UNCTAD workshop on

Recognition of qualifications to facilitate movement of natural persons

Co-organized by UNCTAD-ACP Secretariat

Geneva, 3 May 2019

Mutual recognition agreement in bilateral or regional labor agreements: insights for other regions

by

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U N C T A D

MUTUAL RECOGNITION AGREEMENT IN BILATERAL OR REGIONAL LABOR AGREEMENTS: INSIGHTS FOR OTHER REGIONS

Workshop on Recognition of Qualifications to Facilitate Movement of Natural Persons
Co-organized by UNCTAD-ACP Secretariat
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# Contents

Three Insights into MRAs worldwide

- **July 2016**, 60 notifications communicated under GATS Article VII, involving 24 WTO members and covering 205 bilateral agreements, oldest going far back to1900. These point to useful insights:

First, majority of MRAs recognize academic qualifications only and not on-the-job qualifications

Figure 1: MRA by Type of Recognition, by Decade, 1900–2010
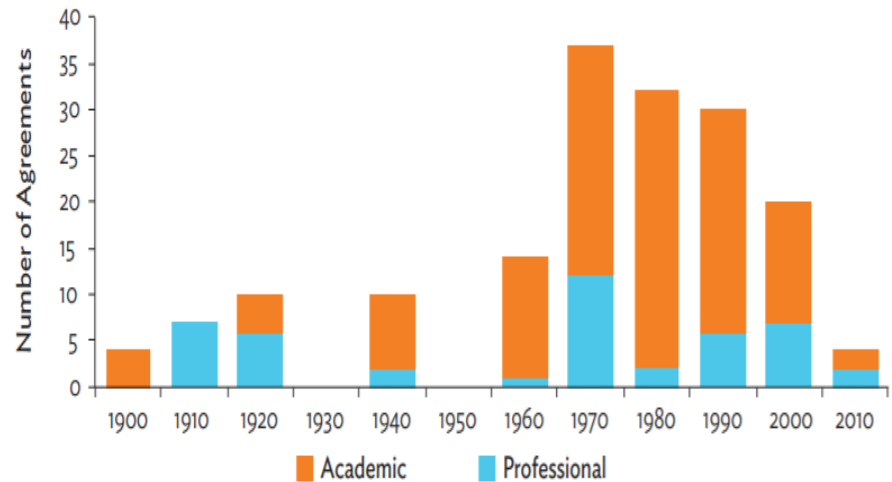
Source: Migration Policy Institute (MPI) calculations based on WTO data of notifications under GATS Article VII.

- **Second,** developing countries under-represented in MRAs.

- **Third,** the number of MRAs reached its peak during the 1970s but declined since.

Figure 2: Number of MRA Notifications, Rate of Change, by Decade, 1910–2015*
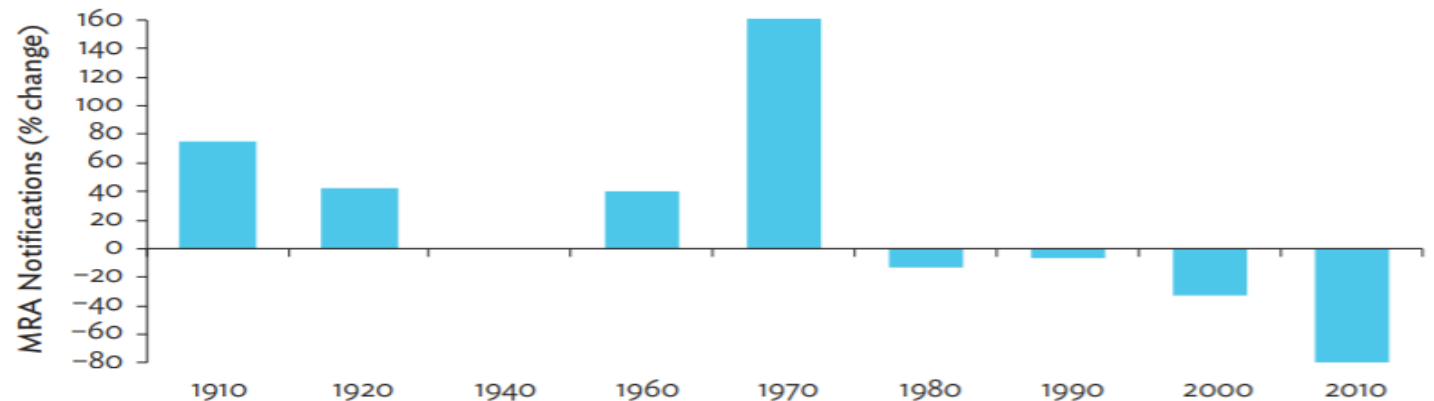
Source: MPI calculation based on notifications to WTO under GATS Article VII.

Three Approaches To MRAs

Route 1: Horizontal Approach: *All-Inclusive MRAs Covering Virtually All Occupations with Minor Exemptions*
- European Union Professional Qualifications Directive
- Trans-Tasman Mutual Recognition Arrangement between New Zealand and Australia

Route 2: Vertical Approach: *Narrow MRAs Limited to Occupation and/or Sector*
- Mutual Recognition Arrangement on Architecture between the United States and Canada
- Washington Accord on Engineering
- Caribbean Community Skills Certificate Scheme

Route 3: Umbrella-Agreement Approach: *Detailed Guidelines for Future MRAs*
- France-Québec Accord
- Asia-Pacific Economic Cooperation Architect Project Framework

E.g. European Union Professional Qualifications Directive (EU-PQD).

Development of Four Pathways to Mutual Recognition under the European Union Professional Qualifications Directive
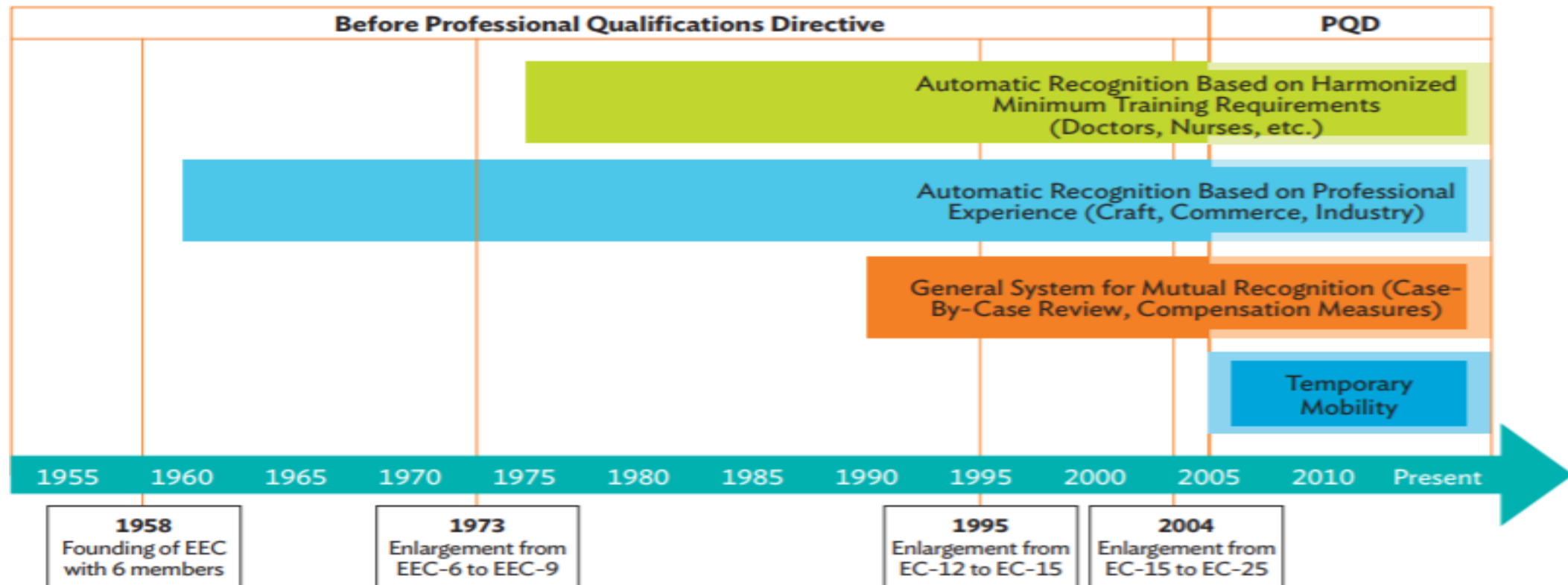
EU-PQD = European Union Professional Qualifications Directive

A. Horizontal Approach

Route 1: Horizontal Approach—All-Inclusive MRAs Covering Virtually All Occupations

- **European Union Professional Qualifications Directive (EU-PQD).**
  The most comprehensive and longest standing regionwide MRA in the world resulted from a long and gradual process of mutual recognition that started soon after the creation of the European Economic Community (EEC) in 1957. The centralized approach used by the European Union offers **four distinct recognition pathways** depending on occupation and intended length of practice.

- **Trans-Tasman Mutual Recognition Arrangement between New Zealand and Australia (TTMRA).**
  A bilateral MRA providing automatic recognition for all occupations but medical doctors. Inherently decentralized, TTMRA delegates administration and monitoring to regulators in each jurisdiction.

B. A Vertical Approach

Route 2: Vertical Approach—Narrow MRAs Limited to Specific Occupations and Sectors

- **Mutual Recognition Arrangement on Architecture between the United States and Canada.** A bilateral MRA providing automatic recognition for licensed architects in good standing and with permanent residence or citizenship in the United States or Canada.

- **Washington Accord on Engineering.** A plurilateral MRA among engineering professional bodies from 15 economies in various regions of the world: Australia; Canada; Taipei, China; Hong Kong, China; Ireland; Japan; the Republic of Korea; Malaysia, New Zealand; Singapore; South Africa; Turkey; the United Kingdom; and the United States. Signatories accept one another's engineering programs as fulfilling educational requirements for practicing as an engineer.

- **Caribbean Community (CARICOM) Skills Certificate Scheme.** A regional MRA offering partial recognition within the Caribbean Community (Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago) limited to occupations with university degrees and those in the arts, sports, and media sectors

C. Umbrella agreement approach

Route 3: Umbrella-Agreement Approach—Detailed Guidelines for Future MRAs

- **France-Québec Accord.** A bilateral arrangement between France and the Canadian province of Québec that sets out a common framework and procedure for the conclusion of occupation-specific MRAs. The accord creates leeway for regulatory bodies in each profession and trade to negotiate the specific eligibility requirements for recognition. More than 70 MRAs have been signed since the accord's entry into force in 2009.

- **Asia-Pacific Economic Cooperation (APEC) Architect Project Framework**. A plurilateral arrangement on architecture involving 14 APEC member economies: Australia; Canada; the People's Republic of China; Hong Kong, China; Japan; the Republic of Korea; Malaysia; Mexico; New Zealand; the Philippines; Singapore; Taipei, China; Thailand; and the United States. Participating signatories enter into bilateral or multilateral MRAs between one another as per the eligibility requirements identified in the framework.

Comparison of 7 MRAs, by Dimension and Route

Selected Dimensions			Routes to Mutual Recognition						
			Route 1: Horizontal Approach		Route 2: Vertical Approach			Route 3: Umbrella Agreement Approach	
			EU Professional Qualifications Directive	Trans-Tasman MRA	US–Canada MRA on Architecture	Washington Accord on Engineering	CARICOM Skills Certificate Scheme	France-Québec Accord	APEC Architect Project Framework
Automaticity of recognition		Automatic	🟡	🟢			🟢	Not applicable	
		Partial			🔵	⬡		Not applicable	
Signatories	Number of signatories	Bilateral		🟢	🔵			🔶	
		Multilateral	🟡			⬡	🟢		🔷
	Type of signatories	Nonstate actors				⬡			
		State actors	🟡	🟢	🔵		🟢	🔶	🔷
Post-MRA guarantees		Minimal					🟢		🔷
		Strong	🟡	🟢	🔵	⬡		🔶	
Level of institutionalization	Level of centralization	Decentralized		🟢	🔵		🟢		🔷
		Centralized	🟡			⬡		🔶	
	Harmonization of training	Full	🟡			⬡	🟢		
		None		🟢	🔵			🔶	🔷
	Labor market access	None			🔵	⬡		🔶	🔷
		Full	🟡	🟢			🟢		

APEC = Asia-Pacific Economic Cooperation, CARICOM = Caribbean Community, EU = European Union, MRAs = mutual recognition arrangements

Insights

- Implementing and enforcing MRAs has proven to be a particularly complex and resource-intensive exercise everywhere.

- These seven case studies offer many insights for other regions today, five of which are highlighted below and overleaf:
  - **First,** the harmonization of training standards is hard to achieve and even harder to maintain. In many cases, negotiations to establish harmonized training took decades and deep investments to complete. Moreover, once training standards were harmonized, updating existing systems to reflect the changes required additional negotiations and even more resources. Not surprisingly, some countries have shied away from harmonizing training standards altogether.

Insights

- **Second,** centralized MRA systems require enormous resources to implement, while a decentralized approach, although less resource intensive, is difficult to monitor.

- Creating and maintaining a centralized bureaucracy dedicated to MRA administration and enforcement makes oversight easier—but the resource requirements can be prohibitive.

- This is a lesson that even a regional grouping as well-resourced as the European Union has had to learn.

- Under a decentralized approach, where parties to an MRA utilize local administrative structures, the operational cost may be low but ensuring compliance is difficult. Decentralization is particularly problematic where foreign and native-born workers may not have equal rights (such as within CARICOM) and where buy-in from regulatory authorities is low.

- Experience shows that registration bodies may unilaterally decide to apply licensing requirements in direct violation, even in defiance, of the MRA.

Insights

- **Third**, partial recognition can only be effective if guidelines for compensatory measures are clear and not unnecessarily complex. When compensatory measures are arbitrary and a wide margin of discretion is given to national regulatory authorities, the recognition system remains unpredictable.

- Compensatory measures have to be commensurate to the gaps that need to be filled and should not impose an excessive burden on professionals and/or delay access to full and independent practice beyond a reasonable period.

- Adaptation periods are preferable to aptitude tests, and additional training should be used as a last resort.

- Unnecessarily complicated systems (with complex documentation and other requirements) dissuade professionals from using an MRA.

Insights and conclusions

- **Fourth,** umbrella agreements offer a promising, alternate approach to MRA negotiations—but only if there is political will at the highest levels. The guidelines set forth in umbrella agreements are only as good as the interest and capacity of local actors to engage in negotiating future MRAs. In this regard, it is critical to provide financial and technical support to regulatory bodies and professional associations when negotiating the actual MRAs.

- To **conclude,** MRAs are living documents that require constant revision, improvement, and even periodic renegotiation. Signing an MRA is just the critical first step. Without constant monitoring, evaluation, and revision, an MRA will not stand the test of time and could become easily irrelevant and costly to maintain.