

COMMUNICATION FROM THE UNITED STATES

Professional Services Mutual Recognition Agreements (MRAs)

The attached communication has been received from the delegation of the United States with the request that it be circulated to the Members of the Working Party on Domestic Regulation.

1. Widespread differences in the requirements for certification and/or licensure of accountants, engineers, architects, and other professionals exist among countries. These differences may serve as an impediment to trade in professional services, as they may require professional service providers to duplicate licensing steps - such as obtaining additional education and experience - in order to gain recognition to practice in another country. Mutual recognition agreements (MRAs) can be used as a means to address or minimize these differences and to help avoid potential duplication in credentialization requirements and/or licensure requirements.

2. Under an MRA, parties agree to recognize the education, experience, and/or other professional qualifications earned in another country. However, MRAs do not automatically confer licensure to foreign service providers. The jurisdiction in which a professional wishes to practice may still require local apprenticeship or an examination to ensure understanding of local laws, taxes, and other special conditions. Regulatory authorities in each country continue to maintain regulatory authority over those recognized professionals practising within the jurisdiction.

3. In the United States, the licensed professions are typically regulated by the states. Foreign-qualified professionals who are licensed to practice in a U.S. jurisdiction must comply with all applicable laws and regulations of that jurisdiction. Although regulations may vary among individual states, there is a great deal of commonality based upon model rules which have been developed by national professional organizations in order to promote greater uniformity or harmonization.

4. Several international trade agreements contain provisions for mutual recognition of professional services. Article VII of the General Agreement on Trade in Services (GATS) permits bilateral and regional recognition agreements, although such agreements represent a departure from the most-favoured-nation (MFN) principle. Under the GATS, recognition can also be conferred unilaterally or through a harmonization of rules. However the parties to such an arrangement must give other members of the World Trade Organization (WTO) an opportunity to reach a similar agreement, and no recognition agreement may be applied in a discriminatory or trade-restricting manner. The WTO has adopted voluntary, non-binding guidelines for the negotiation of MRAs for the accounting profession, which could be useful for other professions (See <http://www.wto.org/>, press release of May 1997).

5. The North American Free Trade Agreement (NAFTA) also includes a framework of objective criteria for the licensing of professions - including requirements for education, experience, examinations and ethics - and a framework for the negotiation of mutual recognition agreements. Negotiations are to be conducted by representatives of the profession and the competent regulatory authorities together with their counterparts from the other countries. When a MRA is reached, the U.S. representatives can recommend, but not require, that the state governments adopt and implement the agreement. The same procedures are followed in agreements with non-NAFTA countries.

6. The United States Trade Representative (USTR) encourages the development of mutual recognition arrangements, establishes the frameworks under which such arrangements are negotiated, and reviews such arrangements to assure that they are consistent with international trade agreements. Representatives of the professions and the competent authorities negotiate agreements regarding mutual recognition with their foreign counterparts. Representatives of the profession may include members of a professional society or a group of professional organizations, while representatives of the competent authorities might include members of state licensing boards, national associations of state boards, or other such organizations. State governments maintain authority over implementation of licensing provisions of such agreements.

7. U.S. professionals have entered into several MRAs in recent years. These include an agreement with Canadian accountants in 1991; an agreement with Australian accountants in 1996; an agreement with Canadian architects in 1994; and an agreement on engineering education (the so-called "Washington Accord") with Canada, Australia, New Zealand, United Kingdom, and Ireland in 1989. The "Washington Accord" was expanded in 1995 and 1999 to include Hong Kong and South Africa, respectively. Organizations that participated in the negotiation of these agreements and other mutual recognition agreements include the following:

National Association of State Boards of Accountancy (NASBA)
645 Fifth Avenue, Suite 901
New York, NY 10022
Tel.: (212) 644-6469
Fax: (212) 644-5961
<http://www.nasba.org/>

American Institute of Certified Public Accountants (AICPA)
1455 Pennsylvania Ave., NW
Washington, DC 20004
(202) 737-6600
(202) 638-4512
<http://www.aicpa.org/>

National Council of Architectural Registration Boards (NCARB)
1801 K Street, NW, Suite 1100-K
Washington, DC 20006-1310
Tel.: (202) 783-6500
Fax: (202) 783-0290
<http://www.ncarb.org>

American Institute of Architects (AIA)
1735 New York Ave., NW
Washington, DC 20006
(202) 626-7300
(202) 626-7426
<http://www.aiaonline.org/>

U.S. Council for International Engineering Practice
c/o National Council of Examiners for Engineering and Surveying (NCEES)
P.O. Box 1686 (280 Seneca Creek Road)
Clemson, SC 29633-1686
Tel: (800) 250-3196
(864) 654-6824
Fax: (864) 654-6033
<http://www.ncees.org/> or <http://www.usciep.org/>

National Society for Professional Engineers (NSPE)
1420 King St.
Alexandria, VA 22314-2794
20. (703) 684-2800
Fax. (703) 519-3763
<http://www.nspe.org/>

Accreditation Board for Engineering and Technology (ABET)
111 Market Place, Suite 1050
Baltimore MD 21202-4012
Tel:(410) 347-7700
Fax: (410) 625-2283
<http://www.abet.org/>

Information on professions is also available from the following organization:

Council on Licensure, Enforcement and Regulation (CLEAR)
403 Marquis Ave., Suite 100
Lexington, KY 40502
Tel:(859) 269-1289
Fax: (859) 231-1943
<http://www.clearhq.org/>

Information about the Washington Accord is available at:

<http://www.washingtonaccord.org/>
