

Date: November 2010 **update**

From: Chairperson, Actuarial Association of Europe (AAE)

To: Presidents of Member Associations of the AAE that are signatories to the Mutual Recognition Agreement (dated x)

Copies to: Presidents of Member Associations of the AAE that are not signatories to the Mutual Recognition Agreement (dated x)

Other Members of the AAE

Members of the AAE Professionalism Committee

Subject: Mutual Recognition Agreement: Context and Questions & Answers

Context of the Mutual Recognition Agreement

In April 1991, the actuarial associations that were then members of the Actuarial Association of Europe (AAE) entered into a Mutual Recognition Agreement (“Agreement”) concerning the recognition by each association of members of the other associations. The history of the Agreement since then is set out in the Appendix to this letter. This letter relates to the current Agreement, which is effective from **[date]**.

The authority for the Agreement lies in Article 6 of the Statutes of the AAE.

In preparing the Agreement, the AAE had regard to the principles implied by Directive 2005/36/EC on the recognition of professional qualifications¹. The Directive applies to nationals of EU Member States who wish to pursue a regulated profession in a Member State other than that in which they obtained their professional qualifications. Although the actuarial profession is not a regulated profession in every Member State², the signatories to the Agreement, termed “Qualifying Associations”, expressly support the purpose and

¹ as amended by Directive 2013/55/EU

² Per “The EU Single Market Regulated professions database” published by the EC at <http://ec.europa.eu/growth/tools-databases/regprof/index.cfm>, the European countries in which the actuarial profession is a regulated profession are Denmark, Italy, Poland, Slovakia, Spain and the United Kingdom.

objectives of the Directive and have entered into the Agreement to reflect their support for the spirit and goals of the Directive.

It should be noted that it is not the purpose or intent of the Agreement to bring into effect in any way the provisions of the Directive. Qualifying Associations in countries where the actuarial profession is a regulated profession may be subject to obligations under the Directive that extend beyond their obligations under the Agreement.

Questions & Answers on the Mutual Recognition Agreement

The following “questions and answers” are intended to provide practical help to Qualifying Associations in interpreting and operating the Agreement. They discuss some illustrative examples of how the AAE envisages the Agreement will work in practice, to encourage a harmonised application of the Agreement.

This letter is an evolving support for Qualifying Associations, who are encouraged to provide feedback to the AAE Professionalism Committee, including any additional questions that may arise from time to time.

IMPORTANT

This letter does not form part of the Mutual Recognition Agreement (“Agreement”). This letter is non-binding and adopting any of the suggestions set out in the “questions and answers” is not mandatory.

In interpreting the Agreement, all Qualifying Associations are reminded to refer not only to this letter but also to any relevant law, including but not limited to data privacy law.

In particular, Qualifying Associations that are based in countries where the actuarial profession is a regulated profession (as defined in the Directive) may be subject to obligations under the Directive that extend beyond their obligations under the Agreement, and they are strongly advised not to rely solely on the Agreement and/or this letter but to refer also to the Directive itself and, if necessary, seek legal advice.

1. What is the intended meaning of the term “fully-qualified actuary”?

A “fully-qualified actuary” is a member of a Qualifying Association who is considered by that association to be fully qualified to practice as an actuary. As a minimum, all actuaries who are recognised as fully-qualified must have completed an education programme which complies with the requirements of the AAE Core Syllabus for Actuarial Training in Europe; some associations may also impose additional education or experience requirements.

Some associations have only one grade of membership, and members of this grade should all be “fully-qualified”. Others have several grades; at least one of these should comprise members who are fully qualified, but other grades might not – for example, there might be a grade of “Honorary Fellow/Member”. Where an association imposes further requirements on its fully-qualified actuaries to obtain and maintain practising certificates in specific areas of work, e.g. to become an Appointed Actuary, Pensions Scheme Actuary, Actuarial Function Holder, or to hold other responsibilities which are defined by statute, these requirements should apply equally to those actuaries admitted under the Mutual Recognition Agreement. The host association will be expected to issue a practising certificate to a successful Applicant under the Agreement on the same basis as it applies to its own fully-qualified actuaries.

2. Why should an actuary who takes up work outside the country of his/her “home” association be encouraged to apply for membership of the “host” association?

Joining the host association may be required in order to carry out certain statutory actuarial functions. Even if joining is not required, it demonstrates a professional attitude and a commitment to complying with local Code(s) of Conduct and standards of practice / guidance notes, and it ensures that the actuary has access to continuing professional development events and activities in the host country. For these reasons, we consider that associations should encourage their members who take up work in another country to apply for membership of the host association.

3. How can a home Association help its members who take up work in another country?

Qualifying Associations could usefully encourage their members to inform the (home) association if they work for, say, at least 10% of their time (“pursue actively” in Article 2 of the Mutual Recognition Agreement) on actuarial business connected with another country

(see also question 13). This will enable the home association to advise the individual actuary, when appropriate, of the rights and obligations conferred by the Agreement. The home association will also be able to direct the individual actuary to a point of contact at the appropriate host association, if required.

4. *When should the host association consider asking for an adaptation period or an aptitude test?*

The Mutual Recognition Agreement is underpinned by the AAE Core Syllabus for Actuarial Training in Europe. This syllabus defines the minimum education standards all Qualifying Associations have to comply with if they wish to retain full membership in the AAE. Therefore, in many cases neither an adaptation period nor an aptitude test will be required.

Still, as the Core Syllabus describes the minimum requirements, it may be the case that additional knowledge, skills and competences are necessary to successfully pursue the actuarial profession in the host association's country. This is described in the Agreement as a substantial difference in education and training. In addition, a successful Applicant might choose to pursue professional activities regulated in the host country that do not exist, or are not regulated, or which he/she has not pursued, in his/her home country.

We encourage Qualifying Associations, when acting as a host association, to first consider how far differences in knowledge, skills and competences, whether in relation to regulated activities or otherwise, might have been covered through professional experience or through life-long learning, i.e. continuous professional development, and to ensure that their application process includes appropriate consideration of this.

If an association wishes to require an Applicant to complete an adaptation period or pass an aptitude test, we encourage the association to offer the applicant the choice between these two options where practicable. Some associations are required to offer this choice by law.

5. *Should a successful Applicant's duties be subject to the code of conduct and (where applicable) standards of actuarial practice of the home Association or the host Association?*

This is likely to be a significant issue where a successful Applicant is employed by a multinational company, or undertakes work for a multinational client. We consider it to be essential that Qualifying Associations accepting applications for membership under the

Agreement make clear to Applicants that taking up membership of the host association will result in new mandatory professional obligations, such as mandatory compliance with national code(s) / standards of actuarial practice; Qualifying Associations should also draw successful Applicants' attention to the disciplinary consequence of established failure to comply with professional requirements and should provide direction on where to find these requirements.

6. *Should actuaries accepted into a host association in terms of the Agreement be entitled to use the designatory letters or title of members of the host association?*

As we understand the EU Directive on recognition of professional qualifications, a professionally qualified person recognised in a host country by virtue 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 profession³. In support of the principles of the Directive, Qualifying Associations, as signatories of the Agreement, therefore support the principle that a fully-qualified actuary practising in a host country should be able to use the appropriate designatory letters or title of that Association.

However, in demonstrating the application of that principle, Qualifying Associations may make a distinction between titles obtained by study or examination (referred to as "home" qualifications) and titles obtained only through implementation of the Agreement ("derived" qualifications).

7. *Should a host association be able to cancel membership if a successful Applicant ceases to provide services in the relevant qualifying country (as listed in the Mutual Recognition Agreement)?*

We consider that Qualifying 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 a successful Actuary ceases to practise his or her profession in the qualifying country of the host association. Appropriate practice might depend on the circumstances: an actuary who has worked for many years in a host country and then

³ Important Note: For regulated professions, Directive 2005/36/EC (as amended by Directive 2013/55/EU) includes a provision that a Member State may not reserve the use of a professional title to the holders of professional qualifications if it has not notified the association or organisation that issues the title to the Commission and to the other Member States in accordance with Article 3(2). (*Article 52(3)*)

retires to his or her home country, or to a third country, could be allowed 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.

8. *Should it be a condition that a successful Applicant retains membership of his or her home association?*

We consider that a Qualifying Association should be free, if it so wishes, to make derived membership conditional on continued membership of the home association, but it need not do so if it chooses not to. A successful Applicant who has adopted a host country as his or her own, and makes it his or her permanent residence and place of work, may consider it appropriate to give up his or her original qualification if he or she has no longer any contact with his or her 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; note that question 9 is relevant to considerations in this regard. Where a successful Applicant has the option whether to maintain membership of his or her home association, we encourage him or her to do so.

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

The Qualifying Associations, as signatories to the Agreement, support the principle that all mutual recognition applications are based on the original substantive qualifications obtained by study or examination. Therefore, the Agreement provides that an actuary who is a fully-qualified actuary of his or her “home” association – being the association that awarded the original substantive qualification as a fully qualified actuary (and being a Qualifying Association) – is entitled to apply to become a member of another Qualifying Association in specific circumstances. This means that derived membership of an association cannot be used to obtain derived membership of another association under the Agreement. 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, if acquired under the terms of the Agreement, must be based on the original home qualification/membership, and not on the first derived membership.

10. Can a Qualifying Association require an Applicant to be residing in the host country?

We believe that this would be against the principle of the Directive, and is certainly against the spirit of the European Union. According to the EU Services Directive 2006/123/EC, any EU national is now free to live in one EU country and work or provide services in another. Depending on the circumstances, this could even be done mainly by means of electronic communication. Further, the Agreement envisages the possibility of an actuary providing services on only a part-time basis in any one country (see question 12).

11. Can an association make any stipulations about the language skills of an Applicant?

While the Agreement does not provide for additional requirements relating to language skills, it would be reasonable to expect the Applicant to have a reasonable command of the language needed for providing services in the host country. In fact, if the Applicant does not have the language skills needed to acquire the knowledge necessary for work undertaken, and communicate the results of the work clearly, he or she might be in breach of provisions of the relevant Code of Conduct relating to competence and communication.

12. What does “provide actuarial services on a regular basis” mean (Agreement, Article 3)?

We suggest that, where an actuary provides professional services in another country (whether while physically located in that country or remotely by electronic means) on a regular basis or repeatedly over a period lasting more than a few months, and spends at least 10% of his or her working time on that work, the actuary should apply to become a member of the actuarial association in that country. This is a broad guideline and it may be appropriate to take into account factors such as the nature of the work. However, any actuary who undertakes statutory duties, such as statutory actuarial certification, in a host country should certainly be encouraged 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.

13. What should happen if an allegation of misconduct is made against an actuary who is a member of home and host associations?

As indicated at question 5, Qualifying Associations should make clear to successful Applicants that taking up membership of the host association will result in new mandatory professional obligations, such as mandatory compliance with national code(s) / standards of actuarial practice, and should draw attention to the disciplinary consequence of established failure to comply with professional requirements.

All Qualifying Associations are expected to make available information on the interaction of the home/host disciplinary processes, when invoked.

Qualifying Associations are encouraged to consider principles of natural justice in determining the most appropriate disciplinary jurisdiction to investigate an allegation of misconduct.

All Qualifying Associations are expected to cooperate fully in respect of any disciplinary investigation, within the terms of their legal authority and with due regard to considerations of confidentiality and data privacy.

14. What does the AAE expect from its Member Associations as regards the review described in Article 6 of the Agreement?

Five years after the amended Agreement has entered into force, the AAE Professionalism Committee will contact all signatory associations and ask for an evaluation and routine review of the operation of the Agreement. This could take place in the form of a questionnaire, for example. The summary of responses will act as the basis for a report prepared by the Professionalism Committee, which may include proposals for improvements.⁴

⁴ Important note: For regulated professions, Directive 2005/36/EC (as amended by Directive 2013/55/EU) stipulates that a report with detailed statistical information is required from Member States every 2 years. This might affect the actuarial associations in countries where the actuarial profession is a regulated profession, as they might be asked for specific data.

The implementation and smooth operation of the Mutual Recognition Agreement requires communication between Qualifying Associations. We suggest that any association which grants a derived membership should notify the home association of this membership. Based on this information, the home association should consider notifying the host association whenever a member who has acquired a derived membership allows his or her home membership to lapse.

I hope that the information set out in this letter is of assistance to all Qualifying Associations.

Yours sincerely

Chris Daykin **update**
Chairperson

Appendix: The evolution of the Mutual Recognition Agreement

The Agreement concerning the mutual recognition by each participating association of members of the other participating associations, known as the Mutual Recognition Agreement or MRA, was originally entered into in April 1991 by the member associations then represented on the AAE. The original version was based on the EU Directive 89/48/EEC (subsequently amended by Directive 2001/19/EC) 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, and again in 2004. A separate, but parallel, Agreement was entered into in 1997 by all associations subscribing to that Agreement and the Association Suisse des Actuares. Recommendations made in 2010 on the implementation of the Mutual Recognition Agreement applied equally to that parallel Agreement. The Mutual Recognition Agreement was further revised in 2004 to reflect comments from the European Commission's Regulated Professions Unit, the further expansion of the European Union, and the inclusion of the Association Suisse des Actuares (replacing the arrangement for a separate Agreement described above). A further update in November 2010 took account of Directive 2005/36/EC on the recognition of professional qualifications, and addressed concerns raised by Member Associations in relation to disclosure of disciplinary proceedings.

In a letter of 31 May 1994 from the Chairman, Klaus Heubeck, a number of recommendations were made 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. A revised version of this original letter, containing a number of amendments, was issued in 2000 by the then Chairman, Peter Clark, and further revisions were made in 2005 under the chairmanship of Paul Grace – although the document has continued to be referred to as the “Heubeck letter”.

In 2010, the AAE reviewed the 2005 recommendations and, whilst the associations subscribing to the Agreement were broadly content with them, a few further amendments were made.

The current review and update of the Agreement and the “Heubeck letter” was prompted partly by amendments to Directive 2005/36/EC (under Directive 2013/55/EU) and partly by a routine review of the operation of the Agreement, carried out by the AAE Professionalism Committee.