

CPTPP Professional Services Working Group

Working Group Report	
1.	The fourth meeting of The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) Professional Services Working Group (PSWG) was held virtually on 14 th July 2022. Delegates from the following CPTPP members participated: Australia, Brunei, Canada, Chile, Japan, Malaysia, New Zealand, Peru, and Singapore. Ms. Mabel Seah of Singapore’s Ministry of Trade and Industry chaired the Working Group.
2.	The Working Group agenda is attached at <u>ANNEX A</u> .
3.	A summary of the Working Group’s discussion and any outcomes agreed under the respective agenda items is set out below.
4.	AGENDA ITEM 1: Countries of Chair and Vice-Chairs made initial remarks.
5.	AGENDA ITEM 2: The Working Group agreed to adopt the agenda.
6.	AGENDA ITEM 3: <ul style="list-style-type: none">• On behalf of New Zealand, Australia delivered a presentation on the status of the questionnaire on the regulatory systems for professionals. The presentation covered brief analysis from the original collation in 2021, key questions arising from PSWG 2021, objectives of the revised questionnaire,

and next steps for the PSWG.

- Singapore voiced appreciation for the work of New Zealand and Australia on the questionnaire and shared some aspects of its regime: (i) most professions in Singapore are co-regulated or statutory regulated; (ii) most professionals require periodic renewal of relevant licenses and qualifications; and (iii) there are multiple professions in Singapore that allow foreign professionals to engage in temporary practice.
- Canada asked for the definition of “professional services” in the CPTPP. Australia replied that the intention was to let economies self-determine the definition.
- Japan shared that the qualifications listed included those recognised by private entities, are valid in all of its prefectures.
- Australia pointed out the similarities between its regime and that of Singapore’s, namely that professionals would also have to renew their licenses periodically.
- As next steps, the Chair proposed that (i) Members who had not submitted their questionnaires to do so by 19 August 2022; (ii) the Working Group can focus on the next stage of this exercise thereafter, which is to collate and analyse the data for Members’ reference. The Chair noted that New Zealand and Australia volunteered to collate and analyse Members’ inputs.
- To Brunei’s query on whether comments would be accepted if there was an incomplete coverage of professional bodies, the Chair clarified that Members could submit the inputs that were ready. Noting the need for extensive consultations in some sectors, the Chair emphasised that Members should work on the basis that the questionnaire was a living document and could be reviewed periodically. This approach would allow us to move this exercise to the next phase and continue giving time to Members to consult on specific sectors.
- The revised questionnaire is attached at **ANNEX B**.

7. AGENDA ITEM 4:

- Canada presented the latest version of its proposal on the non-binding MRA guidelines, emphasising that the guidelines were voluntary, non-binding, and illustrative. Canada stressed to Members that amendments made in the session were not final and intersessional discussions on the text would continue after the meeting.
- Australia introduced a new proposal under “Introductory Notes” to clarify the objective of the guidelines. The proposal specified that the responsibility for, and decisions on, the extent of the form and context of MRAs resides directly with the entities negotiating the MRAs. Canada expressed support for Australia’s proposal.
- The Chair noted the progress made to finalise the text. With only a limited number of square brackets left, the Chair proposed (i) that Members submit final inputs and comments by 19 August 2022; and (ii) this document could be finalised and adopted by the CPTPP Commission in October 2022. In subsequent PSWG meetings, Members could discuss ways to implement or publish this document.
- The current draft MRA guidelines (as at the end of the PSWG), subject to further comments by members, are attached in **ANNEX C**.

8. AGENDA ITEM 5:

- Under other business, Australia presented on its initiative at APEC – “The Inventory of Mutual Recognition Agreements for Professional Qualifications and Licensing”, with a view to broaden discussions on Professional Services. Australia encouraged Members to use this related resource.
- In conclusion, the Chair summarised the outcomes of the meeting, *viz.* deadline of 19 August 2022 for Members to submit inputs to the questionnaire and for the finalisation of MRA guidelines.
- The Chair stated that there were no plans to convene another PSWG meeting

this year but was open to do so should Members have substantive items for discussion.

- The Chair proposed that the meeting report be circulated after the meeting for Members' concurrence. The Working Group agreed to finalise the report via email correspondence.

ANNEX A**Professional Services Working Group**

AGENDA	
Date and Time:	Thursday, 14 July 2022 8AM SGT
Venue:	Video-Conference (Cisco Webex)

AGENDA	
ITEM 1:	Initial Remarks (Chair and Vice Chairs)
ITEM 2:	Adoption of the Agenda
ITEM 3:	Updates on Questionnaires on the regulatory systems for professionals across CPTPP Members
ITEM 4:	Updates on Non-binding MRA Guidelines and Adoption of MRA Guidelines
ITEM 5:	Other Issues including Working Group Report

ANNEX B

QUESTIONNAIRE

The objective of this questionnaire is to share relevant information which might support each Parties compliance in the activities of CPTPP Chapter 10, Annex 10-A. These activities include:

1. consulting with relevant bodies to identify professional services where two or more parties are mutually interested in establishing dialogue relating to the recognition of professional qualifications, licensing or regulations.
2. encouraging relevant bodies to establish dialogues with other bodies of other Parties with a view to recognising professional qualifications, facilitating licensing or registration procedures.

3. encouraging relevant bodies to consider agreements that relate to professional services in the development of agreements on the recognition of professional qualifications, licensing and registration.
4. consider taking steps to implement a temporary or project-specific licensing or registration regime based on a foreign supplier's home licence or recognised professional body membership without the need for further written examination.

Please provide as much information as possible on the professions listed.

Profession	<u>Question 1</u>	<u>Question 2</u>	<u>Question 3</u>
	<p>How is this profession regulated and by who?</p> <p>a. No regulation <i>[there are no explicit controls]</i></p>	<p>In this profession:</p>	<p>Can foreign professionals practice</p>

	<p>b. Self-regulated [<i>regulations are specified, administered, and enforced by an organisation</i>]</p> <p>a. Name of body/organisation:</p> <p>_____</p> <p>c. Co-regulation [<i>principles-based regulation, where the government identifies the principles, but the industry regulates the detail. Regulations are specified, administered and enforced by a combination of the State and the regulated organisations</i>]</p> <p>a. Name of body/organisation(s):</p> <p>_____</p>	<p>A. Does the registration of the licence/qualification require periodic renewal (e.g., annually) or is it for life?</p> <p>B. Is there a requirement for formal</p>	<p>temporarily (e.g., on a specific project) without needing further written examination?</p> <p><i>If yes, please provide brief details.</i></p>
--	---	---	---

	<p>d. Statutory regulation [<i>regulations are specified, administered and enforced by the State</i>]</p> <p>Name of body/organisation(s): _____</p>	<p>continued professional development?</p>	
Accountant			
Actuary			
Architect			
Construction Project Manager, Project Builder			

Electrician			
Engineer			
Dentist			
Geoscientist (geologist)			
Lawyer			
Medical <i>[please note where sub-professions are regulated</i>			

<p><i>differently i.e., physiotherapist or medical radiation therapist]</i></p>			
<p>Medical scientists <i>(medical laboratory science)</i></p>			
<p>Nurse</p>			
<p>Quantity Surveyor <i>[a qualified</i></p>			

<p><i>professional who specialises in building measurement and estimates the value of construction costs]</i></p>			
<p>Speech Pathologist</p>			
<p>Surveyor</p>			
<p>Veterinarian</p>			

ANNEX C

**Draft Guidelines for Mutual Recognition Agreements or Arrangements
for Professional Services**

Introductory Notes

These Guidelines, adopted pursuant to Article 27.3.1 and Annex 10-A (Professional Services) of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership ('CPTPP'), provide practical guidance for governments, relevant bodies or authorities, or other entities entering into mutual recognition negotiations for regulated professional services. These guidelines are non-binding and are intended to be used by the Parties on a voluntary basis. They do not modify or affect the rights and obligations of the Parties under the CPTPP.

The objective of these guidelines is to facilitate the negotiation of mutual recognition agreements or similar arrangements (MRAs) that streamline and better facilitate the recognition of professionals between the Parties. It is recognised that responsibility for, and decisions on, the extent of the form and context of MRAs resides directly with the entities negotiating the MRAs. Therefore, notwithstanding the form and content identified in Section B of these guidelines, the negotiating entities will decide on what elements they wish to include in an MRA that streamlines the recognition of professionals through the pre-recognition of qualifications, licensing, registration and/or professional body membership.

The guidelines listed below are provided by way of illustration. The listing of these guidelines is indicative and is intended neither to be exhaustive, nor as an endorsement of the application of such measures by the Parties.

Section A: Conduct of Negotiations and Relevant Obligations

Opening of Negotiations

1. Entities intending to enter into negotiations towards an MRA are encouraged to inform the Professional Services Working Group established under Annex 10-A. The following information may be supplied:
 - (a) the entities involved in negotiations (for example, governments, organisations in professional services or institutes which have authority, statutory or otherwise, to enter into such negotiations);
 - (b) a contact point to obtain further information;
 - (c) the subject of the negotiations (specific activity covered); and
 - (d) the expected time of the start and end of negotiations.

Focal Points for Negotiations

2. Entities entering into negotiations towards an MRA are encouraged to establish a single focal point for negotiations.

Results

3. Upon the conclusion of an MRA, the parties to the MRA are encouraged to inform the Professional Services Working Group, and may supply the following information in its notification:
 - (a) the content of a new MRA; or

- (b) the significant modifications to an existing MRA.

Follow-up Actions

4. As a follow-up action to a conclusion of an MRA, parties to the MRA are encouraged to inform the Professional Services Working Group of the following:
 - (a) that the MRA complies with the provisions of Chapter 10;
 - (b) measures and actions taken regarding the implementation and monitoring of the MRA; and
 - (c) that the text of the MRA is publicly available.

Section B: Form and Content of MRAs

Introductory Note

This Section sets out various issues that may be addressed in MRA negotiations and, if so decided during the negotiations, included in the MRA. It includes some basic ideas on what a Party might require of foreign professionals seeking to take advantage of an MRA.

Participants

5. The MRA should identify clearly:
 - (a) the parties to the MRA (for example, governments, organisations in professional services, or institutes);
 - (b) competent authorities or organisations other than the parties to the MRA, if any,

and their position in relation to the MRA; and

- (c) the status and area of competence of each party to the MRA.

Purpose of the MRA

- 6. The purpose of the MRA should be clearly stated.

Scope of the MRA

- 7. The MRA should set out clearly:
 - (a) its definitions;
 - (b) its scope in terms of the specific profession or titles and professional activities it covers in the territories of the parties to the MRA;
 - (c) who is entitled to use the professional titles concerned;
 - (d) whether the recognition mechanism is based on qualifications, on the license obtained in the jurisdiction of the party of origin or on some other requirement; and
 - (e) whether it covers temporary access (including a range of possible duration and conditions for renewal, if applicable), permanent access, or both, to the profession concerned.

MRA Provisions

- 8. The MRA should clearly specify the qualifications or registration conditions, and

their equivalences, to be met for recognition between the parties to the MRA. If the requirements of the various sub-national jurisdictions under an MRA are not identical, the difference and the modalities for the recognition of qualifications between sub-national jurisdictions should be clearly presented.

9. The MRA should seek to ensure that recognition does not require citizenship or any form of residency, or education, experience, or training in the jurisdiction of the host party as a condition for recognition by that host party.
10. The requirements and procedures under the MRA should not discriminate based on age, gender, and race.

Eligibility for Recognition – Qualifications

11. If the MRA is based on recognition of qualifications, then it should, where applicable, state:
 - (a) the minimum level of education required (including entry requirements, length of study, and subjects studied);
 - (b) the minimum level of experience required (including location, length, and conditions of practical training or supervised professional practice prior to licensing, and framework of ethical and disciplinary standards);
 - (c) examinations required, especially examinations of professional competence;
 - (d) the extent to which qualifications obtained in the jurisdiction of the party of origin are recognised in the jurisdiction of the host party; and
 - (e) the qualifications which the parties to the MRA are prepared to recognise, for instance, by listing particular diplomas or certificates issued by certain

institutions, or by reference to particular minimum requirements to be certified by the authorities of the jurisdiction of the party of origin, including whether the possession of a certain level of qualification would allow recognition for some activities but not others.

Eligibility for Recognition – Registration

12. If the MRA is based on recognition of the licensing , membership or registration decision made by regulators in the jurisdiction of the party of origin, it should specify the mechanism by which eligibility for such recognition may be established.

Eligibility for recognition - Additional Requirements for Recognition in the Jurisdiction of the Host Party ("Compensatory Measures")

13. If it is considered necessary to provide for additional requirements in order to ensure the quality of the service, the MRA should set out the conditions under which those requirements may apply, for example, in case of shortcomings in relation to qualification requirements in the jurisdiction of the host party or knowledge of local law, practice, standards, and regulations. This knowledge should be essential for practice in the jurisdiction of the host party or required because there are differences in the scope of licensed practice.
14. If additional requirements are deemed necessary, the MRA should set out in detail what they entail (for example, examination, aptitude test, additional practice in the jurisdiction of the host party or in the jurisdiction of the party of origin, practical training, and language used for examination).

Mechanisms for Implementation

15. The MRA could state:

- (a) the rules and procedures to be used to monitor and enforce the provisions of the MRA;
- (b) the mechanisms for dialogue and administrative cooperation between the parties to the MRA; and
- (c) the means of arbitration for disputes under the MRA.

16. As a guide to the treatment of individual applicants, the MRA could include details on:

- (a) the focal point of contact in each party to the MRA, for information on all issues relevant to the application (such as the name and address, licensing formalities, and information on additional requirements which need to be met in the jurisdiction of the host party);
- (b) the duration of procedures for the processing of applications by the relevant authorities of the jurisdiction of the host party;
- (c) the documentation required of applicants and the form, including by electronic means, in which it should be presented and any time limits for applications;
- (d) acceptance of documents and certificates, including by electronic means where applicable, issued in the jurisdiction of the party of origin in relation to qualifications and licensing;
- (e) the procedures of appeal to or review by the relevant authorities in case of the rejection of an individual application for recognition; and
- (f) the fees that might be reasonably required.

17. The MRA could also include the following commitments:

- (a) that requests about the measures will be promptly dealt with;
- (b) that adequate preparation time will be provided where necessary;
- (c) that any exams or tests will be arranged with reasonable periodicity and accessibility;
- (d) that fees to applicants seeking to take advantage of the terms of the MRA will be in proportion to the cost to the jurisdiction of the host party or organisation;
and
- (e) that information on any assistance programmes in the jurisdiction of the host party for practical training, and any commitments of the jurisdiction of the host party in that context, be supplied.

18. The MRA could require the parties to the MRA to communicate to their counterpart any new requirements or modifications to existing requirements that might have an impact on the recognition of qualifications under the MRA.

Licensing and Other Provisions in the Jurisdiction of the Host Party

19. If applicable:

- (a) the MRA could also set out the means by which, and the conditions under which, a license is actually obtained following the establishment of eligibility, and what such license entails (such as a license and its content, membership of a professional body, and use of professional or academic titles);
- (b) a licensing requirement, other than qualifications and experience, may include,

for example:

- (i) proof of payment of any required application fees,
- (ii) a language proficiency requirement,
- (iii) proof of good and financial standing,
- (iv) professional indemnity insurance in accordance with the laws of the jurisdiction of the host party,
- (v) demonstrate local knowledge of occupational legislation (i.e. Acts, regulations and codes) in the host jurisdiction,
- (v) compliance with the jurisdiction of the host party's requirements for use of trade or firm names, and
- (vi) compliance with the jurisdiction of the host party's ethics, for instance independence and incompatibility.

Revision of the MRA

20. If the MRA includes terms under which it can be reviewed, amended or revoked, the details of such terms should be clearly stated.