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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 343 final - ANNEX
Subject:	ANNEX to the Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Joint Committee on Mutual Recognition of Professional Qualifications established under the Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part as regards the adoption of a decision on an agreement on the mutual recognition of professional qualifications for architects

Delegations will find attached document COM(2022) 343 final - ANNEX.

Encl.: COM(2022) 343 final - ANNEX



EUROPEAN
COMMISSION

Brussels, 19.7.2022
COM(2022) 343 final

ANNEX

ANNEX

to the

Proposal for a Council Decision

on the position to be taken on behalf of the European Union in the Joint Committee on Mutual Recognition of Professional Qualifications established under the Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part as regards the adoption of a decision on an agreement on the mutual recognition of professional qualifications for architects

ATTACHMENT

Decision No [...] of the Joint Committee on Mutual Recognition of Professional Qualifications

of [...]

setting out an agreement on the mutual recognition of professional qualifications for architects

The JOINT COMMITTEE ON MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS,

Having regard to the Comprehensive Economic and Trade Agreement (“CETA”) between Canada, of the one part, and the European Union and its Member States, of the other part, done at Brussels on 30 October 2016, in particular Article 11.3.6 thereof,

Whereas:

- (1) In accordance with Article 30.7.3 of CETA, parts of CETA have been applied provisionally since 21 September 2017;
- (2) Article 11.3.6 of CETA provides that the Joint Committee on Mutual Recognition of Professional Qualifications (the “Committee”) shall adopt a Mutual Recognition Agreement (“MRA”) by means of a decision if in the view of the Committee the MRA is consistent with CETA;

HAS ADOPTED THIS DECISION:

1. The Committee hereby adopts the Agreement on the Mutual Recognition of Professional Qualifications for Architects set out in the Annex to this Decision and which forms an integral part of this Decision.
2. The territorial scope of this Decision extends to countries that accede to the European Union pursuant to Article 30.10 of CETA.
3. For greater certainty, CETA applies to this Decision, including its dispute settlement procedures in Chapter 29 and exceptions in Chapter 28.
4. For greater certainty, nothing in this Decision prevents a Party from applying measures to regulate the entry of natural persons into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of Chapter 10 of CETA. The sole fact of requiring a visa for natural persons of a certain country and not for those of others shall not be regarded as nullifying or impairing benefits under the terms of Chapter 10 of CETA.
5. The Parties reaffirm their right to regulate, and to introduce new regulations that regulate economic activity in the public interest, to achieve legitimate public policy objectives such as the protection and promotion of public health, social services, public education, safety, the environment, public morals, social or consumer protection, privacy and data protection and the promotion, and protection of cultural diversity.

6. If the European Union intends to introduce an online pre-registration course under Article 5.4 of the Annex, it shall inform the Committee sufficiently in advance so that its potential impact on this Decision can be discussed.
7. Information referred to in Article 8(1) of the Annex may be compiled in a document of the Committee and be published by the Parties.
8. This Decision shall have effect 30 days after the date on which the Committee adopts it. It becomes binding following notification to the Committee by each Party of the fulfilment of its respective internal requirements in accordance with Article 11.3.6 of CETA. For greater certainty, recognition of professional qualifications of architects pursuant to this Decision shall not be granted before this Decision becomes binding.
9. This decision shall cease to be effective and binding if CETA does not enter into force and the provisional application of CETA is terminated in accordance with subparagraph (d) of Article 30.7.3 of CETA, or if CETA is terminated pursuant to Article 30.9.1 of CETA.
10. For Canada, the internal requirements referred to in Article 8 include ratification by all regulatory bodies making up the Regulatory Organizations for Architecture in Canada (“ROAC”) and the relevant legislative and regulatory actions by Provinces and Territories, if any. For greater certainty, Provinces and Territories pursuant to their constitutional authority in Canada to regulate professional qualifications and services, may delegate specific authorities to their regulatory bodies within their respective jurisdictions, at their discretion.
11. If a Party makes a request to the Committee in writing that the Decision should be revoked, the Decision shall be revoked and it is no longer binding on the Parties, unless the Committee decides otherwise within 90 days of receipt of such request.
12. In the event of the revocation of this Decision, termination of CETA or its provisional application in accordance with Article 30.9.1 or subparagraph (d) of Article 30.7.3 of CETA, decisions recognising the professional qualifications of architects granted pursuant to this Decision prior to the date of revocation or termination remain valid. In the event of the revocation of this Decision or the termination of CETA or its provisional application, any applications for recognition submitted to a Party prior to the date of request of revocation of this Decision or the date of termination of CETA or its provisional application are to be assessed and completed pursuant to the terms of this Decision. The revocation of this Decision, or the termination of CETA or its provisional application in accordance with Article 30.9.1 or subparagraph (d) of Article 30.7.3 of CETA are without prejudice to any obligations of architects to renew authorisations to pursue architectural activities in their host jurisdiction.
13. A Party that has requested the revocation of this Decision may notify the Committee in writing that it seeks the reinstatement of this Decision. The Committee may adopt a decision to this end within three years from the date of the revocation and that decision of the Committee shall become binding in accordance with the process set out in Article 8.
14. This Decision is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each version being equally authentic.

By the JOINT COMMITTEE ON MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS

(The Co-Chairs)

ANNEX

Agreement on the Mutual Recognition of Professional Qualifications for Architects

The EUROPEAN UNION and CANADA

hereafter jointly referred to as the “Parties”,

resolve to:

- (1) ESTABLISH a framework to achieve a fair, transparent and consistent regime for the mutual recognition of professional qualifications for the profession of architects;
AND
- (2) AFFIRMING their commitments as Parties to the Comprehensive Economic and Trade Agreement (“CETA”);
- (3) RECOGNISING the authority of Provincial and Territorial Governments in Canada for the regulation of professional qualifications and services within their jurisdiction;
- (4) IMPLEMENTING Chapter 11 of CETA on the mutual recognition of professional qualifications for the profession of architects;
- (5) RECOGNISING the preparatory work and joint recommendation of the Architects’ Council of Europe and the Regulatory Organization of Architecture in Canada;
- (6) RECALLING that fees that applicants may incur in relation to their application should be reasonable and commensurate with the costs incurred, and should not in themselves restrict the supply of a service or the pursuit of any other economic activity covered by CETA;
- (7) ACKNOWLEDGING the high standards of education and practical training of architects within the Members States of the European Union and in Provinces and Territories of Canada, which take into account the different national, educational traditions and allow for elements of equivalency;
- (8) ENCOURAGING trade in architectural services between the European Union and Canada by setting the conditions for the mutual recognition of professional qualifications to allow for subsequent registration or licensing of architects in the other Party;
- (9) NOTING the Canadian Free Trade Agreement, which contains provisions for domestic labour mobility within Canada;
- (10) RECALLING that an applicant whose request for recognition was rejected under this Agreement may have recourse to the review procedures specified under Article 12.3.6 of CETA.

HAVE AGREED as follows:

Article 1

Purpose and scope

1. This Agreement establishes the conditions and procedures according to which a jurisdiction of one Party that regulates access to or the pursuit of architectural activities by requiring specific professional qualifications shall recognise the professional qualifications giving access to architectural activities in a jurisdiction of the other Party.

2. This Agreement applies to nationals of a Member State of the European Union and to nationals of Canada seeking to take up and pursue architectural activities on a self-employed or an employed basis.
3. This Agreement does not apply to architects who are authorised to pursue architectural activities in Canada or in the European Union pursuant to a mutual recognition agreement with a third party.
4. Without prejudice to this Agreement, Member States of the European Union and Provinces and Territories of Canada may recognise, in accordance with their respective laws and regulations, professional qualifications that do not meet the requirements of this Agreement.

Article 2

Definitions

For the purposes of this Agreement, the definitions in Articles 1.1, 1.2, and 11.1 of CETA apply. The following definitions also apply and replace the definitions in Articles 1.1, 1.2 and 11.1 of CETA where relevant:

- (a) ‘architect’ means a natural person who is professionally and academically qualified and is registered, licensed or its equivalent to pursue architectural activities in a jurisdiction covered by this Agreement, according to the conditions in place giving access to the pursuit of architectural activities covered by this Agreement;
- (b) ‘architectural activities’ means the pursuit of professional activities that are regularly carried out under the professional title of “architect” in a host jurisdiction;
- (c) ‘competent authority’ means an authority or body that is empowered under the laws and regulations of the Parties to recognise professional qualifications covered by this Agreement for access to or pursuit of architectural activities or to issue documents that are relevant to the operation of this Agreement;
- (d) ‘formal qualifications’ means diplomas, certificates and other evidence issued by a competent authority in a jurisdiction designated pursuant to legislative, regulatory or administrative provisions of that jurisdiction and that certify the successful completion of professional training;
- (e) ‘host jurisdiction’ means the jurisdiction of the Party that makes access to or the pursuit of architectural activities contingent upon specific professional qualifications and where an architect who has obtained final professional qualifications in a jurisdiction of the other Party seeks to pursue architectural activities;
- (f) ‘jurisdiction’ means the territory of each of the Provinces or Territories of Canada, or the territory of each of the Member States of the European Union, in so far as this Agreement applies in these territories;
- (g) ‘professional experience’ means the effective and lawful practice of architectural activities in a jurisdiction;

- (h) 'Professional Qualifications Directive' means the Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, including its annexes¹, as amended;
- (i) 'professional qualifications' means the qualifications attested to by evidence of formal qualification and professional experience, including an attestation of professional registration, a licence or its equivalent; and
- (j) 'ROAC' means the Regulatory Organizations for Architecture in Canada, a national professional organisation of Provincial and Territorial competent authorities who voluntarily work as a collective to adopt nationally recognised standards and programs regarding the profession of architects.

Article 3

Effects of recognition

1. The competent authority of a host jurisdiction shall, in accordance with the procedures and conditions set out in this Agreement, recognise as equivalent the professional qualifications of an architect certified by any competent authority of the other Party.
2. For the purposes of access to or pursuit of architectural activities, the host jurisdiction shall accord to the professional qualifications of architects whose qualifications have been recognised under this Agreement, the same effect in its territory as the professional qualifications which are issued or certified in its territory and give access to the pursuit of architectural activities.

Article 4

Requirements for recognition

1. Without prejudice to Article 6, and subject to any language skills requirements that may apply, the requirements for an architect of a Member State of the European Union to pursue architectural activities in a host jurisdiction of Canada shall be:
 - (a) a minimum of 12 years of education, training and professional experience as an architect, attested by evidence of:
 - formal qualifications meeting the requirements of Article 46, including qualifications listed in Annex V, or the requirements of Article 49, including qualifications listed in Annex VI, of the Professional Qualifications Directive, accompanied by a certificate attesting to compliance with the acquired rights under that Directive, as appropriate, and
 - a minimum of four years of professional experience in a Member State of the European Union obtained after registration, licensing or its equivalent
 - (b) a valid professional registration or licence as an architect from a competent authority of a Member State of the European Union or its equivalent if there is no registration or licensing regime, and
 - (c) being of good character.

¹ OJ L 255 30.9.2005, p. 22.

2. Without prejudice to Article 6, and subject to any language skills requirements that may apply, the requirements for an architect of Canada to take up and pursue architectural activities in a Member State of the European Union shall be:
 - (a) a minimum of 12 years of education, training and professional experience as an architect attested to by evidence of:
 - formal qualifications issued in Canada giving access to the profession of architects as described in Appendix I, and
 - a minimum of four years of professional experience obtained after registration or licensing,
 - (b) a valid professional registration or licence as an architect from a competent authority in Canada, and
 - (c) being of good standing.
3. The requirements of the first indent of subparagraph (a) of paragraph 1 or the first indent of subparagraph (a) of paragraph 2 may also be met by formal qualifications issued by a third party and recognised as equivalent according to the requirements of a jurisdiction of a Party, and where appropriate, supplemented by professional training, examination or professional experience as required in that jurisdiction.

Article 5

Compensatory measure

1. An architect of a Member State of the European Union seeking to take up and pursue architectural activities in a host jurisdiction of Canada shall undertake and successfully complete a 10-hour online pre-registration course to satisfy domain-specific knowledge requirements on building regulation, construction documents, contract administration and professional practice. The application referred to in Article 6(1) shall include the fees for the participation in the course. The requirements and modalities of the online pre-registration course are set out in Appendix II.
2. The online pre-registration course shall not go beyond what is proportionate to address differences in domain-specific knowledge between the Member States of the European Union and the Provinces and Territories of Canada. It shall not act as an unreasonable disincentive to apply for recognition and shall not unduly delay or complicate access to or the pursuit of professional activities for architects referred to in paragraph 1. The test modules of the online pre-registration course may be retaken up to three times within three months from the first access to it.
3. The online pre-registration course may only be required for architects referred to in paragraph 1 who seek to obtain recognition of their professional qualifications by a Canadian host jurisdiction for the first time.
4. The European Union reserves the right to introduce an equivalent online pre-registration course. Paragraphs 1 to 3 would apply to any such online course, with the exception of the requirements and modalities of Appendix II, subject to the necessary changes being made.

Article 6

Procedures for recognition

1. An architect seeking to take up and pursue architectural activities in a jurisdiction of the other Party shall submit to the competent authority of that jurisdiction an application by electronic means supported by the documents and certificates listed in Appendix III, if requested by the host jurisdiction. Applications for recognition shall be made in the language of the host jurisdiction or any other language accepted by the host jurisdiction.
2. The competent authority shall acknowledge receipt of an application by electronic means within one month of receipt and inform the applicant whether the application is considered complete. In the case of incomplete applications, the competent authority shall identify the additional information that is required to complete the application and provide the applicant with the opportunity to correct it within a reasonable time period.
3. The procedure for examining the application for recognition must be completed as quickly as possible and lead to a duly substantiated decision by the competent authority of the host jurisdiction within three months after the date on which the applicant submitted a complete application.
4. If a competent authority requires the completion of the online pre-registration course referred to in Article 5, the competent authority shall give the applicant an opportunity to undertake the online course without undue delay once it considers the requirements of Article 4 to be fulfilled. In any case, the competent authority shall provide the applicant with the opportunity to undertake and complete the online course pre-registration course and language examination if required, and, if both are successfully completed, provide the applicant with a duly substantiated decision on the application within the time period referred to in paragraph 3.
5. If an application is rejected, the competent authority shall inform the applicant in writing and without undue delay. The competent authority shall inform an unsuccessful applicant of the reasons for the rejection of its application.
6. Any fees that applicants may incur in relation to their application shall be commensurate with the costs incurred by the competent authorities of the host jurisdiction.

Article 7

Pursuit of architectural activities in a host jurisdiction

1. An architect who obtains recognition of his or her professional qualifications under this Agreement and pursues architectural activities in the host jurisdiction shall comply with the host jurisdiction's laws, regulations, rules of conduct and ethics applicable to architects, such as rules on mandatory professional indemnity insurance, language skills, continuous professional development, registration fees and the use of trade or firm names.
2. An architect referred to in paragraph 1 shall be entitled to pursue architectural activities under the professional title in that host jurisdiction if such title is protected by law.
3. If the professional qualifications of an architect of a Member State of the European Union referred to in paragraph 1 of Article 4 have been recognised by one host jurisdiction of Canada, another host jurisdiction of Canada cannot impose any supplementary courses that would not be required of an architect of Canada as a condition of registration in a subsequent host jurisdiction.

Article 8

Implementation

1. Each Party shall make publicly available or shall ensure that their competent authorities make publicly available, if possible by electronic means, information concerning:
 - (a) names and addresses of the competent authorities that administer applications for the recognition of qualifications;
 - (b) relevant requirements and procedures that relate to the application and administration of decisions on the mutual recognition of qualifications;
 - (c) procedures that relate to the compulsory registration or membership in a professional body; and
 - (d) laws and regulations applicable to the practice of the professional activities covered by this Agreement, including in particular the domain-specific knowledge requirements that are tested in the online pre-registration course referred to in Article 5.
2. Each Party shall endeavour to inform the other Party of new regulations or modifications to existing regulations, adopted in the exercise of its right to regulate, that might have an impact on the recognition of qualifications of architects in accordance with subparagraph (d) of Article 11.5 of CETA.
3. The competent authorities of each jurisdiction of a Party shall work in close cooperation and shall provide mutual assistance in order to facilitate application of this Agreement.
4. Nothing in this Agreement prevents competent authorities or their associations from meeting on a regular basis with the purpose of discussing matters related to the regulation of the profession of architects.
5. The Parties shall bring any issues arising from the implementation or functioning of this Agreement to the attention of the MRA Committee set up under subparagraph (b) of Article 26.2(1) of CETA if such issues cannot be resolved in accordance with this Article. The Committee shall convene promptly no later than 45 days from the receipt of a request and the Committee shall endeavour to reach a mutually satisfactory resolution of the matter within four months of the date the meeting of the Committee was held.
6. In the event that the CETA Joint Committee examines the effect of a new EU accession pursuant to CETA Article 30.10, the MRA Committee shall meet and report to the Committee on Services and Investment to support the examination by the Joint Committee.

APPENDIX I

Formal qualifications issued in Canada giving access to the profession of architects referred to in Article 4(2)

In Canada, the education required as one of the conditions to gain access to the qualifications of architects is certified by a diploma from one of the following universities:

- University of British Columbia;
- University of Calgary;
- Carleton University;
- Technical University of Nova Scotia (TUNS)-Currently, Dalhousie University;
- Université Laval;
- University of Manitoba;
- McGill University;
- Université de Montréal;
- University of Toronto; and
- University of Waterloo.

The relevant degrees are:

- Bachelor of Architecture (B. Arch) until 2004; and
- Master of Architecture (M. Arch).

The Canadian Architectural Certification Board (“CACB”) or the competent authority may also assess individual professional degrees or diplomas in architecture from non-accredited institutions and grant certification if they meet the Canadian Educational Standard endorsed by ROAC. The CACB maintains a list of current accreditations, as well as information about modes of certification, on their web site.

For graduates from one of the Canadian Schools of Architecture prior to the implementation of the CACB Degree Program Accreditation System in 1991, CACB certified each individual architectural graduate’s educational qualifications, which needed to be obtained from one of the universities listed above.

APPENDIX II

Details of the online 10-hour pre-registration course referred to in Article 5

1. General principles and objectives of the course

The online pre-registration course referred to in Article 5 is intended to ensure that an architect of a Member State of the European Union seeking to take up and pursue architectural activities in a host jurisdiction of Canada have acquired the domain specific knowledge required to practice in one of the Canada's Provinces or Territories.

Upon completion of the course, an applicant will have an understanding of what services an architect is required to provide, the contractual requirements prior to commencing architectural services, professional obligations in a self-regulating profession and the requirement to protect the public good, administrative and legal obligations that an architect is required to know to provide architectural services in Canada and where to find key reference information, including building codes, by-laws, industry standards, and other regulatory documents.

2. Domain-specific knowledge covered

The domain-specific knowledge consists of the following items:

- searching and documentation of relevant building regulations;
- understanding procedures to obtain relief or variance from particular requirements under these building regulations;
- evaluating products and materials
- project compliance with applicable regulations
- preparing and negotiate construction contracts, including the conditions of contracts for construction in order to clarify the roles of the architect, contractor, owner, bonding company and insurer in the administration of the construction phase;
- building permit applications;
- supervising construction progress and performance review; and
- codes of ethics.

3. Results and Review procedures

Upon completion of the online pre-registration course, an applicant will receive immediate notification regarding whether he or she has obtained a passing grade. The results are simultaneously transmitted to and recorded by ROAC.

APPENDIX III

Documents that may be required in accordance with Article 6(1)

The competent authority of a host jurisdiction may require an applicant to provide by electronic means any of the following documents, as appropriate:

1. proof of citizenship or of permanent residency of a Party;
2. evidence of formal qualifications;
3. attestation of professional experience;
4. a letter from a competent authority of the jurisdiction where the architect is qualified sent directly by electronic means to the competent authority of the host jurisdiction confirming the following:
 - (a) date of registration or licensure, or its equivalent if there is no registration or licensing regime in the jurisdiction where the architect is qualified;
 - (b) compliance with the professional qualification requirements set out in subparagraph (a) of Article 4(1) or subparagraph (a) of Article 4(2) of this Agreement, as appropriate;
 - (c) proof of good character or good standing; and
 - (d) if not covered by subparagraph (c), proof that the architect is not subject to ongoing disciplinary action and has not been suspended or barred from the pursuit of architectural activities due to serious professional misconduct or because of a conviction for committing a criminal offence;

If the host jurisdiction requires proof under subparagraphs (c) or (d) above, it shall accept as sufficient evidence a certificate issued by the competent authority of the jurisdiction where the architect is qualified. If the competent authority does not issue such certificates, the host jurisdiction shall accept a declaration under oath or a solemn declaration of the architect concerned before a competent judicial or administrative authority, or a notary or a qualified professional body. In that case, the applicant shall also provide a certificate issued by such authority or notary attesting the authenticity of their declaration under oath or solemn declaration;

5. proof that the applicant is insured against the financial risks arising from professional liability in accordance with the laws of the host jurisdiction;
6. an extract of the criminal record from the jurisdiction referred to in point 4;
7. payment or proof of payment of the required application fees.

The documents referred to in paragraphs 4, 5 and 6 of this Appendix shall not be more than three months old at the date on which they are submitted.