

**Date:** December 2000

**From:** Chairman, Groupe Consultatif

**To:** Presidents of Member Associations of the Groupe Consultatif that are signatories to the Agreement on the Mutual Recognition of Qualifications

**Copies to:** Presidents of Members Associations of the Groupe Consultatif that are not signatories to the Agreement on the Mutual Recognition of Qualifications  
Members of the Groupe Consultatif  
Members of the Freedoms and General Purposes Committee

**Subject:** **Recommendations for Implementation of the Agreement concerning the Mutual Recognition by each Member Association of Members of the other Associations**

This Agreement was originally entered into in April 1991 by the member associations then represented on the Groupe Consultatif and is based on the EU Directive 89/48/EEC for a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration. The Agreement was updated in 1997 to include all member associations in the EU Member States as well as the associations in Norway and Iceland by virtue of the European Economic Area Agreement of May 1992. A separate, but parallel, Agreement was entered into in 1997 by all associations subscribing to that Agreement and the Association Suisse des Actuaire. The recommendations made below apply equally to that Agreement.

In a letter of 31 May 1994 from the Chairman, Klaus Heubeck, the Groupe made a number of recommendations to the Associations on how the Agreement should be interpreted and implemented. These recommendations were not mandatory but, in some cases, were strongly recommended, whilst in other cases they were merely suggestions.

The Groupe has reviewed the 1994 recommendations and whilst the associations subscribing to the Agreement are broadly content with them, a few amendments have been made. The Groupe Member will be happy to explain them.

1. ***What is intended by a “full member”?***

A “full member” is a member of an Association who is fully qualified in every respect to practice as an actuary in the country of the Association. Some Associations have only one grade of membership, and members of this grade are clearly full members. Others have several grades. For instance, the Faculty of Actuaries has Fellows who are full members recognised in UK legislation, and also Honorary Fellows and Associates who are not. The Institut des Actuaire Français, however, has two grades of member who are full members, Membres Diplômés and Membres Agrégés. Other Associations are recommended to interpret the term “full member” in a similar way.

Where an association imposes further requirements on its full members to obtain and maintain practising certificates in specific areas of work, e.g. to become an Appointed Actuary or Pensions Scheme Actuary, these requirements should apply equally to those actuaries admitted under the Agreement.

2. ***Should actuaries accepted into a host Association in terms of the Agreement, or in terms of the Directive, be entitled to use the designatory letters or title of members of the host Association?***

As we understand the Directive a professionally qualified person recognised in a host country in terms of the Directive can undertake all activities, whether regulated or not, that can be undertaken by a full member of the association which they have joined and is entitled to use the designatory letters or title of the host profession. It is therefore appropriate that an actuary practicing in a host country, as a full member of the host Association, should be able to use the appropriate designatory letters or title of that Association.

However, we recommend the following practice: A distinction should be made between titles obtained by study or examination (referred to as “home” qualifications), and titles obtained only through implementation of the Agreement (“derived” qualifications). Where qualifications are identified to clients or potential clients on stationery, visiting cards, etc., the custom should be that an actuary may

use all or any of his or her home qualifications, but the derived qualification should be used only in the relevant country in which he or she is providing services. The actuary should not use more than one derived qualification, and should not use the derived qualification except in circumstances where it is essential to do so in order to show that he or she is qualified in the host country to provide the relevant services. A derived qualification should not be used in the actuary's home country.

It would therefore be necessary for an actuary who has obtained derived qualifications in more than one host country to have different visiting cards, etc. in different countries.

**3 *Should a host Association be able to cancel membership if a migrant actuary ceases to provide services in the host country?***

We consider that Associations should be entitled to grant "derived" memberships for life if they wish to do so, but they should also have the right to cancel a host membership if the actuary ceases to practice his or her profession in the host country. Appropriate practice might depend on the circumstances: an actuary who has worked for many years in a host country and then retires to his or her home country, or to a third country, might well expect to retain his or her derived membership; but an actuary who spends only a short period in a host country might be expected to relinquish his or her membership if he or she ceases to have any connection with that country.

**4 *Should it be a condition that the migrant actuary retains membership of his or her home Association?***

We consider that an Association should be free, if it so wishes, to make derived membership conditional on retention of the home qualification from which it is derived, but it need not do so if it chooses not to. We consider that good practice again would depend on the circumstances. A migrant actuary who has adopted a host country as his own, and makes it his permanent residence and place of work, may consider it appropriate to give up his original qualification if he has no longer any contact with his home country or home Association. But an actuary who has acquired derived membership in a host country should not immediately relinquish

home qualifications and rely wholly on recently derived qualifications. See also the next question.

**5** *Can a derived membership in one country be used to obtain derived membership in another country?*

We strongly recommend that this should not be possible. Derived qualifications should be based on the original substantive qualifications obtained by study or examination, and if an actuary, having obtained derived membership in one country on the basis of his or her home qualifications, moves to a third country, the second derived membership should be based on the original home qualification, and not on the first derived membership. We consider that this distinction can reasonably be made, so that an actuary who has acquired derived membership in one host Association has not, in this respect, identical rights to members for whom the membership is a home one.

**6** *What about actuaries who are not nationals of an EU Member State?*

The Directive only applies to actuaries who are citizens of Member States (or of those States party to the European Economic Area Agreement of May 1992). The Agreement does not mention nationality, but we consider that there is no obligation on an Association to accept a migrant actuary who is a member of one of the subscribing Associations, but who is not a citizen of an EU or EEA Member State or Switzerland. While Associations are free to accept such an actuary if they wish, we consider that they should be quite free to refuse membership to those who are not EU or EEA Swiss nationals.

The position of members of the Association Suisse des Actuaire is covered by a separate Agreement between the Groupe and that Association.

**7** *Can an Association require a migrant actuary to be residing in the host country?*

We believe that this would be against the terms of the Directive, and is certainly against the spirit of the European Union. Any EU national is now free to live in one EU country and work or provide services in another, whether just across a border or at some distance. Further, the Agreement envisages the possibility of an actuary

providing services on only a part-time basis in any one country (see the next question).

**8** *Can an Association make any stipulations about the language skills of an applicant?*

We believe that this too would be against the terms of the Directive and would be against the spirit of the European Union. But it might well be a breach of that part of the relevant Code of Conduct, which requires that an actuary “shall ensure that he or she does not offer to undertake duties for which he or she does not have the relevant current knowledge and experience, and in particular that he or she does not undertake duties which require knowledge of the legislative requirements or commercial practice in any Member State ...”, if an actuary does not have language skills that enable him or her to acquire that knowledge.

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**9** *What does “provides actuarial services on a regular basis” mean?*

The purpose of this phrase is clear, but the definition is difficult. We consider that any actuary who undertakes statutory duties, such as statutory certification, in a host country should certainly be required to apply for membership of the host Association, and in many circumstances he or she may need to do so in order to carry out those statutory duties. In other cases an actuary may simply provide advice in a host country, without carrying out statutory duties. We recommend that an actuary who repeatedly or regularly spends, of his or her working time, at least 10% in the host country working on actuarial business connected with that country should apply to become a member of the host Association. But a single assignment, lasting, even intensively, no more than a few weeks or a small number of months, would not be sufficient to require application to the host Association. Indeed, since an application might well take several weeks or months to be accepted, it would be a waste of time to make an application if the connection with the host country were to cease almost as soon as the application had been accepted.

**10** *What should happen if an actuary disobeys the Code of Conduct of his or her host Association?*

If an actuary does not act in accordance with the Rules to be obeyed in the host country, notwithstanding his or her (compulsory) membership of the host Association in that country, we recommend that steps need to be taken to correct this professional misbehaviour in the host country. We consider that the host Association is fully entitled, and indeed ought, to apply the same disciplinary measures, which may include loss of membership, in such a case as it would apply to its own “home” members.

But “punishment” in the host country may not be sufficient, because the actuary concerned has not only failed to obey the rules of the host Association, but has also not acted in conformity with his or her home Association’s requirement, accepted in the Agreement, for its members to behave according to the Code of Conduct of the host Association in respect of actuarial services provided in the host country.

We therefore recommend to Associations that they should consider enforcing disciplinary measures against any member who has violated the Code of Conduct and been punished by a host Association, because of the mere fact of the damage done to the reputation of his or her home Association. We consider that this should be enforced whatever the home Association’s opinion about the content of the rules that may have been breached; it should not be a defence to argue that the misconduct in the host country would not have been misconduct according to the rules of the home Association if the offence had been committed in the home country.

**11** *What action should a host Association take in the event of professional misconduct in a home country?*

If an actuary were to disobey the Code of Conduct of his or her home Association and be punished by suspension from the home Association or cancellation of membership, then we strongly recommend that any host Association with which that actuary has a derived membership should also suspend him or her or cancel his or her derived membership as appropriate.

We recommend that, in all cases of misconduct, the principle should be that “an offence against one Association is an offence against all”.

### 12 Why should a migrant actuary be “encouraged” to apply for membership of the host association?

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The Mutual Recognition Agreement cannot impose a requirement on an association that its members working in another EU Member State join the host association, particularly since it may not be compulsory for nationals of this country to be members of their home association. However, membership of the host association should be encouraged for several obvious reasons: it demonstrates a professional attitude and compliance with necessary codes of practice; it is likely to confer improved career opportunities; it may be required in order to carry out certain statutory actuarial functions.

### 13 What does “complies with the rules, bye-laws and professional code of conduct of the host association on the same basis as full members of that association” mean?

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This is a further example of the situation described in paragraph 8 above. In common with the Directive, the Mutual Recognition Agreement cannot impose any restrictions on practice which would be against the spirit of the European Union. However, where an association’s Code of Conduct imposes a restrictive condition on its own full members, for example in requiring that an actuary “shall ensure that he or she does not offer to undertake duties for which he or she does not have the relevant current knowledge and experience, and in particular that he or she does not undertake duties which require knowledge of the legislative requirements or commercial practice in any Member State..”, then migrant actuaries joining this host association would be subject to the same restriction.

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The implementation of many of these recommendations requires communication between Associations. For example, if a member who has acquired a derived membership allows his or her home membership to lapse, then the home Association should be under an obligation to notify any host Association of which that member has acquired derived membership. In order that it can do this, it is necessary for any host Association to notify the home Association of the granting of a derived membership, and of when it lapses or is cancelled.

Similarly, in the case of misconduct, it is incumbent on both the home Association and the host Association to notify the other if an actuary is shown to have committed a breach of the Code of Conduct of that Association. In general we do not consider it necessary that Associations should notify each other of *alleged* misconduct until it has been proved. However, in serious circumstances (for example, if a criminal offence such as fraud or misappropriation of client's funds has been committed) a breach of the Code of Conduct in one country may *prima facie* be also a breach of the Code of Conduct in other country, and in those circumstances the other Association should also be notified of the circumstances of the case.

I hope that these recommendations and observations from the Groupe are of assistance to your Association

Yours sincerely



Chairman

Groupe Consultatif