

Agreement
on Internal Trade

Guidelines

for meeting the obligations of
the Labour Mobility Chapter

Revised Edition
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FORUM OF LABOUR
MARKET MINISTERS

Labour Mobility
Coordinating Group

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Cette publication est également disponible
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Lignes directrices
pour satisfaire aux exigences du
chapitre sur la mobilité de la main-d'œuvre

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Section I

Introduction

The Forum of Labour Market Ministers is pleased to present this second edition of the *Guidelines for Meeting the Obligations of the Labour Mobility Chapter*. This publication is intended to assist professional regulatory bodies and other stakeholders to comply with their obligations under the Agreement on Internal Trade, Chapter 7 (Labour Mobility). As the group of Ministers who are charged with overseeing implementation of the Labour Mobility Chapter, we trust that these Guidelines will help regulators meet the objective to remove inter-jurisdictional barriers to labour mobility.

In the five years since these Guidelines were first published, hundreds of professional regulatory bodies and other stakeholders have taken steps to comply with the obligations of Chapter 7. In particular, a great deal of effort has gone into establishing terms for mutual recognition of workers' qualifications. In February, 1999, as part of the Social Union Framework Agreement, First Ministers (with the exception of Quebec) agreed that regulatory bodies should be in compliance with the obligations of Chapter 7 by July 1, 2001. Although several occupations are still negotiating terms of mutual recognition all governments are committed to continue working towards facilitating the removal of barriers to interjurisdictional mobility.

This second edition of the Guidelines features more detailed information, including a new section describing how regulators can develop a mutual recognition agreement. Appendix I, How to Conduct an Assessment, makes reference to a new section dealing with the recognition of foreign credentials. In addition to these Guidelines, the FLMM established a committee of officials, called the Labour Mobility Coordinating Group (LMCG), which has been responsible for coordinating implementation of the Labour Mobility Chapter and assisting regulatory bodies and other stakeholders to meet their obligations. An updated list of the members of the Labour Mobility Coordinating Group appears in Appendix II of these Guidelines.

Purpose of the guidelines

In signing the Agreement on Internal Trade, federal, provincial and territorial governments agreed to remove or reduce interprovincial barriers to the movement of workers, goods, services and capital. The purpose of these guidelines is to assist occupational regulatory bodies and governments to comply with the Labour Mobility Chapter.

Three main barriers have limited the ability of Canadians to work anywhere in the country: residency requirements; certain practices regarding occupational licensing, certification and registration; and differences in how occupational qualifications are recognized. Chapter 7 takes action to remove or reduce such barriers.

The guidelines have been developed by the Labour Mobility Coordinating Group, which is responsible for overseeing implementation of the Chapter on behalf of the federal, provincial and territorial governments. They identify each obligation of the Chapter and suggest ways that regulatory bodies, governments and other groups can examine their practices and make any changes that might be necessary to comply with the Chapter. In so doing, the overall goal of ensuring that qualified workers in Canada have access to employment opportunities anywhere in the country can be achieved.

Who is responsible for implementing the Chapter?

Parties to the Agreement

The Agreement on Internal Trade was signed by First Ministers in July, 1994, making each government a "Party" to the Agreement. Each government is responsible for implementing the Agreement and for ensuring that those covered by the Agreement, including the Labour Mobility Chapter, take the necessary actions to comply with its obligations.

Forum of Labour Market Ministers

Within each government, various departments and ministries have responsibility for overseeing certain chapters of the Agreement. Responsibility for coordinating implementation of the Labour Mobility Chapter rests with the Forum of Labour Market Ministers, a group of ministers with responsibility for labour market issues.

With respect to the regulated trades/occupations, Article 708 of the Chapter states that "The Red Seal program shall be the primary method through which occupational qualifications in regulated trades are recognized." The Forum of Labour Market Ministers has named the Canadian Council of Directors of Apprenticeship to oversee the implementation of labour mobility in the regulated trades/occupations.

Other Intergovernmental Committees of Ministers

In addition to the Forum of Labour Market Ministers, other intergovernmental committees of ministers have been involved in implementation activities associated with the Labour Mobility Chapter. The Conference of Health Ministers and the Council of Ministers of Education, Canada are two committees that have assisted the Forum with activities for health occupations and teaching occupations, respectively.

Labour Mobility Coordinating Group

The Forum of Labour Market Ministers has established the Labour Mobility Coordinating Group, made up of officials from each government that signed the Agreement, to coordinate implementation activities on its behalf (see Appendix 2 - Members of Labour Mobility Coordinating Group). Among other activities, the Coordinating Group is responsible for developing these guidelines for complying with the obligations of the Chapter. The Group also works with regulatory bodies and governments as they undertake the process for recognizing occupational qualifications of workers and reconciling occupational standards. The Coordinating Group seeks to play a collaborative role in the process by supporting their efforts and advising them of the obligations of the Chapter.

The Labour Mobility Coordinating Group is also responsible for collecting information and progress reports on the implementation of the Chapter, and for preparing the Annual Report on implementation activities on behalf of the Forum of Labour Market Ministers.

Who is covered by the Chapter?

Governments

The first group covered by the Chapter is the governments that signed the Agreement. This includes their departments, ministries and similar agencies of government. For the Labour Mobility Chapter, this means that governments will have examined their practices to ensure they comply with the obligations of the Chapter. For example, in hiring workers, governments should not require that they reside within the province or territory. Where a government directly regulates an occupation, it will have examined practices related to the occupation and undertake activities described later in these guidelines.

Regional, local, district and other forms of municipal government are asked to voluntarily comply with the obligations of the Chapter within a reasonable period. Where voluntary compliance has not been achieved “within a reasonable period of time, governments shall adopt and maintain measures to ensure such compliance.” (Article 703(2))

Non-governmental bodies with delegated authority

For many occupations, the authority to regulate the occupation has been delegated by governments through provincial or federal statute to a non-governmental body, such as an organization, institution or association. There are over 400 such occupational regulatory bodies in Canada, representing millions of workers in over 70 different occupations. These regulatory bodies exercise delegated authority related to:

- the establishment of standards or requirements for licensing, certification or registration of workers;
- the assessment of the qualifications of workers against those standards or requirements; and
- the recognition that an individual meets the standard or requirements.

Each government is seeking compliance with the obligations of the Chapter by occupational regulatory bodies with delegated authority.

Other non-governmental bodies

In addition to regulatory bodies with delegated authority, there are other types of organizations which represent workers in an occupation or industry or which otherwise play a role related to an occupation. Examples of these groups include professional associations, trade unions, industrial associations and educational and training institutions. Governments are encouraging these other non-governmental bodies to comply with the Chapter.

How do regulatory bodies and governments comply with the Chapter?

The Agreement came into force on July 1, 1995. Each government is responsible for contacting regulatory bodies, government departments and other groups within their jurisdiction that are covered by the Chapter and for seeking compliance with its obligations. Governments agreed to begin to seek the compliance of regulatory bodies within 12 months of the Agreement coming into force, that is, by July 1, 1996. Regulatory bodies have been asked to voluntarily comply with the provisions within a reasonable period. It should be noted that persons have access to the dispute settlement procedure as of July 1, 1995, meaning that regulatory bodies may be called upon to examine their practices, if a complaint were to be brought forth against a particular practice.

As will be described later in these guidelines, there are different expectations associated with the time required for compliance. The first two main obligations of the Chapter (residency requirements and licensing practices) may be met through individual actions by each regulatory body or government. Governments have encouraged compliance with these obligations as soon as possible. In some cases, legislative or regulatory change needs to be initiated by governments, which could have an impact on when the obligations can be met. The third main obligation calls for the recognition of qualifications and reconciliation of occupational standards. To meet this obligation, multi-lateral discussions may need to take place among regulatory bodies and governments from jurisdictions where each occupation is regulated. The length of this process will differ depending on the circumstances for each occupation. Regulatory bodies and governments are encouraged to comply within a timely manner.

For all three obligations, where a government has been unable to secure voluntary compliance by a regulatory body within a reasonable period, the government shall adopt and maintain measures to ensure such compliance.

Section II

Residency Requirements

Obligations of the Chapter

Article 706 of the Chapter states that a government or regulatory body can no longer require that out-of-province workers reside within its province or territory as a condition of:

- access to employment opportunities;
- licensing, certification or registration relating to the worker's occupation, or;
- eligibility for the worker's occupation.

A residency requirement may still be permissible where it can be demonstrated that its purpose is to achieve a legitimate objective (Article 709) and provided that the residency requirement meets certain conditions. A discussion of legitimate objectives is contained in Section V of these guidelines.

What do regulatory bodies and governments need to do?

- ✓ Examine their governing legislation and their internal policies and practices to determine whether they include any residency requirements.
- ✓ Note whether a residency requirement is contained within legislation, since changes to that legislation may be required.
- ✓ Determine whether they will remove the residency requirement.
- ✓ Consult with their labour mobility coordinator (see Appendix II) if they seek to maintain a residency requirement on the basis of the "legitimate objective" provision.
- ✓ Notify their coordinator of any actions taken towards the removal of residency requirements, using a standardized reporting format that will be made available.

Section III

Practices Related to Occupational Licensing, Registration or Certification

Obligations of the Chapter

This obligation of the Chapter is intended to ensure that practices related to occupational licensing, certification or registration do not result in barriers to worker mobility. Article 707 states that any measure adopted or maintained by a regulatory body or government relating to occupational licensing, certification or registration should meet certain conditions. The four conditions are described below.

- The measure should **relate principally to competence**. This means that the principal criteria for granting licensure, certification or registration should be based on the ability to perform the occupation. For example, a difference may exist from one province or territory to another in the length of education or training required to be deemed qualified. That difference in itself should not be a reason for excluding someone from being deemed qualified. Rather, regulatory bodies and governments are to base the decision to qualify an out-of-province worker on the person's competence. (Complying with this specific obligation will be facilitated by the comparison of standards that is called for in the third main obligation (see Section IV), since this process will help to identify competencies.)
- The measure should be **published or otherwise readily accessible**. By making this information readily accessible, regulatory bodies and other groups can assist workers who are considering moving to another province or territory to make informed decisions.

Regulatory Bodies and Labour Mobility Information

Providing accurate and useful labour market information is made easier when partnerships are in place to share the workload. Regulatory bodies, governments and other groups have an important role to play in providing this type of information. Governments are also in a position to help disseminate information on occupational licensing, certification or registration. There are numerous publications and systems within governments that include information on occupational requirements. Now, governments are developing a joint strategy to create an information database and eventually make this information readily available to workers throughout the country. A Task Team has been established within the government departments that comprise the Forum of Labour Market Ministers. This Task Team is identifying the type of labour market information that will help workers who are considering moving from one part of the country to another. Regulatory bodies and other groups will be an important source of this information and governments look forward to collaborating with these groups to ensure that Canadian workers can make informed decisions before moving to other parts of the country.

- The measure **should not result in unnecessary delays** in recognizing the occupational qualifications of workers from other provinces or territories. This includes providing examinations or assessments of the worker and licensing, registering or certifying the worker. The objective is to ensure that out-of-province workers can be deemed qualified and eligible for work as soon as possible. As an example, regulatory bodies and governments will need to examine the frequency at which a qualifying examination is administered.
- Regulatory bodies and governments may continue to charge fees and other costs for membership, licensing, examinations and other services. For out-of-province workers, however, they may not impose fees or other costs that are more burdensome than those imposed on workers from within their own province or territory (except for actual cost differentials).

As is the case with all obligations, a measure that contravenes this obligation may still be permissible where it can be demonstrated that its purpose is to achieve a legitimate objective (Article 709) and provided that the measure meets certain conditions.

What do regulatory bodies and governments need to do?

- ✓ Examine their licensing, certification and registration practices to ensure that they are in accordance with the conditions described above.
- ✓ Determine any changes to their practices that may be required to comply with this obligation.
- ✓ Consult with their labour mobility coordinator if they seek to maintain a practice on the basis of the "legitimate objective" provision.
- ✓ Notify their labour mobility coordinator of any practices that are not in accordance with this obligation and indicate any changes made to those practices in order to comply with the Chapter, using a standardized reporting format that will be made available.

Section IV

Recognition of Occupational Qualifications and Reconciliation of Occupational Standards

Obligations of the Chapter

Under Article 708 of the Chapter, governments agree to undertake “to mutually recognize the occupational qualifications of workers” who are qualified in any other province/territory and “to reconcile differences in occupational standards”. The reconciliation process would be undertaken in those cases where mutual recognition cannot be reached at the outset. Each government agrees to seek and ensure compliance with this obligation by regulatory bodies with delegated authority.

It should be noted that this obligation does not require the harmonization of occupational standards or the development of a single national standard. Regulatory bodies and governments, however, are free to take steps towards further uniformity of their standards, if they so agree. Also, this obligation does not remove the ability of a government or regulatory body to adopt or maintain its own occupational standards and requirements (Article 705).

Compliance with this obligation is subject to the provision that permits a non-conforming measure if it can be shown to meet a legitimate objective (Article 709) and provided that certain conditions are met. A discussion of legitimate objectives is contained in Section V of these guidelines.

The Labour Mobility Chapter specifies a series of measures, described in Annex 708, to recognize the occupational qualifications of workers from other jurisdictions and reconcile differences in occupational standards. These measures are based upon cooperative discussions among governments and regulatory bodies that will build on commonalities in order to meet the objectives of the Chapter. The guidelines in this section have been developed in an attempt to operationalize the overall framework described in Annex 708.

Article 708 of the Chapter further states : “The Red Seal program shall be the primary method through which occupational qualifications in the regulated trades are recognized.” The Canadian Council of Directors of Apprenticeship has been charged with the responsibility for overseeing labour mobility implementation in the regulated trades/occupations.

The guidelines for the recognition and reconciliation obligation are divided into three sections:

- Four Main Steps,
- Managing the Process,
- What do regulatory bodies and governments need to do?

Four main steps

The overall objective of this obligation of the Chapter is to allow a worker who is qualified for an occupation in one jurisdiction to be qualified for that occupation in another jurisdiction and to have access to employment opportunities. Furthermore, this recognition of qualification should not require the qualified worker to have additional assessment or examination of his/her competencies. Regulatory bodies and governments are required to take certain measures towards achieving this objective as described in Annex 708 of the Chapter.

In developing these guidelines for meeting the obligations of the Chapter, the Labour Mobility Coordinating Group has taken the measures described in Annex 708 and presented them as four main steps. These four steps are summarized in the chart on the opposite page.

Step 1: Assessment of occupations

“As a first step, the Parties shall undertake an assessment of occupations which they regulate, based on existing information or occupational analyses, to identify occupations on which they can readily agree there exists, within their respective territories, a high level of commonality in the occupational standards required to be met in order to practice these occupations. Parties also agree to invite other regulatory bodies to do the same.”*

Annex 708 (Par. 2)

The focus of the assessment should be to determine the level of commonality across jurisdictions for an occupational standard. This suggests a process whereby each jurisdiction identifies its own standards and compares them with those of all other jurisdictions where the occupation is regulated. Appendix I of these guidelines is entitled "How to Conduct an Assessment" and offers suggestions to assist in this process.

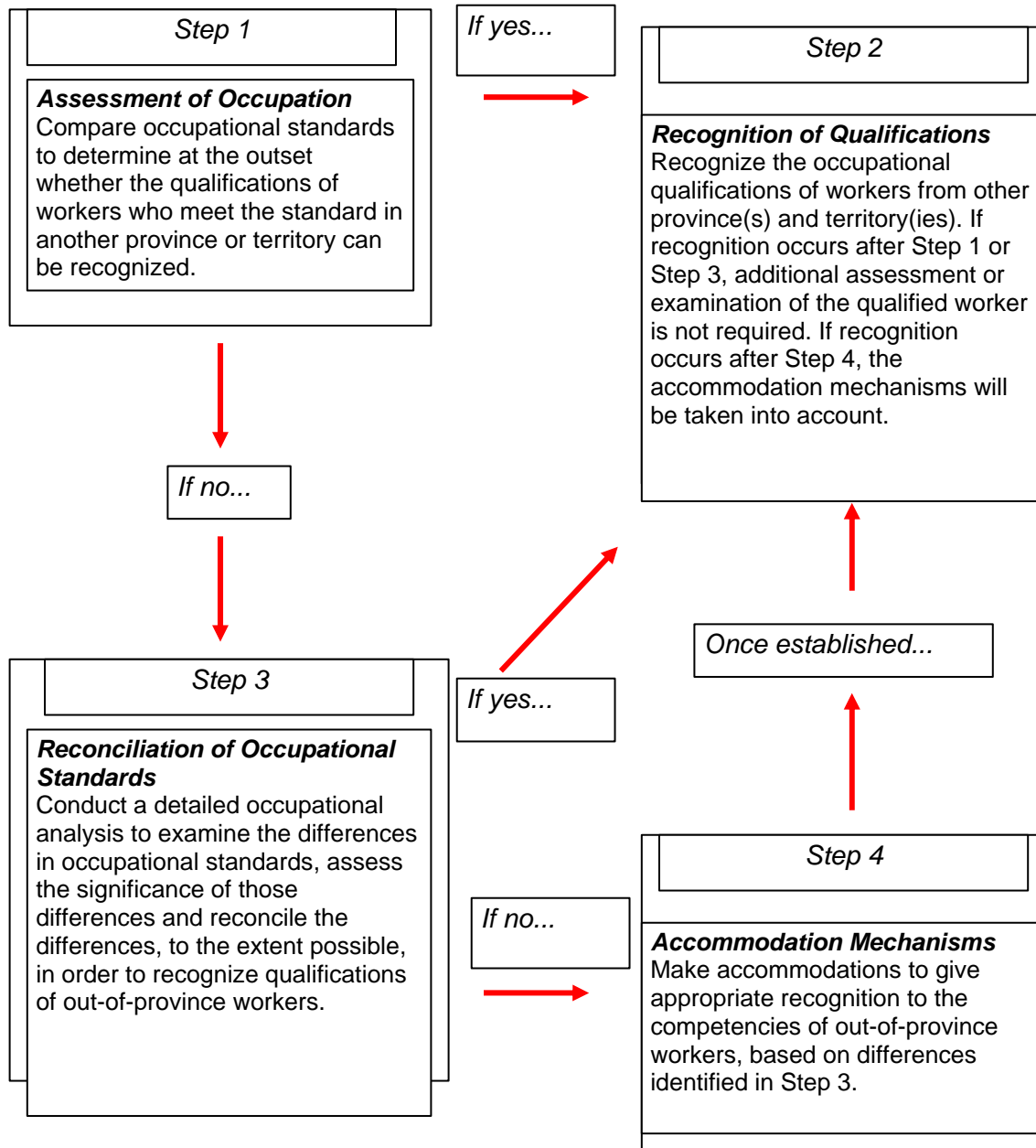
For occupations that already have mutual recognition across jurisdictions, the assessment process should be straightforward and would involve confirming the fact that immediate recognition already exists. For occupations where recognition does not yet exist, regulatory bodies and governments may wish to consider preparing a report that would outline commonalities and differences in the standard for consideration by all participants in the recognition process. This would constitute the basis on which to make the assessment.

Based on the assessment, some or all jurisdictions may agree that there is sufficient commonality among their standards to allow for immediate recognition of each other's qualified workers. If so, the recognition of qualifications described in Step 2 will have been achieved and those jurisdictions will have met this obligation. The other possible outcome of the assessment is that differences would be identified in an occupational standard across jurisdictions that prevent the immediate recognition of out-of-province workers. If so, regulatory bodies and governments would proceed towards reconciling their standards, as described in Step 3 of this process, in order to achieve recognition of qualifications.

Overview of the Recognition / Reconciliation Process

The steps described in this chart will be undertaken by regulatory bodies and governments, under the overall coordination of the Forum of Labour Market Ministers.

* The word "Parties" as used in Annex 708 is understood to include governments and regulatory bodies.



Step 2: Recognition of qualifications

“Where a high level of commonality has been determined to exist in the territories of two or more Parties, the occupational standards that have been established in those territories shall, as between the Parties concerned, be considered mutually acceptable without further examination for the licensing, certification or registration of workers who meet those standards.”

Annex 708 (Par. 3)

As illustrated in the overview chart, the recognition of qualifications can occur following the assessment of the occupation (Step 1), or following the more-detailed reconciliation of standards (Step 3), or following the establishment of accommodation mechanisms (Step 4).

Once regulatory bodies and governments have agreed to mutually recognize the qualifications of workers from other jurisdictions, they are asked to document this outcome, for example, in the form of a recognition agreement or protocol. They are also asked to notify their labour mobility coordinator. The recognition agreement would state that, following an assessment of the occupation or the reconciliation of standards, the jurisdictions agree to mutually recognize the qualifications of each others' workers. Furthermore, unless there is the need for an accommodation mechanism, the recognition of qualifications would take place without requiring any further examination of workers who meet the standard in another jurisdiction.

If there is a need for accommodation mechanisms to assess workers or to provide them with additional competencies, this would also be documented as part of the recognition agreement. In order to simplify this exercise and reduce the administrative burden, regulatory bodies and governments are encouraged to work towards a single, multi-lateral recognition agreement that would include representation from all jurisdictions where the occupation is regulated. The recognition agreement or protocol might not in itself be sufficient to remove barriers, especially if legislative change is required, but it would serve to document the outcomes of this exercise.

The Labour Mobility Coordinating Group will provide regulatory bodies with a template recognition agreement for their consideration when they are engaged in the development of an agreement.

Step 3: Reconciliation of occupational standards

“If the Parties determine that there is insufficient information currently available on which to make an initial assessment of comparability, or that the information available suggests that there may be significant differences in the level of commonality between the occupational standards that have been established in their respective territories in respect of an occupation, the Parties will, as a next step, undertake an occupational analysis to determine the extent to which the occupational standards for that occupation differ between the territories of the Parties.”

Annex 708 (Par. 4)

“The occupational analysis referred to in paragraph 4 will be carried out by experts in the relevant field, representing interested bodies and relevant regulatory bodies, who will compare the standards and assess and measure the extent of the differences, both in terms of scope and of required level of performance. Thresholds will be defined for comparability. By way of example only, 80 per cent similarity might be considered a high level of commonality while 60 to 80 per cent might be considered a moderate level of commonality.

Annex 708 (Par. 5)

“It is understood that the occupational analysis will examine, among other areas: the scope of practice, generic skills, specific skills, licensing, certification or registration requirements and other entry requirements and qualifications pertaining to the occupation. The occupational analysis will not consider differences in training methods since it is recognized that competencies and abilities can be acquired through different combinations of training and experience.”

Annex 708 (Par. 6)

“Where, as a result of the occupational analysis, a high level of commonality has been determined to exist in the occupational standards that have been established in respect of the occupation in the territories of two or more Parties, the occupational standards that have been established in those territories shall, as between those Parties, be considered mutually acceptable without further examination for the licensing, certification or registration of workers who meet those standards.”

Annex 708 (Par. 7)

“Where there is a moderate or low level of commonality, the Parties may pursue the development of mutually acceptable occupational standards. In the interim, it is understood and agreed that a moderate or low level of commonality will allow a Party to assess incoming workers against its own standards.”

Annex 708 (Par. 8)

Following the assessment of occupations, regulatory bodies and governments may find that they cannot immediately recognize out-of-province workers due to differences in their occupational standards. If so, they are called upon to attempt to reconcile those differences in order to achieve recognition of qualifications.

The difference between the assessment (Step 1) and the reconciliation of standards (Step 3) is essentially one of degree. In both steps, regulatory bodies and governments are comparing their occupational standards to identify differences and commonalities. However, in Step 3, they are called upon to examine differences more closely through an occupational analysis and to attempt to reconcile those differences. The suggested approach described in Appendix I of these guidelines (How to conduct an assessment) could also be used as the basis for the reconciliation of standards.

It should be noted that the Chapter does not call for the harmonization of occupational standards, nor is any regulatory body obliged to raise or lower their standards. However, the Chapter states that “Notwithstanding the achievement of mutual recognition, the Parties may pursue steps to achieve further uniformity of occupational standards.” (Annex 708, Par. 11)

Step 4: Accommodation mechanisms

“In cases referred to in paragraph 8, each Party shall also seek to make accommodations to its licensing, certification or registration requirements to give appropriate recognition to the training, skills, experience and education of out-of-province workers. Such accommodations may involve the development and implementation of alternative systems for the assessment of their qualifications such as systems that allow workers of another Party to reach the required qualifications through additional modular training or supervised work experience.”

Annex 708 (Par. 9)

Following the attempt to reconcile occupational standards, regulatory bodies and governments may determine that there remain certain differences in their standards which prevent the immediate recognition of out-of-province workers. For example, they may not have been able to reconcile a scope of practice difference whereby workers in one jurisdiction perform some duties that are not performed in another jurisdiction.

Having identified the exact differences between their standards, regulatory bodies and governments would then be in a position to develop mechanisms to accommodate those differences. For example, if there is a scope of practice difference between two jurisdictions, the jurisdiction with any additional duties should consider ways to accommodate workers qualified in provinces with the narrower scope of practice. Any upgrade training for out-of-province workers would need to be based on the precise scope of practice differences that were identified, rather than re-train workers in competencies they already possess. This suggests that modular or competency-based training be considered as a means of accommodating out-of-province workers.

Another type of accommodation mechanism that may need to be considered is a means of assessing whether a worker from one jurisdiction does in fact have the additional competencies required in another jurisdiction. Even though a competency is not part of the standard in one jurisdiction, workers from that jurisdiction may still have acquired the competency in the course of work experience or additional training. In other words, workers may go beyond the standard of their own jurisdiction in the course of their work experience and, in so doing, meet the standard of another jurisdiction. To facilitate this kind of assessment, regulatory bodies should consider the development of appropriate evaluation mechanisms, such as prior learning assessment mechanisms.

Another possible approach to accommodating scope of practice differences between two jurisdictions could be to establish a restricted or conditional licence for workers who do not meet the standard of a jurisdiction with a broader scope of practice. Such a licence would allow the worker to practice within the limits of his/her competencies. The worker would still have the opportunity to acquire the additional competencies in order that, eventually, he/she would be fully qualified in the jurisdiction with the broader scope of practice. Each occupation will need to determine the appropriate accommodation mechanisms that may be required, based on the outcomes of the reconciliation of standards and given cost considerations for the development of some accommodation mechanisms.

Managing the process

Participants

The first two obligations contained in the Chapter (residency requirements and licensing practices) can be met through individual actions by regulatory bodies and governments. However, the third obligation (recognition and reconciliation) may require multi-lateral discussions involving participants from jurisdictions where a particular occupation is regulated. The purpose of the discussions would be to determine whether mutual recognition of qualifications can be achieved immediately or whether reconciliation of standards needs to take place.

One possible way to approach this task is that each occupation could establish a multi-lateral working group to address this third obligation. The working group could include representation from all jurisdictions where the occupation is regulated or exists, in order to avoid a multitude of bilateral discussions and agreements. The core members of a working group could include representation from regulatory bodies and from the government ministry or agency that is responsible for the legislation that governs the occupation. The presence of a government representative (even from jurisdictions where the authority to regulate has been delegated) could facilitate any changes to legislation that may be required. Representation from the Labour Mobility Coordinating Group is also recommended as a way of assisting participants and keeping the Coordinating Group advised of progress.

Each jurisdiction will need to determine who is to be involved in any discussions that may be necessary to achieve recognition of qualifications or reconciliation of standards. Professional associations, national associations, trade unions and education and training representatives are among those who could play a role in the process.

Timelines and scheduling

The Labour Mobility Chapter states that governments shall initiate the process of recognizing qualifications and reconciling occupational standards by July 1, 1996. Each government plans to notify those who are covered by the Chapter in their jurisdiction of their obligations by that date and to ask them to begin to take steps towards complying with those obligations.

The Chapter does not establish any specific date by which the process of recognition or reconciliation is to be completed, reflecting the fact that each regulated occupation has its own circumstances and issues to deal with in order to achieve recognition of qualifications and reconciliation of standards.

By signing *A Framework to Improve the Social Union for Canadians* (SUFA) in February, 1999, however, all governments (with the exception of Quebec) committed to ensure that full compliance with Chapter 7 be achieved by July 1, 2001. This deadline will mark five years since regulatory organizations were asked to begin addressing their obligations to the Labour Mobility Chapter.

The Importance of Transparency

Article 406 of the Agreement on Internal Trade, dealing with Transparency, states that “Each Party shall ensure that its legislation, regulations, procedures, guidelines and administrative rulings of general application respecting matters covered by this Agreement are made readily accessible.” For those involved in the recognition/ reconciliation process, this means that information on mutual recognition agreements and on the accommodation mechanisms adopted for an occupation must be made available for practitioners. This information will be included as part of the database on labour market information that is being developed for use by workers.

Governments have agreed that those who are covered by the Chapter should meet their obligations “within a reasonable period of time”. Governments expect that concerted efforts will be made by all concerned to achieve fairly rapid progress on implementation, and will do what they can to assist and facilitate timely compliance.

Annual reports on the operation of the Chapter will be prepared by the Labour Mobility Coordinating Group on behalf of the Forum of Labour Market Ministers. These reports will, among other things, describe activities undertaken within each occupation towards achieving recognition of qualifications and reconciliation of standards. In determining what constitutes a reasonable period of time, each government will be looking for signs of progress and effort on the part of regulatory bodies within their jurisdiction. A lack of progress towards meeting the obligations of the Chapter could lead a government to determine that voluntary compliance has not been secured, whereupon the Chapter requires the government to adopt and maintain measures to ensure compliance. The Labour Mobility Coordinating Group will request periodically that regulatory bodies involved in implementing the Chapter complete a brief survey form on their progress.

What do regulatory bodies and governments need to do?

- ✓ Undertake an assessment of occupations which they regulate, to identify commonalities and differences.
- ✓ Where level of commonality is high, mutually agree to recognize qualifications of workers from other jurisdictions.
- ✓ Where level of commonality is deemed too low, undertake a detailed occupational analysis.
- ✓ Where commonality and mutual recognition cannot be agreed upon, seek to develop and implement accommodation mechanisms for recognizing qualifications of workers from other jurisdictions.
- ✓ Document the outcomes of the recognition and reconciliation process in the form of a recognition agreement or protocol among jurisdictions and file this agreement with the Labour Mobility Coordinator.

Section V

Other Features of the Chapter

Legitimate objectives

The previous three sections of these guidelines have described how regulatory bodies, governments and other groups are to ensure that their measures (or practices) comply with the obligations of the Chapter. Where it is established that a measure is inconsistent with the obligations of the Chapter, that measure may still be permissible as stated in Article 709, provided that the measure meets four conditions.

- The purpose of the measure is to achieve a legitimate objective. A legitimate objective means one or more of the following objectives being pursued within the territory of a Party:
 - public security and safety;
 - public order;
 - protection of human, animal or plant life or health;
 - protection of the environment;
 - consumer protection;
 - protection of the health, safety and well-being of workers;
 - affirmative action programs for disadvantaged groups;
 - provision of adequate social and health services to all its geographic regions;
 - labour market development; and
 - cost containment in the health sector, such as limiting the number of workers in a given occupation in order to limit public expenditures.
- The measure does not operate to impair unduly the access of workers who meet that legitimate objective.
- The measure is not more mobility-restrictive than necessary to achieve that legitimate objective.
- The measure does not create a disguised restriction to mobility.

It is the responsibility of each government to determine whether they wish to maintain any non-conforming measures on the basis of the legitimate objective provisions: regulatory bodies themselves cannot file exceptions based on legitimate objectives. The Chapter suggests that, where a legitimate objective has been identified, governments should examine whether there are other means to achieve the objective without limiting the mobility of out-of-province workers.

Frequently, for example, residency requirements have been used as a means of ensuring that the public is protected in its dealings with practitioners of an occupation. The view may be held that if a practitioner is a resident of a province or territory, the public can, if necessary, seek redress more easily than if the practitioner did not reside in the province or territory. This could be claimed to be a legitimate objective to support maintaining a residency requirement. However, given that a legitimate objective should not be more mobility-restrictive than necessary to achieve its goal, regulatory bodies and governments would need to consider whether there are other means of protecting the public.

Instead of residency requirements, the public could also be protected by requiring out-of-province workers to:

- post a bond or other form of financial security;
- establish or contribute to a trust account;
- maintain a particular type and amount of insurance;
- provide other similar guarantees; or
- provide access to records.

In accordance with the Chapter, a framework has been developed for governments to establish and review annually any specific measures filed under the provisions for legitimate objectives. Governments that wish to maintain inconsistent measures on the basis of legitimate objectives are to include a justification for the measure and its anticipated duration.

The Chapter recognizes that another set of circumstances may prevent a government from complying with the obligations of the Chapter or may cause a government to temporarily suspend its obligations. Exceptional circumstances, including severe economic dislocations, emergencies and natural disasters, may cause a government to temporarily suspend its obligations under the Chapter. A government seeking such a suspension must make written notice to the other governments and the initial suspension cannot exceed six months, after which another written notice has to be made. Another government can request consultations on the exemption if, for example, it feels that the suspension is more extensive than necessary to address the situation.

Complaint consultation

The Labour Mobility Chapter introduces a process by which governments agree to consult with each other regarding complaints that may arise as to the interpretation or application of the Chapter. A consultation may be initiated by a government that considers that an actual or proposed measure of another government is inconsistent with the Chapter. As well, a government may initiate consultations on behalf of a person who considers that an actual or proposed measure in another jurisdiction is inconsistent with the Chapter. Each government has designated a contact point for receiving complaints from "persons", a term which is understood to include workers, employers, public bodies, sectoral associations, trade unions or other bodies within its territory.

When a government receives a request for consultation from a person, the government will assess the merit of the complaint. If the government agrees to seek consultation on the person's behalf, it shall make a written request for consultations with the other government named in the dispute. Consultations between those two governments shall begin within 30 days after the date of delivery of the written request. The Labour Mobility Coordinators from the governments involved in the consultation are responsible for coordinating and participating in the consultations, along with other representatives from government, regulatory bodies, trade unions, or other groups as deemed appropriate.

Governments will attempt to resolve the dispute through discussion of the circumstances and development of a means to address the barrier to mobility. If the two governments cannot resolve the matter to the satisfaction of the government that raised the complaint within 60 days of the delivery of the request, they may invite other governments to participate in discussions and assist in finding an acceptable solution through conciliation or mediation. If these multi-lateral discussions do not resolve the matter to the initiating government's satisfaction within 90 days of the delivery of

the request, the initiating government may continue consultations under the overall dispute settlement procedure that is applicable to the entire Agreement.

If a government does not initiate or further pursue dispute resolution proceedings on behalf of a person who brings forth a complaint, the person may request that proceedings be initiated under the overall dispute resolution for the entire Agreement. Dispute settlement procedures for the overall Agreement are dealt with by the Committee on Internal Trade, whereas under the Labour Mobility Chapter, they are dealt with by the Forum of Labour Market Ministers. Details on procedures for pursuing consultations under the entire Agreement are contained in Chapter 17 of the Agreement: Dispute Resolution Procedures. In brief, Chapter 17 is intended to afford to persons and governments another opportunity to initiate proceedings if the complaint being raised is not resolved to their satisfaction under the procedures described in the Labour Mobility Chapter.

Development of new occupational standards and changes to existing standards

Under Annex 708 (Part II) of the Chapter, governments agree to introduce a process for the development of new occupational standards or when changes are made to existing standards. As part of their obligations under the Chapter, regulatory bodies are also asked to comply with this procedure.

The overall approach is based on transparency, that is, notifying other regulatory bodies and governments of any new standards that are planned or of any changes to existing standards that are planned. Others who are responsible for regulating an occupation (whether regulatory bodies or governments) are thus given an opportunity to comment on or participate in the development of new standards or the modification of standards. By establishing an ongoing dialogue among those who are charged with setting occupational standards, governments hope to avoid the creation of any new barrier that might result from the introduction or modification of standards.

There are three conditions that are described in Annex 708 (Part II), each addressing a particular circumstance.

- A province/territory wishes to introduce a new occupational standard. A standard for that occupation already exists in one or more other provinces/territories.

If occupational standards have not been established for an occupation in one jurisdiction but exist for that occupation in another jurisdiction, the province/territory without the standard will develop its standard by first taking into account the existing standard(s) in other provinces. As noted elsewhere in the Chapter, each regulatory body or government regulator can continue to set and maintain their own standards. However, by obliging those who set standards first to give consideration to existing standards, the intention is to avoid the creation of new barriers that can result when provinces/territories maintain different standards. For those who are introducing the new standards, this approach also has the advantage of making the standard-setting exercise less costly by building upon the work of others.

- A province/territory wishes to introduce a standard/set of requirements for a particular occupation which does not currently exist in any other province/territory.

In the case where a province/territory wishes to introduce a standard that does not already exist elsewhere, the province/territory intending to introduce the standard agrees to notify other provinces/territories of its intent and afford them the opportunity to participate in the development

of the standard. In these circumstances, it could arise that other provinces or territories also plan to introduce a standard for the same occupation, in which case they could have input or collaborate from the outset on the development of the standard. Again, the purpose of this approach is to promote an ongoing dialogue within the standards-setting community in order to facilitate future reconciliation and avoid the creation of any new barrier.

- A province/territory considers it necessary to make changes to an existing occupational standard.

If a province/territory wishes to make changes to an existing occupational standard, governments have agreed that regulatory bodies or governments in other provinces/ territories will be notified and afforded an opportunity to participate in the modification of those standards. In this way, governments hope to avoid changes to standards that might lead to the creation of new barriers.

Section VI

Glossary of Terms

This glossary of terms includes definitions that are included in the text of the Labour Mobility Chapter (see Annex III), as well as other terms that are found in these Guidelines for Meeting the Obligations of the Labour Mobility Chapter. In compiling this glossary, the Labour Mobility Coordinating Group acknowledges a glossary of terms produced by the Canadian Information Centre for International Credentials. For reference purposes, the terms used in the French version of the Guidelines are indicated in italics.

Academic Qualifications [Qualifications attestées]

Requirements for entry into a trade or occupation, or a higher-level educational institution, that involve a period of formal study in a recognized educational institution, and successful completion or partial completion of its program. In most circumstances academic qualifications can be documented.

Accreditation [Agrément]

Process of granting accredited status to an institution of higher learning and/or vocational training, a program of study, or a service, indicating that it has been granted approval by the relevant legislative and professional authorities by virtue of its having met or exceeded pre-determined standards.

Apprentice/Apprenticeship [Programme d'apprentissage]

A specified term of substantially on-the-job supervised training combined with classroom training and during which the apprentice works under supervision of a qualified individual and learns the knowledge, skills, tools and materials of the trade.

Assessment [Évaluation]

The process of reviewing and evaluating competencies and qualifications for the purpose of determining whether or not an applicant has fulfilled the requirements to be eligible to practice an occupation. This process could include testing or examinations. The main purpose is to measure candidates against a pre-determined occupational or educational standard.

Bridging Program [Formation d'appoint / formation manquante]

A program of study, a course, or set of courses or activities designed specifically to provide practitioners from one jurisdiction with the skills and knowledge required for entry into a trade or occupation in another jurisdiction. A bridging program is an example of an accommodation mechanism that complements the competencies or qualifications earned outside the jurisdiction.

Competencies [Compétences]

A set of knowledge, skills and abilities obtained through formal or non-formal education, work experience, or other means required to perform an occupation.

Legitimate Objective [Objectif légitime]

A legitimate objective means one or more of the following objectives pursued within the territory of a Party:

- public security and safety;
- public order;
- protection of human, animal or plant life or health;
- protection of the environment;
- consumer protection;
- protection of the health, safety and well-being of workers;
- affirmative action programs for disadvantaged groups;
- provision of adequate social and health services to all its geographic regions;
- labour market development; and
- cost containment in the health sector, such as limiting the number of workers in a given occupation in order to limit public expenditures. (Article 713)

Licence [Permis d'exercice]

Document entitling its holder to have the exclusive right to practice a trade or occupation, and signifying that the licence-holder meets competency and other requirements for practice.

Licensure [Délivrance des permis d'exercice]

Procedures for determining eligibility, granting licences, and protecting the public with respect to the practice of the trade or occupation requiring a licence. Licensure denotes to the public that the person who has been granted the licence has the competence needed to provide for the public's protection.

Licensing, Certification or Registration

[Autorisation d'exercer, reconnaissance professionnelle et immatriculation]

A formal recognition that a person has attained a standard of proficiency in a set of knowledge, skills and abilities required to practice a trade or occupation.

Mutual Recognition [Reconnaissance mutuelle]

Acceptance by appropriate authorities in two or more jurisdictions that the qualifications of their workers in a given occupation conform to one another's occupational standard without requiring the worker to undergo any additional assessment or training.

Non-Governmental Body [Organisme non gouvernemental]

A non-governmental body, with or without delegated authority, includes professional corporations and associations, hospitals, health units, long-term care facilities, clinics, other health care/service organizations and authorities, professional regulatory bodies, school authorities, universities, colleges and other educational and training institutions, trade unions and industrial associations. (Article 713)

Occupation [Métier ou profession]

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. Occupation shall include, where appropriate, any recognized separate and distinct occupation that is described under an occupational unit group listed in the National Occupational Classification (the "NOC"). (Article 713)

Occupational Qualifications [Qualifications professionnelles]

Occupational qualifications means the knowledge, skills, abilities and experience of an individual. (Article 713)

Occupational Requirement [Exigence professionnelle]

Occupational requirement means a condition other than an occupational standard, imposed by a recognized body for the practice of an occupation. (Article 713)

Occupational Standard [Norme professionnelle]

Occupational standard means the skills, knowledge and abilities required for an occupation as established by a recognized body and against which the qualifications of an individual in that occupation are assessed. (Article 713)

Period of Articling/Internship [Période de stage / internat]

A period of practical, supervised, on-the-job training designed to supplement a period of formal study and give the practitioner the required skills and knowledge for entry into a trade or occupation.

Prior Learning Assessment and Recognition [Reconnaissance des acquis]

Identification and measurement of knowledge, skills and abilities for the purpose of recognizing learning that has been acquired in another jurisdiction or based on prior educational training, work, and other life experience.

Red Seal Trades [Métiers du programme «Sceau rouge»]

Trades for which common interprovincial standards have been established, allowing opportunity of portability of credentials as related to the designated trades. These trades are designated by the Interprovincial Standards Program under the authority of the Canadian Council of Directors of Apprenticeship, the body which is also responsible for setting standards in the trades.

Reserved Title [Titre réservé]

A reserved title is established through legislation that restricts the use of an occupational title to those who have met the prerequisites established by the appropriate authority. Unlike a licensure, it does not grant an exclusive right to practice the occupation. Those who have not met the prerequisites for the occupation may still practice the occupation, but may not use the reserved title to describe themselves.

Scope of Practice [Champ d'exercice / champ de pratique]

The scope of practice for an occupation refers to the range of activities that a qualified practitioner of an occupation may practice. It establishes the boundaries of an occupation, especially in relation to other occupations where similar activities may be performed. The scope of practice for an occupation may be established through governing legislation or through internal regulations adopted by a regulatory body.

Appendix I

How to Conduct an Assessment

This appendix offers a suggested, but not mandatory, approach for conducting an assessment of occupational standards as called for in Annex 708 of the Chapter. The Chapter states that the assessment shall be based on existing information or an occupational analysis.

Preliminary considerations

In assessing their occupational standards, it may be found that recognition practices for out-of-province workers can be characterized in one of the following ways:

- For some occupations, recognition of occupational qualifications may already take place among jurisdictions, or such recognition may be readily attainable following an assessment. Regulatory bodies and governments with such recognition practices may already have met this obligation of the Chapter, provided their recognition practices are in accordance with the Chapter. For example, recognition should not require a worker qualified in one jurisdiction to undergo additional testing or assessment in another jurisdiction. The fact that a worker is qualified in one province or territory should be sufficient for a worker to be qualified in any jurisdiction. It is not necessary for occupational standards to be reconciled, so long as there is mutual recognition of each others' qualified workers without requiring additional assessments or tests.
- For some occupations, different types of arrangements may currently exist between different jurisdictions. After the assessment, a regulatory body or government may agree to recognize the qualifications of workers from some, but not all, other jurisdictions. In such cases, a jurisdiction would continue to work towards reconciling the differences in standards with those jurisdictions with whom mutual recognition was not immediately possible.
- For some occupations, mechanisms or agreements may not currently exist to allow for recognition of out-of-province workers. In such cases, a regulatory body or government regulator could consider whether they can readily agree to such recognition based on existing information on their occupational standards. If not, they would undertake the more detailed analysis and comparison described previously in Step 3 (Section IV).
- Some occupations are only regulated in one province or territory. The occupation may exist in other provinces, but it may not be regulated. In such cases, an agreement to recognize qualifications is not possible, since there is no other regulatory body with whom to enter into agreement. In these cases, the accommodation mechanisms described previously in Step 4 (Section IV) become an important consideration. Such mechanisms would be required for practitioners of the occupation who are qualified or experienced, but come from provinces where the occupation is not regulated.

Survey of practices

One source of information which may be useful for this purpose is the recently-conducted Survey of Practices. From February to June 1995, the Labour Mobility Coordinating Group surveyed over 400 regulatory bodies (and governments) to identify their current practices related to residency requirements, licensing practices, recognition of qualifications and existence of occupational standards. Over 300 regulatory groups responded to the Survey. The purpose of the Survey was to help the Coordinating Group to determine current practices in light of changes called for in the Chapter.

However, the information from this survey could also be used by regulatory bodies to assist in the assessment of commonality among jurisdictions. The Coordinating Group will make available the results of its Survey of Practices for each occupation.

Results from the Survey indicate that 71% of respondents already have a detailed occupational analysis for their occupation in place. These analyses can serve as the basis for comparing the level of commonality in areas such as the scope of practice of the occupation and the specific skill requirements. Regulatory bodies or governments that do not have an occupational analysis or detailed occupational standard upon which to base the comparison, may wish to consider developing such an analysis.

Suggested topics to address

The following is an illustrative list of topics that regulatory bodies and governments may wish to consider when determining the level of commonality among their standards. It will be up to representatives from each regulatory body and government to determine which elements of a standard should form the basis for comparison. As well, the degree of importance assigned to each element should be considered. It is possible, for example, that numerous small differences in some elements are acceptable, but that differences found in other elements would be problematic.

Scope of practice

A key topic for regulatory bodies and governments to address are differences in their scope of practice across jurisdictions. Occupations can evolve differently across jurisdictions, so there may be duties that are performed in one jurisdiction that are not performed in another. It should be noted that there is no obligation to modify the scope of practice for an occupation. Where there are scope of practice differences that cannot be reconciled, jurisdictions with the wider scope of practice will need to consider mechanisms to accommodate workers who are qualified in jurisdictions where the scope of practice is narrower (see Section IV, Step 4).

Competencies (knowledge, skills and abilities)

Regulatory bodies and governments should work towards identifying the competencies (skills, knowledge and abilities) that comprise the occupation in their jurisdiction in order to compare their competencies with those of other jurisdictions. Once the competencies have been identified, consideration could be given to the relative importance of each element, based on factors such as:

- the degree of risk to the public;
- how frequently it is performed (e.g. daily, weekly, monthly);
- the amount of time spent on it;
- the consequence of error in performing the element;

- its overall importance in practising the occupation.

Through a comparison, regulatory bodies and governments could identify the degree of commonality between their standards, as called for in the Chapter. By way of illustration, the Chapter states that a high degree of commonality (e.g. 80%) could lead to agreement to mutually recognize the qualifications of each others' workers without any additional assessment. A moderate degree of commonality might mean that some additional assessment or training is required for out-of-province workers, based on the different competencies that have been identified. Alternatively, regulatory bodies and governments could decide to work towards reconciling differences in their competencies to achieve a higher degree of commonality.

The process of identifying competencies for an occupation can be a challenge, particularly for competencies that are related to knowledge, judgment or other intrinsic factors. Representatives from many occupations have already been or are currently undertaking this type of exercise for reasons not related to the Labour Mobility Chapter. By identifying competencies, occupations will be able to use the information for other applications, such as curriculum development, human resource planning, evaluation of foreign qualifications and prior learning assessment and recognition.

Education

Regulatory bodies and governments may agree on the competencies that comprise an occupation, but there may be differences in their jurisdiction's approach to acquiring the competencies through education. In one jurisdiction, competencies may be acquired through a certain amount or type of education and training that may differ from that of another jurisdiction.

The Chapter recognizes that competencies can be acquired through different combinations of training and experience. The Chapter also states that licensing, certification and registration practices are to be based principally on competence; that is, the ability to perform the work. This means that differences in training methods or in the amount or level of education/training required in different jurisdictions should not be a factor when regulatory bodies compare their standards. The length of a program of study is not always an indicator of what is taught and learned in the program.

As an example, one jurisdiction may require a course of study that lasts 36 months, while another jurisdiction might have a course of study for the same occupation that lasts 30 months. In such a situation, regulatory bodies and governments would need to compare their competencies and determine whether they are acquired under each of their education programs. If so, then regardless of differences in the length of the education program, regulatory bodies would recognize the competencies of workers from other jurisdictions.

In considering education, regulatory bodies and government may find that they differ in their recognition of certain programs or educational institutions. If so, the same basic principle as described previously would apply: that is, the recognition of qualifications should be based on the competencies of the workers and the ability to perform the work.

Examinations

If different examinations are used to assess the qualifications of workers, regulatory bodies and governments should consider how their examinations differ. If there are different competencies across jurisdictions, those competencies need to be reflected in qualifying examinations. However, if the same competencies are being assessed but using different examination items, then the differences are perhaps not so significant, recognizing that the same competency can be assessed in different ways. This is why there is not an obligation under the Chapter to develop a single common examination. Even where the competencies for an occupation are the same, each jurisdiction may assess those competencies in its own manner. However, they should also agree to mutually recognize other examinations that assess the same competencies.

Experience / Period of articling / Internship/ Practice hours

For many occupations, candidates are required to undergo a period of work experience, internship or articling in order to become qualified. Regulatory bodies and governments may need to address any differences they identify related to this requirement. As with education, differences might be identified regarding the amount of experience required of workers. In itself, such a difference should not be a basis for not qualifying a worker from another jurisdiction, unless the difference can be shown to be directly related to the acquisition of competencies called for in the standard. This relates to the obligation of the Chapter that qualifications shall be based principally on competence.

For example, if "Jurisdiction A" requires 1,500 practice hours as a qualification requirement and "Jurisdiction B" requires 1,000 practice hours, each jurisdiction would need to address how their amount of practice hours relates to the competencies that are to be acquired during that period. It may be found that the competencies between the two jurisdictions are essentially the same and that they can be acquired through 1,000 practice hours. If so, Jurisdiction A should agree to recognize the qualifications of workers from Jurisdiction B, without requiring additional practice hours. On the other hand, it may be found that Jurisdiction A has additional competencies not found in Jurisdiction B, and that additional practice hours are necessary to acquire those competencies. If so, there is a competency-based reason for the difference.

Conduct and ethics

Occupational standards sometimes include policies or requirements related to the conduct and ethics of practitioners. To the extent that differences in these practices may impact on the recognition of out-of-province workers, regulatory bodies and governments could attempt to reconcile the differences or agree to recognize other approaches to conduct and ethics.

Temporary licensing

Temporary licensing can, in some cases, be an aid to labour mobility and in those cases should be used. For example, a temporary licence could be issued to a worker to enable him/her to work while an assessment of their credentials or competencies is being conducted. A temporary licence would also allow individuals to work in an occupation while they acquired any additional competencies called for in the standard. However, upon meeting the occupational standard, an individual should be eligible for permanent licensing. In other words, temporary licensing should not be used as a replacement for recognizing the qualifications of out-of-province workers on a permanent basis.

Some occupations have established restricted or conditional licences which are accorded to workers who are qualified to perform some, but not all, duties within a jurisdiction. If such a licensing system exists, it would need to be considered in assessing the level of commonality between

jurisdictions. A restricted or conditional licence may be used to accommodate an out-of-province worker until such time as the worker can acquire the additional competencies required to be fully qualified.

Competency assurance and practice audits

In order to maintain professional competency, many occupations have a requirement for competency assurance or practice audits. These requirements may differ across jurisdictions, which can create barriers for the interprovincial movement of workers. For example, one jurisdiction may require 2,000 practice hours per year for a worker to maintain his/her qualification while another jurisdiction may require 1,000 practice hours to maintain qualification. In cases such as this, regulatory bodies and governments should identify the competencies that are linked to practice hours or other forms of competency assurance, in keeping with the overall emphasis of the Chapter on competencies. It may be that these requirements are rooted in circumstances other than maintaining competence. For example, occupations with higher percentages of part-time workers may have adjusted their practice hour requirements to reflect this fact.

Local knowledge

In order to qualify for certain occupations, workers are sometimes required to demonstrate a knowledge of such matters as local laws, regulations, geography, climate or other conditions specific to a province, territory or other region. This type of requirement, while often necessary, may prevent out-of-province workers from being qualified without additional training.

In assessing the qualifications of workers from other jurisdictions, regulatory bodies and governments should consider the extent to which local knowledge can be accessed or acquired easily, as opposed to local knowledge that would require specialized training to acquire. An example of the former type of local knowledge might be a requirement for an architect or engineer to know local building bylaws. This type of local knowledge might only require that the worker know where to look for this information: the worker may not be expected to have in-depth knowledge on the topic. An example of the latter type of local knowledge might be a requirement for an architect or engineer to have extensive knowledge about the effects of permafrost in northern regions. This type of local knowledge could be more integral to the practice of the occupation and would likely require education and/or training for a worker to become competent.

Regulatory bodies and governments should consider carefully the significance they attach to the need for local knowledge and try to determine whether such knowledge cannot be acquired or accessed as part of the performance of duties.

Workers qualified on the basis of foreign credentials/training

Many workers who practise regulated occupations and trades in Canada were initially trained in other countries. Once any worker meets the entry requirements and occupational standard in a jurisdiction and is licensed, certified or otherwise eligible to practise that occupation or trade, he/she is covered by Chapter 7. This is true whether the individual's training or experience took place inside or outside of Canada, since the AIT does not make a distinction between workers who are qualified on the basis of Canadian or foreign education or credentials. Article 701 states: "The purpose of the Chapter is to enable any worker qualified for an occupation in the territory of a Party to be granted access to employment opportunities..."

Many regulatory bodies have established a process to assess the qualifications of workers whose training took place outside of Canada or whose credentials are from another country. Typically, workers are required to have their foreign credentials or training assessed to determine equivalency

to the standard of a particular jurisdiction. Some regulatory bodies conduct such an assessment within their organization, while others rely on outside expertise, such as that provided by various credential assessment agencies or a national body that represents the occupation.

For purposes of meeting the obligations of Chapter 7, regulatory bodies should compare their processes for assessing the credentials of workers trained outside of Canada. The objective, as in all issues addressed in the 708 process, is to determine whether it is possible to achieve mutual recognition for each other's process to assess foreign workers. Regulatory bodies should share information on how they assess foreign credentials (or how such assessment is done by an external organization) and how they come to the decision to qualify a worker based on foreign training. As is the case with other issues, regulatory bodies are not required to subscribe to the same assessment processes, but they are obliged to recognize workers who have demonstrated that they meet the standard of a jurisdiction with whom they share a high level of commonality. Where a regulatory body seeks to re-assess the qualifications of a worker whose foreign training has already been assessed in another jurisdiction, it will need to substantiate that such assessment relates principally to competence and does not duplicate another regulatory body's assessment process.

Other considerations

Regulatory bodies and governments should examine differences in other practices they adopt, such as those intended to provide for public safety, protection and well-being. As is the case with other types of comparisons, they may find that they have adopted different means of achieving common goals. If so, they could agree to mutually recognize each others' standard or to reconcile the differences.

Appendix II

Please note: The content of the following Mutual Recognition Agreement Template is intended as a model for discussion, and does not necessarily reflect unanimity in terms of provincial requirements nor has it been subjected to legal advice.

Meeting Chapter 7 Obligations

Overview

Article 708 of the Agreement on Internal Trade (AIT) requires governments and regulatory bodies to mutually recognize the qualifications of workers from other jurisdictions in a manner set forth in Chapter 7 of the AIT.

As regulatory bodies meet to compare the differences and commonalities in their occupational standards and requirements, there is a need to document the conditions under which mutual recognition will occur. This template has been developed to assist regulatory bodies draft such agreements.

These Agreements can:

- demonstrate to governments that regulatory bodies have complied with Chapter 7.
- function as a means of communicating to workers the conditions that need to be met in order to become qualified in another jurisdiction.

2.0 - Definitions - This section is important to ensure that ambiguity in the interpretation of the agreement is avoided.

Mutual Recognition Agreement

(Template){tc \l 0 "05Mutual Recognition Agreement

(Template)"}

Agreement on Labour Mobility {tc \l 0 "01Agreement on

Labour Mobility "}

for _____ {tc \l 0 "02for _____

"}

in Canada

Between {tc \l 0 "03Between "}

(List of Regulatory Bodies){tc \l 0 "04(List of Regulatory Bodies)"}

and

and

etc.

1.0 Purpose

We, the undersigned, enter into this Mutual Recognition Agreement (MRA) in order to comply with our obligations under the Agreement on Internal Trade (AIT), Chapter 7 (Labour Mobility). The purpose of this MRA is to establish the conditions under which a _____ who is licensed/certified/registered in one Canadian jurisdiction will have his/her qualifications recognized in another Canadian jurisdiction which is a Party to this Agreement.

2.0 Definitions

2.1 General Practice means ...

2.2 Licensee means ...

2.3 Party means....

2.4 Occupational Requirements means ...

2.5 Scope of Practice means ...

2.6 Good Standing means...

2.7 Etc. ...

3.0 - This section reflects common principles shared by the signatories in coming to this agreement. This section is usually presented as a number of "Whereas" statements.

3.2 - Responsibility to protect the public.

3.3 - Authority of the regulatory body.

3.4 - This statement highlights the recognition that competencies (skills, knowledge, and abilities) can be acquired in a variety of ways.

3.5 - It is important to specify the degree of commonality that exists in terms of the occupational standards across jurisdictions. This determination of commonality will be the basis for the terms of mutual recognition that will be described in the agreement.

3.0 Terms and Conditions

3.1 WHEREAS the undersigned agree that it is in the interest of their memberships and members of the general public to enable properly qualified _____ (occupation) to have access to employment opportunities in that occupation in all provinces and territories in Canada;

3.2 WHEREAS it is further agreed and understood that threshold levels of competence and public safety in the practice of _____ (occupation) must be established, maintained and upheld by regulators to ensure protection of the public;

3.3. WHEREAS this recognition agreement does not modify the authority of each regulatory body to set standards and requirements;

3.4 WHEREAS the undersigned recognize that there are different paths to achieve the threshold competence levels for the practice of _____ (occupation) and the undersigned take the responsibility of setting standards responsibly and in good faith to ensure that the public is protected;

3.5 WHEREAS the Parties have determined a (high, moderate, low) level of commonality with respect to:

- scopes of practice (or the range of activities practitioners are trained to perform, or the range of activities practitioners typically perform);
- occupational standards and requirements, given that all signatories currently requires for initial entry to practice:
 - graduation from an accredited/approved (diploma/baccalaureate/masters program;
 - successful completion of an examination (a common exam/national exam/provincial exam) or evaluation process deemed to be equivalent;

3.6 - This statement specifically addresses Article 706 - "...no party shall require a worker of any other Party to be resident in its territory" as a condition of
a) employment b) licensing, certification or registration or c) eligibility for the worker's occupation. (See *Guidelines for meeting the obligations of the Labour Mobility Chapter*).

3.7 - This clause addresses obligations outlined in Article 707 (See *Guidelines*).

3.8 - Local Knowledge

3.9 and 3.10 - These clauses outline the conditions/requirements for licensure across jurisdictions.

- recognizing the same standards for (occupation) academic education/training;
- having complaints and disciplinary procedures in place;

3.5.1 With the following exceptions:

WHEREAS the Parties have determined that workers in _____ (jurisdictions x, y, and z) have the delegated authority to perform _____ (additional significant duty);

3.6 WHEREAS as no Party will maintain or adopt any requirement for residency in its jurisdiction as part of its occupational standards or occupational requirements;

3.7 WHEREAS each Party shall ensure that any measure it adopts or maintains relating to registration of _____ (occupation) from any other Party is competency-based and readily accessible or published and does not result in unnecessary delay nor impose inequitable, burdensome fees, except for cost differentials;

3.8 WHEREAS each Party may require an applicant for licensure to demonstrate knowledge of the local legislation and policies that apply to the practice of _____ (occupation) as a condition for registration;

3.9 WHEREAS an applicant who is licensed/certified/registered in a jurisdiction shall not be required to undergo additional training or examination as a condition of licensure/certification/registration in another jurisdiction, excepting when identified scope of practice differences exist;

3.11 - Licensed practitioners in good standing in a jurisdiction may have been licensed when requirements were different from that of existing/current licensing requirements. This clause has been incorporated by some occupations to state that those who are currently fully licensed, irrespective of initial licensing requirements, are considered competent/qualified and, therefore, will benefit under the terms of this agreement.

3.10 WHEREAS Parties recognize that in order to be licensed/registered in a Canadian jurisdiction an applicant may be required to:

- demonstrate the necessary competencies to begin practice as a _____ (occupation) in the jurisdiction where initial application is made, and those competencies are deemed to be equivalent between the jurisdictions that are signatories to this agreement;
- establish and confirm identity for entry onto the register;
- pay applicable fees;
- be in good standing in the jurisdiction. in which they are currently licensed/certified/registered;
- demonstrate they meet any language requirement in place in a jurisdiction to which they are applying for licensure/certification registration;
- demonstrate they have met any requirements pertaining to local jurisprudence in a jurisdiction to which they are applying for licensure/certification/registration;

3.11 WHEREAS it is recognized that Parties may have members who qualified for licensure/certification/registration under a different regulatory regime, and who may not meet the current occupational standards and requirements for entry to practice. It is recognized that these individuals are qualified, experienced practitioners and are eligible for membership in all signatory jurisdictions provided they meet all other criteria described above;

3.12 and 3.13 - Continuing competency requirements may include continuing education and/or currency or practice hour requirements. An applicant seeking recognition in a new jurisdiction may be subject to continuing education requirements once licensed in the new jurisdiction. A regulator should not necessarily deny licensure on the basis that the individual has not met continuing education requirements in the new jurisdiction because he/she may have been subject to a different set of continuing education requirements in the home jurisdiction. Regulators are encouraged to take the same approach with applicants that do not meet the new jurisdiction's currency or practice hour requirements. However, it is understood that these applicants may be required to demonstrate currency and/or competency through another mechanism, once licensed/certified/registered in the new jurisdiction or as a condition for licensure/certification/registration.

3.12 WHEREAS Parties to this Agreement may maintain differing continuing education requirements of practitioners in their jurisdictions. Applicants for licensure/certification/registration will be required to demonstrate compliance with continuing education requirements in the host jurisdiction once licensed/certified/registered there;

3.13 WHEREAS Parties to this Agreement may maintain differing currency or practice hour requirements for practitioners in their jurisdictions. Applicants for licensure/certification/registration may be required to demonstrate compliance with currency or practice hour requirements in the host jurisdiction, or may be required to demonstrate competency through another mechanism, once licensed/certified/registered there or as a condition for licensure/certification/registration.

4.0 - This section outlines the terms and conditions Parties will agree to recognize qualified workers from other jurisdictions.

4.1 - 4.2

In this section, signatories describe the conditions under which an applicant from another jurisdiction will be recognized.

- For some occupations, recognition can be automatically granted to qualified workers without further assessment.
- However, if immediate recognition cannot be granted, signatories must outline the competency-based reasons for additional requirements that will be required of out-of-province applicants.

Reasons may include:

- education/training
- practice hours
- assessment methods
- conduct/ethics
- jurisprudence/local knowledge
- scope of practice
- continuing competency/professional development

4.3 - In order to accommodate differences in occupational standards and scopes of practice, some occupations have granted a temporary/conditional/restricted license to provide the individual with the ability to acquire the missing competencies while recognizing the competencies that he/she possesses.

4.0 Terms of Recognition

4.1 THEREFORE, based on the principles adhered to above, We the Parties agree to recognize those fully licensed/certified/registered _____ (occupation) in good standing without further assessment.

4.2 If differences in scope of practice have been determined through the Article 708 process as described above, applicants for licensure/certification/registration to a jurisdiction with a broader scope of practice than that of their home jurisdiction will be required to:

EITHER

demonstrate competency in the additional skills (describe) required by the host jurisdiction, as follows:

- a)
- b)
- c)

OR

acquire additional skills required by the host jurisdiction, in the following manner:

- a)
- b)
- c)

4.3 Applicants may be granted, for a specified period, a temporary/conditional license in order that he/she can demonstrate the acquisition of (competency).

5.0 Administration of the Agreement

5.1 Parties agree to identify a contact point responsible for implementation, and how implementation should be monitored and assessed; acceptable duration for processing of applications; length of procedures; how problems associated with implementation of the agreement could be resolved; if there is a need to establish a monitoring committee, etc.

5.2 Each Party agrees to give advance notice to other signatories when proposing modification or adoption of new occupational standards or occupational requirements that might impact on the inter-provincial/territorial mobility of workers. Each Party also agrees to afford other signatories an opportunity to participate in the modification/development of the standard or requirement. This shall be done in the manner specified in Annex 708, Part II of the Agreement on Internal Trade.

5.3 Each Party agrees that this agreement is a dynamic and evolving instrument that may be amended with the consent of all signatories. The Parties agree to initiate periodic reviews of this agreement every _____ years after July 1, 2001 and/or to review the operation of the agreement when such a request is made by one of the signatories.

5.4 Each signatory will give written notice to its government and to other signatories of its intent to withdraw from this agreement at least 12 months before the signatory withdraws or at the earliest possible opportunity. The withdrawal will take effect 12 months after the notification. The notice period is waived where the withdrawal is not within the Party's control. Some governments may require prior consultation or prior approval.

5.2 - This clause represents the commitment of signatories to notify other jurisdictions if there are new occupational standards introduced or if there is a change to an existing standard that may impact the terms of the agreement.

5.3 - Review and amendment clause.

5.4 - Withdrawal and accession clause.

5.5 - This clause addresses the commitment of regulatory bodies to seek legislative, regulation, by-law or policy changes required to comply with the terms of the agreement.

5.6 - This clause addresses the commitment of regulatory bodies to seek legislative, regulation, by-law or policy changes required to comply with the terms outlined in the mutual recognition agreement.

5.5 Any entity that has been delegated authority to regulate (occupation) by their government may accede to this agreement on such terms as are agreed to by all signatories.

5.6 Each Party agrees to seek the necessary legislative changes from their respective government if, in order to implement this Agreement, there is a need for such changes. Each Party also agrees to make the necessary changes to by-laws, policies or procedures in order to implement this agreement.

6.0 - This signatory page is reserved for those organizations that have delegated authority through legislation to protect the public.

6.0 Signatory Page (Regulatory Bodies)

Regulatory Bodies that exercise authority delegated by law for _____ occupation) in Canada.

SIGNED this _____ day of _____.

Organization *Governing Legislation*

SIGNED this _____ day of _____.

Organization *Governing Legislation*

SIGNED this _____ day of _____.

Organization *Governing Legislation*

SIGNED this _____ day of _____.

Organization *Governing Legislation*

SIGNED this _____ day of _____.

Organization *Governing Legislation*

SIGNED this _____ day of _____.

Organization *Governing Legislation*

7.0 - This signatory page has been reserved for those organizations that do not have authority by law to protect the public, but have participated in the Article 708 process.

Professional associations have in some cases been asked to participate, by their respective governments, in the 708 process because they may at some point be regulated in that jurisdiction or a government may feel that, for whatever reason, a professional association's participation is beneficial.

8.0 - Signatories may deem that additional material should be attached to the agreement in order to provide greater clarity with regard to the terms and conditions of qualification recognition.

7.0 Signatory Page (Voluntary Professional Associations)

7.1 The undersigned represent voluntary organizations that, while not bodies which exercise authority delegated by law, have participated in development of the attached Mutual Recognition Agreement, and which understand and concur with its terms and precepts. We acknowledge our willingness to abide by the terms of the Agreement in full recognition that our signature to this Agreement is in no way binding on our Governments.

SIGNED this _____ day of _____.

Organization

SIGNED this _____ day of _____.

Organization

SIGNED this _____ day of _____.

Organization

Governing Legislation

SIGNED this _____ day of _____.

Organization

Governing Legislation

8.0 Appendices

Appendix III

Members of the Labour Mobility Coordinating Group

	Telephone	Fax
NEWFOUNLAND/ LABRADOR		
Department of Youth Services and Post Secondary Education P.O. Box 8700 West Block, 2 nd Floor Confederation Building St-John's, NF A1B 4J6	(709) 729-6133	(709) 729-3669
PRINCE EDWARD ISLAND		
Prince Edward Island Dept. of Education P.O. Box 2000 Charlottetown, PE CIA 7N8	(902) 368-4651	(902) 368-6144
NOVA SCOTIA		
Skills and Learning Department of Education P.O. Box 578 Halifax, NS B3J 2S9	(902) 424-4404	(902) 424-0887
NEW BRUNSWICK		
Department of Training and Employment Development P.O. Box 6000 470 York Street Fredericton, NB E3B 5H1	(506) 457-6782	(506)453-3780
QUÉBEC		
Direction des affaires canadiennes et internationales Ministère de l'Emploi, de la Solidarité sociale et de la Famille 425, St-Amable, 1 ^{er} étage Québec, QC G1R 4Z1	(418) 643-0808	(418) 528-1787

LMCG Secretariat (514) 864-6086 (514) 873-1087 LMCgSecretariat@
Messf.gouv.qc.ca

ONTARIO

Labour Market Policy (416) 325-1969 (416) 314-3872
Development and
Intergovernmental Relations
Unit
Ministry of Training, Colleges
and Universities
900 Bay Street
18th Floor, Mowatt Block
Toronto, ON M7A 1L2

MANITOBA

Policy and Planning, (204) 945-3572 (204) 948 3104
Advanced Education and (204) 945-8921
Training 270-800 Portage
Avenue
Winnipeg, MB R3G 0N4

SASKATCHEWAN

Policy and (306) 787-9150 (306) 787-5059
Intergovernmental Unit
Saskatchewan Learning
7th Floor, 2220 College
Avenue
Regina, SK S4P 3V7

ALBERTA

Professions and (780) 422-5450 (780) 422-7173
Occupations Division
Alberta Human Resources
and Employment
12th floor, Seventh Street
Plaza South Tower
10030-107 Street
Edmonton, AB T5J 3E4

BRITISH COLUMBIA

Ministry of Advanced (250) 356-2338 (250) 387-1377
Education
3rd floor, 835 Humboldt
Street
PO Box 9894 Stn Prov. Govt.
Victoria, BC V8W 9T6

NORTHWEST TERRITORIES

Apprenticeship and
Occupational Certification
Career Development
Department of Education,
Culture and Employment
Government of Northwest
Territories
P.O. Box 1320
Yellowknife, NWT X1A 2L9

(867) 873-7146 (867) 873-0200

YUKON

Department of Education
Government of Yukon
P.O. Box 2703
Whitehorse, YK Y1A 2C6

(867) 667-8751 (867) 667-8555

NUNAVUT

Department of Sustainable
Development
P.O. Box 1340
Iqaluit, NU X0A 0H0

(867) 975-5921 (867) 975-5980
or (867) 975-
5982

CANADA

Foreign Credential
Recognition
140 Promenade du
Portage, Phase IV, Room
525
Gatineau, QC K1A 0J9

(819) 997-9217 (819) 953-7180

Portal and LMCG
Foreign Credential
Recognition
140 Promenade du
Portage, Phase IV, 5th Floor
Gatineau, QC K1A 0J9

(819) 997-8976 (819) 953-7180

Appendix IV

Agreement on Internal Trade, Chapter 7 - Labour Mobility

Article 700 : Application of General Rules

1. Articles 401 (Reciprocal Non-Discrimination), 402 (Right of Entry and Exit), 403 (No Obstacles), 404 (Legitimate Objectives) and 405 (Reconciliation) do not apply to this Chapter.
2. For greater certainty, Articles 400 (Application) and 406 (Transparency) apply to this Chapter.

Article 701 : Purpose

The purpose of this Chapter is to enable any worker qualified for an occupation in the territory of a Party to be granted access to employment opportunities in that occupation in the territory of any other Party, as provided in this Chapter.

Article 702 : Scope and Coverage

1. This Chapter applies to measures adopted or maintained by a Party relating to occupational standards, licensing, certification, registration and residency requirements of workers, which create barriers to labour mobility.
2. This Chapter does not cover differences in social policy measures including, but not limited to, labour standards and codes, minimum wages, unemployment insurance qualification periods and social assistance benefits.

Article 703 : Extent of Obligations

1. For the purposes of Article 102(1)(b) and (c) (Extent of Obligations), each Party shall, through appropriate measures, seek compliance with this Chapter by:
 - (a) its regional, local, district and other forms of municipal government; and
 - (b) its other governmental bodies and by non-governmental bodies that exercise authority delegated by law, as described in Annex 703.1.
2. Where a Party has been unable to secure voluntary compliance with this Chapter by an entity referred to in paragraph 1 within a reasonable period of time, it shall adopt and maintain measures to ensure such compliance.
3. Whether an entity has voluntarily complied with this Chapter and the reasonable period of time referred to in paragraph 2 shall be determined by reference to the assessments made and annual reports prepared by the Forum under Article 712.
4. Each Party shall, through appropriate measures, seek compliance with this Chapter by non-governmental bodies other than those described in Annex 703.1.

Article 704 : Relationship to Other Agreements

In the event of an inconsistency in a particular case between a provision of this Chapter and a provision of any other agreement between two or more Parties respecting matters covered by this Chapter, the agreement that is more conducive to the free movement of workers in that particular case prevails to the extent of the inconsistency. It is understood that any such other agreement may prevail only as between the Parties that are party to that agreement.

Article 705 : Right to Establish Occupational Standards and Requirements

For greater certainty, each Party may, in accordance with this Agreement, adopt or maintain any occupational standard or occupational requirement to achieve a legitimate objective and may, in pursuing that objective, establish the level of protection that it considers to be appropriate.

Article 706 : Residency Requirements

1. Subject to paragraph 2 and Article 709, no Party shall require a worker of any other Party to be resident in its territory as a condition of:
 - (a) access to employment opportunities;
 - (b) licensing, certification or registration relating to the worker's occupation; or
 - (c) eligibility for the worker's occupation.
2. Subject to Article 709, in providing access to employment opportunities, each Party shall accord to workers of any other Party a treatment no less favourable than the treatment it accords, in like circumstances, to its own workers.

Article 707 : Licensing, Certification and Registration of Workers

1. Subject to Article 709, each Party shall ensure that any measure that it adopts or maintains relating to the licensing, certification or registration of workers of any other Party:
 - (a) relates principally to competence;
 - (b) is published or otherwise readily accessible;
 - (c) does not result in unnecessary delays in the provision of examinations, assessments, licences, certificates, registration or other services that are occupational prerequisites for workers of any other Party; and
 - (d) except for actual cost differentials, does not impose fees or other costs that are more burdensome than those imposed on its own workers.
3. Subject to Article 709, in the case of regulated trades, each Party shall provide automatic recognition and free access to all workers holding an Interprovincial Standards (Red Seal) Program qualification.

Article 708 : Recognition of Occupational Qualifications and Reconciliation of Occupational Standards

Subject to Article 709, each Party undertakes to mutually recognize the occupational qualifications required of workers of any other Party and to reconcile differences in occupational standards in the manner specified in Annex 708. The Red Seal program shall be the primary method through which occupational qualifications in regulated trades are recognized.

Article 709 : Legitimate Objectives

1. Where it is established that a measure is inconsistent with Article 706, 707 or 708, that measure is still permissible under this Chapter where it can be demonstrated that:
 - (a) the purpose of the measure is to achieve a legitimate objective;
 - (b) the measure does not operate to impair unduly the access of workers of a Party who meet that legitimate objective;
 - (c) the measure is not more mobility-restrictive than necessary to achieve that legitimate objective; and
 - (d) the measure does not create a disguised restriction to mobility.

4. The Forum shall develop a framework for the Parties to establish and review annually a schedule listing specific measures permissible under paragraph 1.
5. Where a Party adopts or maintains a measure permissible under paragraph 1, it shall give written notice to the Forum of the measure. The notice shall indicate the Party's justification for the measure and the anticipated duration of the measure.
6. Where necessary to achieve a legitimate objective, a Party may, as a condition of licensing, certification or registration, require a worker of any other Party wishing to practice an occupation in its territory to:
 - (a) post a bond or other form of financial security;
 - (b) establish or contribute to a trust account;
 - (c) maintain a particular type and amount of insurance;
 - (d) provide other similar guarantees; or
 - (e) provide access to records.

Article 710 : Emergency Safeguard Measures

1. A Party shall provide written notice to the Forum and the other Parties where an exceptional circumstance, including a severe economic dislocation, emergency or natural disaster:
 - (a) results in a serious disruption to a Party's labour market or a sector of that labour market; and
 - (b) materially affects that Party's ability to comply with one or more obligations under this Chapter.
2. The notice shall provide details of:
 - (a) the exceptional circumstance and the serious disruption referred to in paragraph 1(a);
 - (b) the obligations under this Chapter referred to in paragraph 1(b); and
 - (c) how non-compliance with the obligations may address the situation.
3. On delivery of the notice to the Forum, the Party may suspend the obligations it is unable to comply with for a period of six months, only to the extent necessary to deal with the serious disruption to its labour market.
4. On receipt of the notice, the Forum shall contact the Committee for a decision on the need for an emergency meeting under Article 1601 (Committee Structure and Procedures).
5. If, after a period of six months, the exceptional circumstance which gave rise to the serious disruption in the labour market persists, the suspending Party shall give written notice to the Forum and the other Parties of its intention to continue the suspension for a further six months.
6. A Party may request consultations with the suspending Party under Article 711 at any time following the suspension of an obligation with respect to whether:
 - (a) the obligation suspended is related to the serious disruption referred to in paragraph 1(a); or
 - (b) the suspension is more extensive in scope or time than is necessary to address the situation.

Article 711 : Consultations

1. Each Party shall designate an official contact person for receiving complaints that may arise between the Parties regarding the interpretation or application of this Chapter.

2. Each Party shall designate a contact point for receiving complaints from persons including, for greater certainty, workers, employers, public bodies, sectoral associations, trade unions or other bodies in its territory, regarding any actual or proposed measure of another Party that a person considers is or would be inconsistent with this Chapter.
3. A Party may make a written request for consultations with another Party on its own behalf or on behalf of a person mentioned in paragraph 2 regarding an actual or proposed measure that it considers is or would be inconsistent with this Chapter. The Party requesting consultations shall deliver notice of its request to the other Party and the Secretariat.
4. Consultations shall begin within 30 days after the date of delivery of the request.
5. Where consultations have failed to resolve the matter to the satisfaction of the Party making the request for consultations within 60 days after the date of delivery of the request under paragraph 3, or within such other period as the consulting Parties may agree, it may request the assistance of the Forum in resolving the matter.
6. Where a consulting Party has requested the assistance of the Forum, the Forum shall attempt to resolve the matter through conciliation or mediation or by making such other recommendations as may assist the consulting Parties.
7. Where the matter has not been resolved to the satisfaction of the Party making the request for assistance within 90 days after the date of delivery of the request, or within such other period as the consulting Parties may agree, recourse may be had to Chapter Seventeen (Dispute Resolution Procedures).

Article 712 : Implementation, Administration and Assessment

1. The Forum shall:
 - (a) develop a work plan for the implementation of the obligations of the Parties under this Chapter;
 - (b) coordinate the implementation of the work plan; and
 - (c) produce an annual report on the operation of this Chapter and submit it to the Committee.
9. In the development of the work plan referred to in paragraph 1(a), the Forum shall ensure that the work plan addresses the areas of priority for action listed in Annex 712.2.
10. The Forum may establish any committees that it considers necessary to assist it in the coordination of the implementation of the work plan. The committees may be composed of representatives of the Parties and, where appropriate, of relevant public bodies, non-government organizations, trade unions and other interest groups.
11. The Parties recognize that responsibility for the implementation of the work plan shall be assumed by appropriate intergovernmental committees of ministers in accordance with Cabinet and legislative responsibilities.
12. The annual report referred to in paragraph 1(c) shall include:
 - (a) an assessment of the effectiveness of this Chapter, together with appropriate recommendations to address concerns identified in the assessment, including recommended amendments to this Chapter;
 - (b) a list of measures for which notice has been given under Article 709(3), together with a description of their respective justification and their anticipated duration; and
 - (c) a report on any disputes that have arisen between the Parties during the year concerning the interpretation or application of this Chapter and the results of any consultations or other dispute resolution procedures resorted to by the Parties concerned to resolve the disputes.

13. The Parties shall develop plans for funding by the appropriate bodies of the costs of implementation, administration and assessment of this Chapter.

Article 713 : Definitions

1. In this Chapter:

Forum means the Forum of Labour Market Ministers;

legitimate objective means one or more of the following objectives pursued within the territory of a Party:

- (a) public security and safety;
- (b) public order;
- (c) protection of human, animal or plant life or health;
- (d) protection of the environment;
- (e) consumer protection;
- (f) protection of the health, safety and well-being of workers;
- (g) affirmative action programs for disadvantaged groups;
- (h) provision of adequate social and health services to all its geographic regions; and
- (i) labour market development.

For greater certainty, "legitimate objective" includes cost containment in the health sector, such as limiting the number of workers in a given occupation in order to limit public expenditures;

non-governmental body, with or without delegated authority, includes professional corporations and associations, hospitals, health units, long-term care facilities, clinics, other health care/service organizations and authorities, professional regulatory bodies, school authorities, universities, colleges and other educational and training institutions, trade unions and industrial associations;

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 qualifications means the knowledge, skills, abilities and experience of an individual;

occupational requirement means a condition other than an occupational standard, imposed by a recognized body for the practice of an occupation;

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

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

worker of a Party means a worker resident in the territory of a Party.

14. For the purposes of interpreting the definition "occupation" in paragraph 1, the Parties shall be guided by the classification of occupations contained in the 1993 publication of Employment and Immigration Canada (now called Human Resources Development Canada) entitled National Occupational Classification (the "NOC"). In this regard,

"occupation" shall include, where appropriate, any recognized separate and distinct occupation that is described in an occupational title under an occupational unit group listed in the NOC.

Annex 703.1

***Non-Governmental Bodies that Exercise Authority
Delegated by Law***

For the purposes of Article 703(1)(b), "non-governmental bodies that exercise authority delegated by law" means any organization, institution, corporation or association 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 requirements for licensing, certification or registration;
- (b) the assessment of the qualifications of workers against established occupational standards or requirements for licensing, certification or registration; or
- (c) the official recognition that an individual meets established occupational standards or requirements for licensing, certification or registration.

Annex 708

***Occupational Qualifications and Standards
Part I***

Recognition of Occupational Qualifications and Reconciliation of Occupational Standards

1. To achieve mutual recognition of occupational qualifications and the reconciliation of occupational standards that have been adopted or maintained in their respective territories, the Parties shall implement the measures mentioned in paragraphs 2 through 9.
2. As a first step, the Parties shall undertake an assessment of occupations which they regulate, based on existing information or occupational analyses, to identify occupations on which they can readily agree there exists, within their respective territories, a high level of commonality in the occupational standards required to be met in order to practice these occupations. Parties also agree to invite other regulatory bodies to do the same.
3. Where a high level of commonality has been determined to exist in the territories of two or more Parties, the occupational standards that have been established in those territories shall, as between the Parties concerned, be considered mutually acceptable without further examination for the licensing, certification or registration of workers who meet those standards.
4. If the Parties determine that there is insufficient information currently available on which to make an initial assessment of comparability, or that the information available suggests that there may be significant differences in the level of commonality between the occupational standards that have been established in their respective territories in respect of an occupation, the Parties will, as a next step, undertake an occupational analysis to determine the extent to which the occupational standards for that occupation differ between the territories of the Parties.
5. The occupational analysis referred to in paragraph 4 will be carried out by experts in the relevant field, representing interested bodies and relevant regulatory bodies, who will compare the standards and assess and measure the extent of the differences, both in terms of scope and of required level of performance. Thresholds will be defined for comparability. By way of example only, 80 per cent similarity might be considered a high

level of commonality while 60 to 80 per cent might be considered a moderate level of commonality.

6. It is understood that the occupational analysis will examine, among other areas: the scope of practice, generic skills, specific skills, licensing, certification or registration requirements and other entry requirements and qualifications pertaining to the occupation. The occupational analysis will not consider differences in training methods since it is recognized that competencies and abilities can be acquired through different combinations of training and experience.
7. Where, as a result of the occupational analysis, a high level of commonality has been determined to exist in the occupational standards that have been established in respect of the occupation in the territories of two or more Parties, the occupational standards that have been established in those territories shall, as between those Parties, be considered mutually acceptable without further examination for the licensing, certification or registration of workers who meet those standards.
8. Where there is a moderate or low level of commonality, the Parties may pursue the development of mutually acceptable occupational standards. In the interim, it is understood and agreed that a moderate or low level of commonality will allow a Party to assess incoming workers against its own standards.
9. In cases referred to in paragraph 8, each Party shall also seek to make accommodations to its licensing, certification or registration requirements to give appropriate recognition to the training, skills, experience and education of out-of-province workers. Such accommodations may involve the development and implementation of alternative systems for the assessment of their qualifications such as systems that allow workers of another Party to reach the required qualifications through additional modular training or supervised work experience.
10. Parties shall initiate the process described in this Part within 12 months after the date of entry into force of this Agreement in order to implement the provisions of this Annex within a reasonable period of time.
11. Notwithstanding the achievement of mutual recognition, the Parties may pursue steps to achieve further uniformity of occupational standards.

Part II

Development of New Occupational Standards and Changes to Existing Standards

1. If occupational standards have not been established in the territory of a Party in respect of a particular occupation but exist in the territory of any other Party, the Party without the standards will develop its standards in a manner that will facilitate future reconciliation, taking into account the existing standards in the territories of the other Parties.
2. If occupational standards do not exist in the territories of any of the Parties in respect of an occupation and a Party considers it necessary to establish occupational standards for that occupation, the Parties agree that the process of development of new occupational standards should occur in a manner that will facilitate future reconciliation and avoid the creation of new barriers to mobility. A Party intending to develop new standards shall notify the other Parties of its intent and afford them an opportunity to participate in the development of those standards.
3. If a Party considers it necessary to make changes to existing standards in respect of an occupation, the Parties agree that the process for making such changes should occur in a manner that will foster reconciliation and avoid the creation of new barriers to mobility. A

Party intending to make such changes shall notify the other Parties and afford them an opportunity to participate in the modification of those standards.

Annex 712.2

List of Work Plan Priorities for Action

In the development of the work plan for the implementation of this Chapter, the Forum shall ensure that the work plan, at a minimum, addresses the following areas of priority for action:

- (a) discussions with associations and corporations to invite them to participate in the development of reconciliation mechanisms and report periodically to the Forum;
- (b) support of the initiatives of those associations and corporations;
- (c) development of a strategy for the collection and coordination of information on labour market conditions, professional standards and occupational requirements relating to licensing, certification or registration of workers by jurisdiction (such information will be disseminated in a timely and accessible manner, for example, through Canada Employment Centres and provincial employment and training offices);
- (d) acceleration and streamlining of the Interprovincial Standards (Red Seal) Program and of its examination processes; and
- (e) mechanisms for ensuring the availability of information in both official languages of Canada.