers in the occupation who are certified by the relevant regulatory authority of a Party shall be recognized as qualified for certification in the same occupation by the relevant regulatory authority of the other Party.
2. This Chapter applies to the occupations set out in Annex 6.2. In particular, this Chapter applies to measures adopted or maintained by a Party for a regulated occupation identified in Annex 6.2 relating to:
 - (a) residency requirements for workers as a condition of certification relating to a worker's occupation;
 - (b) certification requirements, other than residency requirements, for workers in order to practise an occupation or use a particular occupational title; and
 - (c) occupational standards.
3. This Chapter does not apply to measures pertaining to language requirements or social policy measures including labour standards and codes, minimum wages and social assistance.
4. This Chapter applies to the occupations set out in Annex 6.2 on the date this Agreement comes into effect except where compliance with respect to one or more of the occupations requires statutory or regulatory amendment, in which case this Chapter applies to that occupation upon the coming into force of the required regulatory and/or legislative amendments.

Article 6.3: Relationship to Other Agreements

1. A Party may enter into labour mobility agreements with other jurisdictions. A Party shall notify the other Party when negotiating such agreements so that the other Party may assess the implications for and propose possible amendments to this Chapter.
2. If there is any inconsistency between a provision of this Chapter and any provision regarding labour mobility in the *2006 Agreement* or the *Agreement on Internal Trade*, the provision that is most favourable to labour mobility shall prevail to the extent of the inconsistency.

Article 6.4: Residency Requirements

No Party shall require a worker to be resident in its territory as a condition of certification relating to the worker's occupation.

Article 6.5: Certification of Workers

1. Subject to paragraphs 3 and 4, any worker certified for an occupation by a regulatory authority of one Party shall, upon application, be certified for that occupation by the relevant regulatory authority of the other Party without any requirement for any material additional training, experience, examinations or assessments as part of that certification procedure.
2. Subject to paragraphs 3 and 4, a Party shall recognize any worker holding a jurisdictional certification in a trade designated Red Seal under the Interprovincial Standards Red Seal Program in both jurisdictions as qualified to practise the occupation identified in the certification.
3. A regulatory authority of a Party may, as a condition of certification for any worker referred to in paragraphs 1 and 2, impose requirements on that worker, other than requirements for material additional training, experience, examinations or assessments, including:
 - (a) payment of an application or processing fee;
 - (b) obtaining insurance, malpractice coverage or similar protection;
 - (c) posting a bond;
 - (d) undergoing a disciplinary or criminal background check;
 - (e) providing evidence of good character;
 - (f) demonstrating knowledge of the measures maintained by that Party applicable to the practice of the occupation in its territory; or

- (g) providing a certificate, letter or other evidence from the regulatory authority in that territory in which they are currently certified confirming that their certification in that territory is in good standing;

provided that any requirement referred to in clauses (a) to (g):

- (h) is the same as, or substantially similar to, but no more onerous than, those imposed by the regulatory authority on its own workers as part of the normal certification process; and
- (i) does not create a disguised restriction on labour mobility.

4. Nothing in paragraphs 1, 2 or 3 limits the ability of a regulatory authority of a Party to:

- (a) refuse to certify a worker or impose terms, conditions or restrictions on his or her ability to practise where such action is considered necessary to protect the public interest as a result of complaints or disciplinary or criminal proceedings in any other jurisdiction relating to the competency, conduct or character of that worker;
- (b) impose additional training, experience, examinations or assessments as a condition of certification where the person has not practised the occupation within a specified period of time; or
- (c) assess the equivalency of a practice limitation, restriction or condition imposed on a worker in his or her current certifying jurisdiction to any practice limitation, restriction or condition that may be applied by the regulatory authority to a worker in its territory, and apply an equivalent practice limitation, restriction or condition to the worker's certification, or, where the regulatory authority has no provision for applying an equivalent limited, restricted or conditional certification, refuse to certify the worker;

provided that any measure referred to in paragraphs (a) to (c):

- (d) is the same as, or substantially similar to but no more onerous than, that imposed by the regulatory authority on its own workers; and
- (e) does not create a disguised restriction on labour mobility.

Article 6.6: Occupational Standards

1. A Party may adopt or maintain any occupational standard, and in doing so, may establish the level of protection that it considers to be appropriate in the circumstances. The Parties agree, however, to the extent possible and where practical, to pursue steps to reconcile differences in occupational standards.

2. If a Party considers it necessary to establish new standards or to make changes to any existing standards in respect of an occupation, the Parties agree that the process for establishing or making such changes shall occur in a manner conducive to labour mobility. In doing so, the Party shall notify the other Party and afford it an opportunity to comment on the modification of those standards.

Article 6.7: Implementation, Administration and Assessment

The Parties agree to establish a Joint Labour Mobility Committee that shall:

- (a) consist of the Assistant Deputy Ministers or equivalent officials, or their designates, responsible for labour mobility for each Party;
- (b) meet at least once a year;
- (c) be comprised of a minimum of six (6) members, with an equal number of members from each Party, with each Party designating a co-chair; and
- (d) monitor progress in achieving full labour mobility between the Parties and the implementation of this Chapter, including the complaints referral process identified in Article 6.8.

Article 6.8: Complaints Referral Process

1. This Article applies to the avoidance and resolution of disputes originating from a Party regarding the interpretation or application of this Chapter.
2. The Parties shall each designate an Official Contact to receive complaints about the application of this Chapter.
3. An Official Contact for each Party may delegate in writing his or her responsibilities under this Chapter to a person employed in the ministry responsible for labour mobility.
4. If a worker certified for an occupation by a regulatory authority of one Party is denied certification by the relevant regulatory authority of the other Party or is asked to undergo any material additional training, experience, examinations or assessments by such regulatory authority, the worker shall attempt to resolve the matter using any existing dispute resolution process established by that regulatory authority. Such process must be exhausted before the affected worker may request the assistance of the Official Contact of the province where the worker is certified.
5. Upon receiving a request for assistance by a worker pursuant to paragraph 4, if the Official Contact is of the opinion that the decision of the regulatory authority is inconsistent with a provision of this Chapter, the Official Contact who received the request for assistance shall, without delay, contact the Official Contact of the other Party who, in turn, shall request the reasons for the regulatory authority's

decision from the regulatory authority and shall share those reasons with the other Official Contact.

6. If both Official Contacts agree that the decision of the regulatory authority is consistent with the Chapter, the Official Contact who received the request for assistance shall inform the worker immediately.
7. If both Official Contacts agree that the decision of the regulatory authority is inconsistent with this Chapter, they will make all reasonable efforts to have the complaint resolved by the appropriate officials of the regulatory authority within twenty (20) days.
8. Notwithstanding paragraph 7, if the Official Contacts disagree or an Official Contact considers that the complaint is not resolved to his or her satisfaction, a Party may request in writing at any time that the Joint Labour Mobility Committee review the complaint.
9. The Joint Labour Mobility Committee shall appoint an expert selected by mutual agreement within fifteen (15) days. The expert shall have knowledge of the relevant occupation, labour mobility obligations or such other expertise as may be relevant to the complaint or a combination thereof. The expert must be bilingual. The cost of the expert's work will be shared equally by both Parties.
10. The expert shall provide an opinion on whether or not a Party has satisfied the obligations of this Chapter and provide a recommendation to resolve the complaint to the Joint Labour Mobility Committee. The expert shall provide his or her opinion and recommendation to the Joint Labour Mobility Committee within fifteen (15) days of his or her appointment.
11. Following receipt of the opinion and the recommendation of the expert, the Parties shall make every possible effort to resolve the dispute in a manner consistent with the expert's opinion and recommendation. If the Parties fail to resolve the dispute within 30 days of receiving the expert's opinion and recommendation, a Party has recourse to the dispute resolution mechanism set out in Chapter 12 (Dispute Resolution).

Article 6.9: Amendments to Annexes

1. The annexes to this Chapter may be amended at any time by mutual consent of the Parties.
2. An agreement to amend an annex shall be confirmed in an exchange of letters between the relevant Assistant Deputy Ministers, or their delegates, from the ministry of each Party responsible for labour mobility. A copy of an exchange of letters shall be conveyed to the Secretariat.
3. Notwithstanding paragraph 2, the Parties agree that any amendment to Appendix 1 of the *2006 Agreement* shall constitute an amendment to Annex 6.2 of this

Agreement and the Parties shall update Annex 6.2 to reflect such amendment forthwith.

4. Notwithstanding paragraph 2, if a Party supports an application by an occupation listed in Annex 6.2 of this Chapter for an exception based on a legitimate objective under the *Agreement on Internal Trade* that excludes workers from one or the other Parties to this Chapter, that occupation shall be removed from Annex 6.2 of this Chapter.

Article 6.10: Definitions

In this Chapter:

2006 Agreement means the *Agreement on Labour Mobility and Recognition of Qualifications, Skills and Work Experience in the Construction Industry between the Government of Ontario and the Government of Québec*, signed on June 2, 2006;

certified means that a worker holds a certificate, licence, registration or other form of official recognition issued by a regulatory authority of a Party which attests to the worker being qualified and, where applicable authorized to practise a particular occupation or to use a particular occupational title in the territory of that Party. For greater certainty, “certified” does not include only having work experience in a given occupation gained within a Party where certification is not required in order to practise that occupation;

Interprovincial Standards Red Seal Program means the certification of skilled tradespersons based on common interprovincial standards as administered by the Canadian Council of Directors of Apprenticeship.

Joint Labour Mobility Committee means the committee established pursuant to Article 6.7;

non-governmental body that exercises authority delegated by law means any non-governmental body to whom authority has been delegated by provincial or federal statute to set or implement measures related to:

- (a) the establishment of occupational standards or certification requirements;
- (b) the assessment of the qualifications of workers against established occupational standards or certification requirements; or
- (c) the official recognition that an individual meets established occupational standards or certification requirements;

occupation means a set of jobs which, with some variation, are similar in their main tasks or duties or in the type of work performed;

occupational standard means the skills, knowledge and abilities required for an occupation as established by a regulatory authority of a Party and against which the qualifications of an individual in that occupation are assessed;

Official Contact means the persons designated as official contacts of each Party pursuant to Article 6.8;

regulatory authority of a Party means a department, ministry or similar agency of government of a Party or a non-governmental body that exercises authority delegated by law; and

worker means an individual, whether employed, self-employed or unemployed, who performs or seeks to perform work for pay or profit.

Annex 6.2
Occupations Subject to Labour Mobility Chapter

Table 1
List of Professions

Québec Title	Ontario Title
Agents immobiliers	Real Estate Salesperson
Ambulanciers	Paramedics
Architectes	Architects
Arpenteurs-géomètres	Land Surveyors
Chimistes	Chartered Chemists
Chiropraticiens	Chiropractors
Comptables agréés	Chartered Accountants
Comptables en management accrédités	Certified Management Accountants
Comptables généraux accrédités	Certified General Accountants
Dentistes	Dentists
Denturologistes	Denturists
Diététistes/Nutritionistes	Dietitians
Enseignants	Teachers
Ergothérapeutes	Occupational Therapists
Géologues	Geoscientists
Hygiénistes dentaires	Dental Hygienists
Infirmiers et infirmières	Registered Nurses
Ingénieurs	Engineers
Ingénieurs forestiers	Foresters
Inhalothérapeutes	Respiratory Therapists
Médecins	Physicians
Médecins vétérinaires	Veterinarians
Opticiens d'ordonnances	Opticians
Optométristes	Optometrists
Orthophonistes	Speech Language Pathologists
Audiologistes	Audiologists
Pharmaciens	Pharmacists
Physiothérapeutes	Physiotherapists
Psychologues	Psychologists
Sages-femmes	Midwives
Techniciens dentaires	Dental Technologists
Technologistes médicaux	Medical Laboratory Technologists
Technologues professionnels	Engineering Technologists

Embaumeurs	Funeral Directors Authorized to Perform Embalming
Interprètes agréés	Certified Conference Interpreters
Interprètes agréés	Certified Court Interpreter
Terminologues	Certified Terminologist
Traducteurs	Certified Translator
Travailleurs sociaux	Social Workers
Urbanistes	Urban Planners
Mesureurs de bois	Scalers
Administrateur agréé	Certified Management Consultants
Administrateur agréé	Professional Administrator

Table 2
List of Trades

	Québec Designation ¹	Ontario Designation	Red Seal Designation
1	Électricien / Electrician*	Electrician – construction and maintenance / Électricien – construction et entretien	Construction Electrician / Electricien (construction)
2	Ferblantier / Tinsmith	Sheet metal worker / Tôlier	Sheet metal worker / Ferblantier
3	Frigoriste ou Tuyaudier – spécialité du frigoriste / Refrigeration mechanic or pipe-fitter – specialty of refrigeration	Refrigeration and air conditioning systems mechanic / Mécanicien en systèmes de réfrigération et de climatisation	Refrigeration and air conditioning mechanic / Mécanicien de réfrigération et d’air climatisé
4	Tuyaudier – spécialité du plombier / Pipe-fitter – specialty of plumber	Plumber / Plombier	Plumber / Plombier
5	Tuyaudier – spécialité du poseur d’appareils de chauffage / Pipe-fitter – specialty of the heating systems installer	Steamfitter / Monteur de tuyaux de vapeur	Steamfitter – Pipe-fitter / Monteur d’appareils de chauffage
6	Opérateur de grue automotrice –sceau rouge	Mobile Crane Operator, Branch 1 (red seal)/conducteurs de grues mobiles, cat. 1	Grue automotrice sceau rouge/ Mobile Crane Operator (red seal)
7	Briqueteur-maçon / Bricklayer- mason	Brick and stone mason / Briqueteur-Maçon	Bricklayer / Briqueteur – Maçon
8	Calorifugeur / Insulator	Insulator – (heat and frost) / Poseur ou Poseuse de matériaux isolants**	Not applicable
9	Carreleur / Tile setter	Terrazzo, tile and marble setter / Poseur de carrelage	Carreleur / Tilesetter
10	Charpentier-menuisier / Carpenter-joiner	General carpenter / Charpentier-menuisier général	Carpenter / Charpentier
11	Chaudronnier / Boilermaker	Construction Boilermaker / Chaudronnier de construction	Boilermaker / Chaudronnier
12	Cimentier-applicateur / Cement finisher	Cement mason (includes cement	Not applicable

¹ An Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., CHAPTER R-20)

	Québec Designation ¹	Ontario Designation	Red Seal Designation
		finisher) / Cimentier (y compris le finisseur de béton)**	
13	Couvreur / Roofer	Roofer / Couvreur	Roofer / Couvreur
14	Ferrailleur / Reinforcing steel erector	Reinforcing rodworker / Monteur de barres d'armature	N/A
15	Mécanicien de chantier / Millwright	Construction Millwright / Mécanicien – monteur de construction	Industrial mechanic (millwright) / Mécanicien industriel (de chantier)
16	Mécanicien de machines lourdes / Heavy equipment mechanic	Heavy duty equipment technician/ Technicien d'équipement lourd	Heavy duty equipment technician/ Mécanicien d'équipement lourd
17	Mécanicien en protection – incendie ou tuyauteur – spécialité de poseur de gicleurs / Pipe-fitter – specialty of the fire protection mechanic or pipe-fitter – specialty of the sprinkler installer	Sprinkler and fire protection installer / Installateur de systèmes de protection contre les Incendies	Sprinkler system installer / Poseur de gicleurs
18	Monteur d'acier de structure / Structural steel erector	Ironworker /Ferronnier	N/A
19	Peintre / Painter	Painter decorator (commercial and residential) / Peintre - décorateur – secteur commercial et résidentiel	Painter and decorator / Peintre et décorateur
20	Plâtrier / Plasterer	Drywall finisher and plasterer/ Jointoyeur et plâtrier	Not applicable
21	Poseur de revêtements souples / Resilient flooring layer	Floor covering installer / Installateur de revêtements de sol	Floor covering installer / Poseur de revêtements souples
22	Poseur de systèmes intérieurs / Interior systems installer	Drywall, acoustic and lathing applicator / Poseur de panneaux muraux secs, de carreaux acoustiques et de lattes	Lather (Interior System Mechanic) / Latteur (spécialiste de systèmes intérieurs)
23	Serrurier de bâtiment / Ornamental ironworker	Ironworker – Ferronnier (Note: Ontario trade is not divided into 2 branches)	N/A
24	Monteur mécanicien (vitrier) (code 310) / Setter mechanic (Glazier) (code 310)	Architectural glass and metal technician / Technicien ou technicienne du verre et du métal architecturaux	Glazier / Vitrier
25	Opérateur de pelles mécaniques/Shovel operator	Excavator operator-Branch 2 of Heavy equipment operator/ Conducteur d'équipement lourd: excavatrice**	Not applicable
26	Mécanicien d'ascenseur	Elevating device mechanic – class A (EDM-A)	Not applicable

Notes:

* **Electrician** - The trade of Electrician has two branches in Ontario: Branch 1 (Construction and Maintenance Electricians) and Branch 2 (Domestic and Rural Electrician). An Ontario Electrician-Branch 1 may perform the work of an electrician in Québec. An Ontario Electrician-Branch 2 must fulfil requirements of the Commission de la construction du Québec to work in Québec. In Québec, security systems installation is a specialty included under the trade of Electrician. Québec workers in this specialty are not fully qualified electricians and thus must fulfil other Québec or Ontario requirements to perform the work of an Electrician in Ontario

** The Ontario Ministry of Training, Colleges and Universities issues a Certificate of Apprenticeship to workers who have completed theoretical and practical training for this trade. The Certificate of Apprenticeship is not recognized in Québec under this Agreement.

Appendix to Annex 6.2 Recognition of Certificates in Ontario and Québec

For the purposes of practising one of the trades listed in Annex 6.2, the Parties agree that workers listed in this Annex who are issued certificates in one province will retain that recognition should they move to the other province.

Ontario

For purposes of practising one of the trades listed in this Annex, Ontario, as the host jurisdiction, recognizes, apart from its own certificates, the following certificates issued by the *Commission de la construction du Québec* and the *Ministère de l'Emploi et de la Solidarité Social*, or any Québec regulatory authority mandated for this purpose:

- (a) *Certificat de qualification interprovinciale*¹
- (b) *Certificat de compétence-compagnon*²
- (c) *Certificat de qualification et certificat de qualification professionnelle*³

Upon presentation by a Québec worker of any of the certificates listed above, the relevant Ontario regulatory authority shall, subject to Article 6.5, certify the Québec worker in the same occupation.

Québec

Québec, as the host jurisdiction, recognizes, apart from its own certificates, the following certificates issued by the Ontario Ministry of Training, Colleges and Universities, or any Ontario regulatory authority mandated for this purpose:

- (a) Certificate of Qualification (Red Seal)¹
- (b) Certificate of Qualification⁴
- (c) Certificates issued under the authority of the *Technical Standards and Safety Act, 2000* (Ontario)

Upon presentation by an Ontario worker of any of the certificates listed above, the relevant Québec regulatory authority shall, subject to Article 6.5, certify the Ontario worker in the same occupation.

Notes:

1. The Certificate of Qualification with a Red Seal endorsement is issued to workers who have successfully completed the Red Seal exam to assess knowledge and competencies identified in the National Occupational Analysis.
2. The Québec *Certificat de compétence-compagnon* is issued to a worker who has completed a Québec apprenticeship program and who has passed the Commission de la construction du Québec's qualifying examinations for a given trade or specialty, provided that he/she also supplies a certificate showing that he/she has taken the safety course required under the safety code for the construction industry.
3. The Québec *Certificat de qualification* or *Certificat de qualification professionnelle* is issued to workers who have completed a Québec apprenticeship program and passed the qualification exam given by the *Ministère de l'Emploi et de la Solidarité sociale* for a given specialty or trade.
4. The Ontario Certificate of Qualification is issued to workers who have successfully completed an Ontario apprenticeship program or who can demonstrate they have acquired the skills and experience equivalent to those attained through such a program, and who have met the eligibility requirements, typically involving a provincial qualification exam for a given trade or specialty.