

**AGREEMENT FOR MUTUAL RECOGNITION OF PROFESSIONAL
QUALIFICATIONS**

BETWEEN

The Architects' Council of Europe (ACE)

and

The National Council of Architectural Registration Boards (NCARB)

and

The American Institute of Architects (AIA)

(Opening of negotiations – notification to WTO by USTR/EU 133 Committee)

PREAMBLE

The following Agreement is the outcome of profession-to-profession negotiations that took place between the USA and the EU representative bodies of the architectural profession in the period 2001-2005. This is a preliminary, though essential, step towards achieving a binding Mutual Recognition Agreement (MRA) on the recognition of educational and professional qualifications between the USA and the EU for the provision of architectural services. It outlines the structure and essential conditions that the professions in the USA and the EU would like to see included in any future binding MRA.

The Parties to these negotiations were, for the USA, the National Council of Architectural Registration Boards and the American Institute of Architects, hereinafter referred to as the NCARB & the AIA and, for the EU, the Architects' Council of Europe, hereinafter referred to as the ACE.

The text of the Agreement truly reflects the principles that have been agreed during intense dialogue that commenced during an official meeting between the US Trade Representative and the Commission of the EU in 2001 at which the Parties to this Agreement were present. This official meeting was followed by numerous exchanges and face-to-face discussions between the Parties to the Agreement notably in two, structured negotiation meetings held in Brussels and Washington in February 2003 and November 2003, respectively.

The text of the Agreement, which has no legally binding character, is the result of the best endeavours of the Parties towards achieving the initial goal of setting out, from the point of view of the architectural profession, what it considers to be the most appropriate conditions for an effective, future, binding MRA for the recognition of educational and professional qualifications between the two political and economic entities for the provision of architectural services.

During a meeting held in Istanbul on 7th July 2005, the Parties to the Agreement jointly decided to submit the text in its current form to the relevant, competent Authorities in the USA and EU for their consideration and appropriate action, at official political level, within the shortest possible time frame.

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A. FORM AND CONTENT OF AGREEMENT

1. Participants

1.1 The parties to the agreement are:

- the National Council of Architectural Registration Boards (NCARB) and the American Institute of Architects (AIA), for the United States of America; and
- the Architects' Council of Europe (ACE), for the European Union (current and future members)

1.2 The competent authorities other than the parties are:

For the USA:

- the 55 State and Territorial Architectural Registration Boards, responsible by law for licensing architects;
- the US Trade Representative

For the EU:

- the 21 EU State Governments regulating registration/licensing of architects;
- the 4 EU State Governments having to follow European regulations;
- the national (and regional) professional bodies with registration functions (Austria, Belgium, Czech Republic, France, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Poland, Portugal, Slovenia, Slovakia, Spain).
- the national registration bodies (Finland, Malta, Netherlands, United Kingdom);
- the relevant authorities in those countries without registration bodies (Cyprus, Denmark, Estonia, Ireland, Latvia, Sweden);
- the EU Commission as mandated by the Member States (133 Committees)

1.3 Status and area of competence of each party

NCARB

is a non-governmental agency acting as a federation of all U.S. state and territorial architectural registration boards. These boards formulate the rules and policies of NCARB and elect its officers. Working with its member boards, NCARB establishes national standards for certifying qualified architects. These standards are recognised by every state board to allow the registration of NCARB certificate holders generally without further examination or other demonstration of qualifications.

AIA

is the national professional organisation for US architects, representing licensed architects. Architect Members are currently licensed to practice architecture in the US

ACE

is a non-governmental, representative body for the architectural profession in the European Union. Its membership is drawn from national registration and professional architectural organisations from all of the EU Member States, plus Norway, Switzerland and the Accession States (Bulgaria, Croatia, Romania and Turkey)

2. Purpose of the agreement

This Agreement establishes criteria, procedures and measures for the mutual recognition of qualifications that will facilitate the portability of qualifications for the provision of services within both political and economic entities.

This agreement :

- establishes mutually acceptable standards for practice and professionalism, including expertise, autonomy, commitment and accountability;
- develops a model for future international mutual recognition agreements for architects;
- establishes a system of governance to serve the Agreement that enables it to properly monitor performance, facilitate implementation, including the audit of academic standards and systems of continuing professional development (CPD) and resolve disagreements.

Moreover, the following broader goals and aspirations of the negotiations have also been identified:

2.1 Quality improvement

- to develop common higher standards in architectural education and practice;
- to ensure further quality in the provision of architectural services;
- to ensure consumer protection and safeguard the interest of society, architecture, the environment, sustainability, culture and public health, safety, welfare.
- to set standards in recognising equivalence in qualifications;
- to prevent practice by unqualified persons.

2.2 Business possibilities

- to facilitate recognition of architects in each other's jurisdiction by the relevant registration authority;
- to increase business possibilities for architects;
- to set working conditions for the future;
- to enlarge the client's choice from various service providers;
- to identify architects that work in each other's jurisdictions

3. Reference and background framework

3.1 Principles of Professionalism

Members of the architectural profession in the EU and USA are dedicated to standards of professionalism, integrity and competence, and bring to society unique skills and aptitudes essential to the sustainable development of the built environment and the welfare of their societies and cultures. Principles of professionalism are established in legislation, as well as in codes of ethics and regulations defining professional conduct

3.1.1 *Expertise*

Architects possess a systematic body of knowledge, skills and theory developed through education, graduate and post-graduate training, and experience. The process of architectural education, training and examination is structured to assure the public that, when an architect is engaged to perform professional services, that architect has met acceptable standards enabling competent performance of those services.

Furthermore, members of most professional societies of architects are charged to maintain and advance their knowledge of the art and science of architecture, to respect the body of architectural accomplishment and to contribute to its growth.

3.1.2 *Autonomy*

Architects provide objective expert advice to the client and/or users. Architects are charged to uphold the ideal that learned and uncompromised professional judgement should take precedence over any other motive in the pursuit of the art and science of architecture. Architects are also charged to embrace the spirit and letter of the laws governing their professional affairs and to consider thoughtfully the social, urban and environmental impact of their professional activities.

3.1.3 *Commitment*

Architects bring a high level of selfless dedication to the work done on behalf of their clients and society. Members of the profession are charged to serve their clients and the public in a competent and professional manner and to exercise unprejudiced and unbiased judgement on their behalf.

3.1.4 *Accountability*

Architects are aware of their responsibility for the independent and, if necessary, critical advice provided to their clients and for the effects of their work on society and the environment. Architects undertake to perform professional services only when they, together with those whom they may engage as consultants, are qualified by education, training and/or experience in the specific technical areas involved.

3.1.5 *Scope of intervention*

The laws in force in each jurisdiction regulate the practice of architecture. Architects registered in a jurisdiction are compelled to follow the laws and codes in force in each jurisdiction in which they have been authorised to practice. Architects practising outside their own country under this Agreement are limited to providing those services that local architects are permitted to provide and will only provide those services they customarily provide in their own country if less than those services permitted in the host country.

This MRA recognises the highest standards of education and practical training of architects within the Member States of the EU and the USA, which enables them to fulfil their fundamental professional requirements. These standards recognise different national, educational traditions and, therefore, allow for factors of equivalency.

3.2 Profession covered

The designation “architect” is generally reserved by law and custom to a person who is professionally and academically qualified and generally registered/licensed/certified to practice architecture in the jurisdiction in which s/he practices and is responsible for advocating the fair and sustainable development, welfare and cultural expression of society’s habitat in terms of space, forms and historical context.

4. Mutual Recognition

Mutual recognition means that EU architects and US architects who meet the following requirements shall be recognised in each other's jurisdictions.

4.1 Basis for eligibility

Architects from both the EU and the United States shall demonstrate completion of a period of not less than fourteen years made up of formal education, registration/licensure and practice, at least seven years of which shall be in certified post-registration/licensure fully-qualified practice. This Mutual Recognition Agreement acknowledges the differences between jurisdictions while upholding the highest professional standards.

4.1.1 EU Architect

The EU architect shall:

- meet the requirements set down in relevant sections of the EU Council Directive 2005/36/EC (see appendix).
- Comply with any jurisdictional registration/licensing requirements

4.1.2 US Architect

The US Architect shall:

- meet jurisdictional education, training and examination (ARE and its predecessors) requirements in effect at the time of registration/licensure
- Comply with any jurisdictional registration/licensing requirements

4.2 Criteria for post-registration/licensure fully-qualified practice experience

- Certified professional experience in responsible charge of the comprehensive practice of architecture comprising all activities from preliminary studies through construction administration. Certification could be in the form of a letter confirming that the applicant has been practising architecture, and thereby, maintaining registration requirements e.g. CPD, PII and has not been subject to any sanctions relating to conduct.

4.3 Other provisions

Where an applicant does not meet the above criteria and it is not possible to award mutual recognition to such an applicant, the Joint Governance Committee will make an assessment, indicating the extent of any additional requirements and how they may be satisfied

B. MECHANISMS FOR THE IMPLEMENTATION OF THIS AGREEMENT

1. Rules & Procedures to monitor & enforce

1.1 Joint Governance Committee (JGC)

The JGC is established to monitor the performance of all parties who have agreed to be bound by the terms and conditions of this Agreement, to facilitate the implementation of this Agreement, and to ensure, insofar as it may, that any issues or disagreements arising hereunder are resolved promptly and in a manner consistent with the intent of this Agreement.

The Committee shall comprise 4 members from the USA and 4 members from the EU. In selecting their representatives, the parties will have regard for the interests of regulatory, professional and public/consumer interest groups.

2. Mechanisms for Dialogue and administrative co-operation

The JGC will put in place mechanisms and procedures which will include:

- 2.1 Rules and procedures necessary for the application, evaluation and monitoring of the provisions in this Agreement. Member of the JGC will keep in regular contact and hold meetings at least every two years to review the implementation and effectiveness of the agreement.
- 2.2 An information source in each participating jurisdiction so that architects can be informed about opportunities, registration/licensing requirements and sanctions that might be applied in accordance with this document.
- 2.3 Communication mechanisms so that architects within the participating jurisdictions will understand the rights and obligations they will have to meet when they are granted a license or registration (or equivalent where there is no registration authority) to practice their profession internationally.
- 2.4 A means for dispute resolution for the implementation of this agreement.
- 2.5 An appeals process for applicants
- 2.6 A procedure relating to applications to include:
 - 2.6.1 *a point of contact in each party for information*
- for the USA : NCARB; , - for the EU : ACE
 - 2.6.2 *length of procedures for processing applications*
applications shall be processed within a reasonable period of complete application.
 - 2.6.3 *documentation*
Certification by local jurisdiction of applicant's registration/licensure status in a format agreed to from time to time by the JGC. Documentation shall be in

uniform format and content for all applicants, in English and in the language of the host country. Applications can be submitted electronically.

3. Commitments/transparency to facilitate the procedures

The Parties shall make publicly available, through the information sources described at B.2.2. above, the names and addresses of the competent authorities (i.e. governmental or non-governmental entities responsible for the licensing of architects).

4. Licensing requirements/procedures other than qualifications

4.1 Establishment/residency requirements

There shall be no requirement to establish a permanent presence or residency.

4.2 Language requirements

There shall be no imposition of any language requirements.

4.3 Proof of good conduct/good standing –

Applicants for registration shall be required to produce evidence of good conduct/good standing (cf. B.2.5.3 above).

4.4 Professional indemnity insurance –

Applicants for registration shall produce evidence of PII within a reasonable period of time, e.g. 3 months, providing adequate cover in the host country, if required, (including ‘run-off’ cover for the necessary period following the return of the foreign architect to his/her home country).

4.5 use of practice/firm names –

Applicants should inform themselves of local requirements pertaining to practices and practice names.

4.6 compliance with host country ethics –

Applicants shall comply with local laws, rules of conduct and codes of ethics.

5. Commitments/transparency measures

5.1 relevant laws & regulations –

Applicants for registration in another jurisdiction shall be fully responsible for complying with the laws and regulations of that jurisdiction.

5.2 on-going verification of competence –

Where compliance with a prescribed annual number of hours of Continuing Professional Development (Continuing Education) is a requirement for registration, applicants will agree to provide evidence of compliance as and when required.

5.3 transparency –

Conditions for entry to and expulsion from jurisdictional registers shall be made publicly available.

5.4 regulations relating to nationality/residency –

Beneficiaries of the provisions of this agreement will be nationals of the countries represented by the Parties. Registration bodies represented by the Parties to this agreement shall not require applicants to take up residency.

6. Revision of agreement

The agreement is ongoing subject to triennial review by the Joint Governance Committee.

7. Notice of termination

If either Party wishes to terminate this Agreement, it will inform the other of this decision by giving 12 months notice in writing.

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