

June 2, 2006

## ONTARIO QUEBEC CONSTRUCTION LABOUR MOBILITY AGREEMENT *Marks Inter-provincial Co-operation*

OTTAWA – The Ontario and Quebec governments have signed a major agreement to improve construction labour mobility for contractors and workers between the two provinces, paving the way for increased long-term prosperity and co-operation.

With this agreement, Ontario contractors and workers will have greater access to construction work in Quebec. Quebec contractors and workers will have the access to work in Ontario that they had before Ontario imposed restrictions under the Fairness is a Two-Way Street Act (Construction Labour Mobility), 1999.

### History

Ontario and Quebec's long history of issues relating to the cross-border flow of construction work is rooted in significantly different systems of regulating construction contracts, trades and work in the two provinces. Quebec's system is more regulated with additional rules and restrictions applying to bidding on contracts and working on projects. Quebec also has more rules on where in the province a worker is allowed to work. As well, Quebec law effectively requires that all construction workers in Quebec must belong to a union and hold the requisite Quebec competency certificate. This law has been upheld by the Supreme Court of Canada.

Conversely, Ontario's system is relatively open with fewer restrictions and regulations. The result has been that, historically, Ontario contractors and workers have experienced significant difficulty getting work in Quebec.

To reduce barriers for Ontario contractors and workers, various bilateral procurement and labour mobility agreements have been signed between Ontario and Quebec over the years.

In May 1999 Ontario enacted the Fairness is a Two-Way Street Act (Construction Labour Mobility), 1999 (FTWSA) after negotiations failed to further improve access for Ontario contractors and workers to obtain construction work in Quebec.

Quebec was designated under the act meaning:

- Quebec contractors and construction workers wishing to work in Ontario were required to register with the Jobs Protection Office, Ontario's enforcement and administration office for the FTWSA

- Quebec contractors could not be awarded Ontario government or broader public sector construction contracts (e.g. municipalities, school boards and hospitals).

The FTWSA restrictions against Quebec were lifted in November 1999 when both provinces agreed to implement a series of recommendations to improve access for Ontario workers. However, in March 2002, the FTWSA restrictions against Quebec were re-imposed after another set of negotiations failed to further reduce barriers. Restrictions have remained in place since then.

### **Recent negotiations**

In October 2003, the Premiers of Ontario and Quebec publicly committed to work together to dismantle inter-provincial trade barriers, particularly those affecting construction contractors and workers.

Negotiations between Ontario and Quebec began on March 17, 2004, and were based on improving access to Quebec for Ontario construction contractors and workers, not about changing the regulatory system in either province.

The two provinces have reached an agreement on a number of measures which provide Ontario construction contractors and workers greater access to construction work in Quebec.

### **Better access for Ontario contractors**

Under the new agreement, Ontario contractors gain improved access to work in Quebec, including:

- Ontario construction contractors will now be eligible to bid on contracts of more than \$100,000 throughout Quebec from the Société des alcools du Québec and Société des loteries du Québec construction contracts. Prior to this agreement, Ontario contractors could only bid on contracts over \$5 million from these Crown corporations.
- Ontario contractors will now be able to bid on all Hydro Quebec contracts in the Outaouais region of Quebec. Prior to the agreement, they were generally not eligible to bid on Hydro Quebec construction contracts. They will also be able to bid on contracts from other regions when such contracts are openly tendered due to a shortage of Quebec contractors in the applicable region.

### **Better access for Ontario workers**

Ontario contractors have been concerned they were unable to take their regular workforce with them to perform work in Quebec, because their workers do not have the required Quebec certification.

Under the new agreement:

- Ontario construction workers who lack the required Quebec certification will now have the opportunity to qualify for trade activity cards from Ontario, which will be recognized by Quebec.
- Ontario workers with trade activity cards will now be able to accompany their employer to all areas of Quebec. Previously, qualified but uncertified workers could only accompany their employer in the Hull/Gatineau region of Quebec.

- Specialized workers, such as workers who have received training from a manufacturer to install or perform warranty work on a specific type of manufactured product, are now able to perform that work in Quebec. Previously, these manufacturer-trained workers from Ontario were not able to work in Quebec.

### **Quebec contractor access to Ontario**

With the repeal of the FTWSA, Quebec contractors will again be permitted to work on Ontario government and broader public sector contracts, as they were prior to the enactment of the FTWSA.

### **Other provisions**

#### **a) Harassment**

The agreement has a stronger definition of harassment, measures to prevent harassment, and a process to resolve harassment complaints from workers and contractors in either province.

#### **b) Dispute resolution**

There is now an expedited process to resolve disputes on the implementation of the agreement and, in particular, disputes about the recognition of the qualifications or skills of contractors and workers. This provision provides for timely resolution of disputes to support business realities.

#### **c) Promotion**

The agreement obliges both provinces to work together to create information materials in English and French.

### **Annual review**

The agreement requires an annual review by both provinces. Ontario will be looking to determine the agreement's effectiveness including:

- Looking at the number of contracts Ontario contractors have been awarded by Quebec Crown corporations
- The degree to which Quebec is adhering to its requirements to recognize Ontario workers who hold trade activity cards
- The resolution of complaints, and how long the process takes.

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