

ANNEX 9-B - GUIDELINES FOR UNDERSTANDINGS
ON THE RECOGNITION OF PROFESSIONAL QUALIFICATIONS

SECTION A

GENERAL PROVISIONS

1. This Annex contains guidelines for understandings on mutual recognition of professional qualifications (hereinafter referred to as "an understanding"), as foreseen by Article 9.41 (Mutual recognition of professional qualifications).
2. Pursuant to Article 9.41 (Mutual recognition of professional qualifications), the Parties shall encourage their professional bodies and authorities to use these guidelines in the development of joint recommendations on mutual recognition of professional qualifications (hereinafter referred to as "joint recommendations").
3. These guidelines are non-binding, non-exhaustive and do not modify or affect the rights and obligations of the Parties under this Agreement. They set out the typical content of understandings, and provide general indications as to the economic value of an envisaged understanding and the compatibility of the respective professional qualifications regimes.
4. Not all elements of these guidelines may be relevant in all cases, and professional bodies and authorities are free to include in their joint recommendations any other element that they consider pertinent for the profession and the professional activities concerned, consistent with this Agreement.
5. The Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights including Geographical Indications, should take into account these guidelines when deciding whether to recommend to the relevant professional bodies or authorities to negotiate an understanding on the recognition of professional qualifications. The Committee's consideration of these guidelines is without prejudice to its discretion to take into account the elements it deems relevant, including those contained in joint recommendations.

SECTION B

FORM AND CONTENT OF AN UNDERSTANDING

6. This section sets out the typical content of an understanding, some of which is not within the remit of the professional bodies or authorities preparing joint recommendations. Such aspects constitute useful information to be taken into account in the preparation of joint recommendations, so that they are better adapted to the possible scope of an understanding.
7. An understanding should not interfere with matters addressed specifically in this Agreement,

such as geographical scope, non-conforming measures, system of dispute resolution, appeal mechanisms, and monitoring and review mechanisms.

8. An understanding may specify different mechanisms for the recognition of professional qualifications within a Party. It may be limited to setting the scope of the understanding, procedural provisions, effects of recognition and additional requirements, and administrative arrangements.

9. The scope of an understanding should set out:

- (a) the specific regulated professions, relevant professional titles and the activity or group of activities covered by the scope of practice of the regulated profession in each Party; and
- (b) whether it covers the recognition of professional qualifications for the purpose of access to professional activities on a fixed-term basis or an indefinite basis.

10. An understanding may specify, as conditions for recognition:

- (a) the professional qualifications necessary for recognition under the understanding (for example, evidence of formal qualification, professional experience, or other attestation of competence); and
- (b) the procedures to deal with variations and gaps between professional qualifications and means to bridge the differences, including the imposition of compensatory measures or any other relevant conditions and limitations.

11. The procedural provisions of the understanding may set out:

- (a) the documents required and the form in which they should be presented (for example, by electronic or other means and whether they should be supported by translations or certifications of authenticity);
- (b) the steps and procedures in the recognition process, including those relating to possible compensatory measures, corresponding obligations and timelines; and
- (c) the availability of information relevant to all aspects of the recognition processes and requirements.

12. The understanding may set out provisions on the effects of recognition, including where relevant, for different modes of supply.

13. The understanding may describe any additional requirements for the effective exercise of the regulated profession in the host Party. Additional requirements may include:

- (a) registration requirements with local authorities;
- (b) appropriate language skills;
- (c) proof of good character;
- (d) compliance with the requirements of the host Party for use of trade or firm names;
- (e) compliance with the rules of ethics, independence and professional conduct requirements of the host Party;
- (f) need to obtain professional indemnity insurance;
- (g) rules on disciplinary action, financial responsibility and professional liability; and
- (h) requirements for continuous professional development.

14. The understanding should set out the terms under which it can be reviewed or revoked, and the effects of any revision or revocation. Consideration may be given to the inclusion of provisions concerning the effects of any recognition previously accorded.

SECTION C

ECONOMIC VALUE OF AN ENVISAGED UNDERSTANDING

15. Pursuant to Article 9.41(1) (Mutual recognition of professional qualifications), joint recommendations shall be supported by an evidence-based assessment of the economic value of an envisaged understanding. This may consist of an evaluation of the economic benefits that an understanding is expected to bring to the economy of each Party. Such an assessment may assist the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights including Geographical Indications when making a recommendation on an understanding. Such an assessment may take into account factors such as the existing level of market openness, industry needs, market trends and developments, client expectations and requirements, and business opportunities.

16. The assessment referred to in paragraph 15 is not required to be a full and detailed economic analysis, but should provide an explanation of the interest of the profession in, and the expected benefits for the Parties ensuing from an understanding.

SECTION D

Compatibility of respective professional qualification regimes

17. Pursuant to Article 9.41(1)(b) (Mutual recognition of professional qualifications), joint recommendations shall be supported by an evidence-based assessment of the compatibility of the respective professional qualification regimes. Such an assessment may assist the Committee on Investment, Services, Digital Trade, Government Procurement and Intellectual Property Rights including Geographical Indications when making a recommendation on an understanding.

18. The following process aims at guiding professional bodies and authorities when assessing the compatibility of the respective professional qualifications and activities, with a view to streamlining and facilitating the recognition of professional qualifications.

Step One: Assessment of the scope of practice and the professional qualifications required to practise the regulated profession in each Party.

19. The assessment of the scope of practice and of the professional qualifications required to practise a regulated profession in each of the Parties should be based on all relevant information.

20. The following elements should be identified:

- (a) activities or groups of activities covered by the scope of practice in each Party; and
- (b) the professional qualifications required in each Party to practise the regulated profession, which may include:
 - (i) the minimum education required, for example, entry requirements, level of education, length and contents of study;
 - (ii) the minimum professional experience required, for example, location, length and conditions of practical training or supervised professional practice prior to registration, licensing or equivalent;
 - (iii) examinations passed, especially examinations of professional competency; and
 - (iv) the acquisition of a licence, or equivalent, certifying, inter alia, the fulfilment of the necessary professional qualification requirements for the pursuit of the profession.

Step Two: Evaluation of the divergence between the scope of practice of, or the professional qualifications required to practise, the regulated profession in each Party.

21. The evaluation of the divergence in the scope of practice of, or in professional qualifications required to practise the regulated profession in each Party, should in particular identify any substantial divergence. Substantial divergence in the scope of practice may exist if all of the following conditions are met:

- (a) one or more activities covered by a regulated profession in the host Party are not covered by the corresponding profession in the Party of origin;
- (b) those activities are subject to specific training in the host Party; and
- (c) the training for those activities in the host Party covers matters substantially diverging from those covered by the applicant's qualification.

22. Substantial divergence in the professional qualifications required to practise a regulated profession may exist if there are divergences in the Parties' requirements with regard to the level, duration or content of the training that is required for the pursuit of activities covered by the regulated profession.

Step Three: Recognition mechanisms

23. There may be different mechanisms within a Party for the recognition of professional qualifications, depending on the circumstances.

24. If there is no substantial divergence in the scope of practice and in the professional qualifications required to practise a regulated profession, an understanding may provide for a simpler, more streamlined recognition process than would be the case where substantial divergence exists.

25. If there is substantial divergence, the understanding may provide for compensatory measures which are sufficient to remedy such divergence.

26. If compensatory measures are used to reduce substantial divergence, they should be proportionate to the divergence that they seek to address. Any practical professional experience or formally validated training may be taken into account to assess the extent of the compensatory measures needed.

27. Compensatory measures may take different forms, including:

- (a) a period of supervised practice of a regulated profession in the host Party, possibly accompanied by further training, under the responsibility of a qualified person and subject to a regulated assessment;
- (b) a test made or recognised by the relevant authorities of the host Party to assess the applicant's

ability to practice a regulated profession in that Party;

(c) a temporary limitation of the scope of practice; or

(d) a combination of compensatory measures listed in this paragraph.

28. The understanding may envisage that a choice be given to applicants between different compensatory measures if this could limit the administrative burden for applicants and such measures are equivalent.
