The role of qualifications in the global migration regime

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GARNET Working Paper No: 39/08
April 2008

ABSTRACT

Migration has increased in recent years. A cross-border labour market is taking shape. The migration flow to high-income countries has increasingly been dominated by skilled, professional, and business migration. However, the role of the recognition of qualifications has hardly been studied so far in this context. This report paints a picture of existing regulatory frameworks and institutional arrangements at bilateral, plurilateral and multilateral level which enhance portability of skills. It outlines their strengths and weaknesses. The report also addresses the involvement or lack of involvement of social partners in these different regulatory frameworks and arrangements and discusses the potential role that the ILO could play within these different frameworks.

Keywords: migration, qualifications, education, international political economy, Bologna, labour market

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1 Introduction

People have been mobile throughout human history. Nonetheless, the number of migrants has increased in recent decades. According to the UN Population Division there are at present almost 200 million migrants worldwide, which is more than double the figure recorded in 1980 (Global Commission on International Migration 2005: 1).[1] Most of the migrants are migrant workers with their families. Hence, a cross-border labour market is taking shape. One result of this trend is a significant increase in remittances, which reached the amount of 232 billion US dollars in 2005 (World Bank 2006). More than half of this amount, 167 billion, went to developing countries. This amount is twice the level of development aid. As a result, migration improves the allocation of foreign exchange, notably in least-developed countries.

Migration from low-income countries to high-income countries has been rising recently. The bulk of this increase is being absorbed by the United States (more than 80%), followed by Canada and Australia (11%) (ILO 2004: 5). Of the EU countries it is France, Germany, Italy, and the United Kingdom which have attracted a major part of migrants from non-EU members. Hence, high-income countries with 16% of the world's workers have attracted over half of the world's migrants (Martin 2005). However, considerable migration also takes place between developing countries.

The majority of migration flows take place between countries in the same region. In the United States, a high proportion comes from Mexico and Central America. In Europe, migrants from non-EU countries tend to come predominantly from Eastern Europe, the Balkans, Turkey, and the Maghreb (ILO 2004: 131). In Asia, a large number of people migrate from Afghanistan to Pakistan and the Islamic Republic of Iran, from Myanmar to Thailand, and from Indonesia to Malaysia. In Africa, migration takes place predominantly between South Africa and the

[1] The number of migrants varies significantly according to the definition of a migrant. This figure is based on the inclusive UN definition of a migrant, which also considers national citizens to be migrants if they were born in another country. For instance, about 23 percent of Australian residents were born in another country, but only seven percent are not Australian citizens.

neighbouring countries, between countries of Central Africa, and between countries of West Africa. However, intraregional migration has increased in recent years.

The reasons for migration are as diverse as the phenomenon itself. Many migrants leave their homes in search of greater human security. The desire for higher wages and better opportunities can be regarded as a major driving force. In this respect the increase in migration can be attributed to a widening gap in the level of national development between countries, which is associated with contrasting economic growth performance. But a number of migrants are also forced to leave their home countries due to famine, violent conflicts, and persecution, as well as natural disasters and environmental degradation. The lowering of trade barriers, falling travel costs and the spread of consumerism are other facilitating factors.

In most regions of the world unskilled workers such as construction workers, domestic workers, and agricultural labourers dominate the flow of migration. A significant part of this movement is undocumented or illegal, and is therefore connected to the informal sector. The migration flow to high-income countries has increasingly been dominated by skilled, professional, and business migration (Salt 2001: 17). For instance, the proportion of foreign graduates in the Canadian regulated nurse workforce reached 7.6% of the total regulated nurse workforce in 2005 (CIHI 2006). In the United Kingdom the registered number of professionals in the nursery sector from overseas exceeded the registered number of domestic professionals in this sector in 2001/2002 for the first time. In the ASEAN region, it is mainly the high-income countries of Singapore and Brunei which attract skilled labour, but to a certain extent also Thailand and Malaysia (Manning and Bhatnagar 2004: 3). In addition, unlike unskilled labour, skilled labour often comes from outside the ASEAN region, e.g. from Northeast Asia, Japan, the USA and Europe, but also from India and the Philippines. In general, there is a high correlation between foreign direct investment (FDI) and skilled labour migration.

Migration includes a complex combination of opportunities and risks accompanying migration. Quite often migrants lose their entitlements to social security benefits in their home country owing to their absence, and at the same time they encounter restrictive conditions in the host coun-

try with regard to their coverage by the national social security system (see also Global Commission on International Migration 2005: 18). On the other hand, many host countries welcome migrant workers' contribution to their social pension funds as a way of sustaining their pension schemes. However, mechanisms which ensure that retired migrants can fully benefit from the old age pension scheme once they return to their country of origin are often absent or underdeveloped. Hence the same payment obligations are imposed on domestic and migrant workers, but the latter are unable to derive the same benefits if they go back. This situation creates strong incentives for migrant workers to work in the informal sector of the economy and to stay after their period of employment has expired.

The issue of brain drain and brain gain is highly related to the mobility of skilled labour. Cadres with internationally or regionally recognised skills and qualifications are more likely to migrate. The recognition of qualifications improves migrant workers' access to positions at the upper end of the value chains in the host countries. Such positions are usually linked to improved rewards (salary and other benefits) and a higher status in the host country. As a result, recognition is likely to have a positive impact on the level of remittances. Some sending countries, such as the Philippines, have deliberately started to train more professionals than their labour market can absorb. These countries take advantage of the shortage of skilled labour in high-income countries and capitalise on their quality training programmes. The amount of remittances going back to the Philippines reached 9% of the country's GDP in 2001 (IOM 2004: 3). However, for other countries which do not have the capacity to produce enough qualified labour even for the domestic market such a brain drain may have a devastating impact. The lack of qualified people clearly has a negative impact on the development opportunities for these countries. In the light of public health crises such as HIV/Aids, some African countries are confronted with severe difficulties in providing adequate public health due to the exodus of health workers. But even when countries train more people than they need for their domestic market, they are confronted with major problems related to remittances as long as no compensation mechanisms are in place. This money usually goes back to private households in the home country, and little money is received by the government, which usually paid at least part of the training costs. Host countries, on the other hand, benefit from skilled labour from abroad without paying the cost of their education. In short, benefits and costs are unequally distributed.

A number of international organisations, programmes and other institutional arrangements have started to address these problems in recent decades. In 1990, the United Nations (UN) adopted a comprehensive instrument regulating a broad range of issues related to international migration. The International Convention on the Protection of Rights of all Migrant Workers and Members of Their Families entered into force on 1 July 2003. The World Health Organization (WHO), the United Nations Development Program (UNDP) and, of course, the International Organization for Migration (IOM) also address migration issues in their policies. The World Commission on the Social Dimension of Globalization, the Geneva Migration Group, the Berne Initiative, the IOM International Dialogue on Migration, the Global Commission on International Migration, the UN Secretary-General in his report, and the ILO as well have started to emphasise the need to link migration to development. In 2004 the International Labour Conference, in its 92nd session, adopted the Resolution concerning a Fair Deal for Migrant Workers in the Global Economy. Following this resolution, the ILO developed a plan of action for migrant workers which includes "the development of a non-binding multilateral framework for a rights-based approach to labour migration, which takes into account labour market needs, the sovereign right of all nations to determine their own migration policies, and relevant action for a wider application of international labour standards and other instruments relevant to migrant workers."(ILO 2005: 1)

The Multilateral Framework on Labour Migration is a first result of the ILO's efforts to strengthen its existing instruments and link them to other international instruments and best practices, and was adopted by the ILO Tripartite Meeting of Experts in November 2005.[2] A major emphasis of the framework lies on generating full and productive employment and decent work, especially in the home country, so that migration is undertaken by choice and not as a matter of necessity (ILO 2005: 4). The non-binding framework entails a set of principles, guidelines and best practices which addresses social security as an important aspect of a global migration regime. Furthermore, it underlines the particular vulnerability of migrants as a result of their lack

[2] The ILO addressed the issue of migration as early as 1949, in the aftermath of the Second World War, when its member states signed the Migration for Employment Convention (No.97), supplemented by the Migration Employment Recommendation (No.86). The main objective of this convention was to facilitate the movement of surplus labour from Europe to other parts of the world. In the 1970s migration moved to the top of the ILO agenda again. The Migrant Workers (Supplementary Provision) Convention 1975 (No.143) as well as the Migrant Workers Recommendation 1975 (No.151) reiterated the general obligation to respect the basic human right of all migrant workers.

of citizen rights and often social rights, aggravated in some cases by racism, sexism, and other forms of discrimination. The framework includes a call to monitor recruitment and the promotion of ethical recruitment practices facilitating remittance flows, and the introduction of possible compensation mechanisms. Improving the recognition of the skills of the migrants is another objective articulated within this framework. Part of the ILO Human Resource Development Recommendation, adopted in 2004, also supports this endeavour. This recommendation calls upon ILO members to promote recognition and portability of skills, competences and qualifications not only at the national but also at the international level (ILO 2004). In recent years the improvement of international recognition has attracted further interest.

The goal of this report is to paint a global picture of existing regulatory frameworks and institutional arrangements at bilateral, plurilateral and multilateral level which enhance portability of skills. It outlines their strengths and weaknesses. The report also addresses the involvement or lack of involvement of social partners in these different regulatory frameworks and arrangements and discusses the potential role that the ILO could play within these different frameworks. In **section two** this report provides a definition of recognition which points to the complex communication processes involved in enhancing recognition. The following sections then provide an overview of existing regulatory frameworks and institutional arrangements which enhance portability of skills. **Section three** shows how economic integration agreements (EIAs) have become major frameworks for facilitating international recognition of skills. The majority of these agreements call for the improvement of mutual recognition of qualifications, but they delegate the establishment of such agreements and arrangements to the signatory parties and to professional associations. The activities of private actors, such as professional associations, companies and other organisations and institutions, are at the core of **section four**. All these arrangement have in common that they fall short of providing strong enforcement mechanisms. Such commitments can only be established and enforced as private contracts. Consequently they lack stronger implementation obligations unless they entail a delegation from governments or other authorities. Government-to-government agreements on cultural and educational cooperation therefore provide an interesting alternative for enhancing portability of skills. These agreements are at the centre of **section five,** which outlines how a number of these conventions include regulations on mutual recognition of formal qualifications, though these are usually limited to the

recognition of higher education qualifications. **Section six** deals with procedures and tools designed to enhance the recognition regimes. It shows that many of these tools have been further developed in order to cover the mutual recognition of vocational training as well. At the centre of this overview of tools is the attempt to develop regional qualifications frameworks. In **section seven** the report summarises some perils and opportunities associated with current developments and outlines the potential role of the ILO in enhancing the international recognition of qualifications.

2 What is recognition?

In very general terms, recognition can be understood as a formal acknowledgement by a competent authority of the value of foreign qualifications with a view to access to educational and/or employment activities.[3] Recognition of qualifications is of particular relevance for professions. Such professions are characterised by a specialised expertise, the capacity to meet some broader societal need, or a social mandate permitting a significant discretionary scope in setting standards for the education and performance of its members. With an emerging knowledge-based economy the number of professions is expanding to cover new fields of professional activity. If a profession is regulated, it cannot be practised without authorisation, registration or the equivalent.[4] This authorization or registration is often connected with the requirement of a particular, specified education and training. A number of regulated professions require a higher education degree. Recognition of qualifications may also play a role for certification of lower skills. The

[3] For a definition, see for instance the Lisbon Convention (1997). Convention on the Recognition of Qualifications concerning Higher Education in the European Region. ETS No. 165 Article I.B

[4] What counts as a regulated profession differs from country to country Kromann, W. (1999). A cross-country report on "the state of play of regulated professions, as defined by Council Directive 92/51/EEC, in the candidate countries of Central and Eastern Europe. Torino, European Training Foundation.
An illustrative but not exhaustive list of professions:
Lawyers, legal executives, conveyancers, accountants, auditors, bookkeepers, tax agents, architects, engineers, doctors, dentists, dental technicians, veterinarians and veterinary nurses, midwives, medical laboratory scientists and technicians, nutritionists, optometrists and dispensing opticians, pharmacists, psychologists, occupational therapists, radiographers, speech therapists, information technology designers, programmers, analysts and technicians, statisticians, surveyors, geologists, geophysicists, cartographers, scientific researchers, educationalists and teachers at different school levels, financial services consultants, actuaries and economists, hospital and residential health facility managers and consultants, airline pilots.

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comparison of foreign certificates and degrees with the value and content of corresponding domestic qualifications improves the employers' ability to appraise the profile, content and relevance of foreign qualifications and thus may have a positive impact on the prospective status of the employees.

Recognition of qualifications is usually a very complex and time-consuming process. It first requires or assumes that a host country has an established qualifications system that regulates access to further education and to certain occupations. Recognition requires a mechanism which makes it possible to verify the qualifications issued in another country and/or the competence of an applicant. It may also include the identification of gaps between foreign and the domestic requirements, as well as the identification of appropriate compensatory measures. This includes mechanisms to compare education systems which were established to meet different sets of cultural, social and economic circumstances. Recognition can be provided autonomously by the host country or regulated by recognition agreements. In both cases, recognition involves interaction between the host and the home country in order to exchange information and improve knowledge about the other party's regulatory regime. As a consequence, recognition includes not only "pure" recognition but also a considerable degree of cooperation between the respective parties. Such cooperation seeks to improve both knowledge and trust in the reliability of the information provided by each party. Recognition regimes comprise, in other words, communication across borders. This raises the question of who participates in these processes, whose concerns are considered to be important, and whose interests are privileged by what kind of institutional arrangements.

In general, recognition arrangements and agreements fall short of providing automatic access, even in the context of the EU with its far-reaching recognition regime. Consequently, recognition arrangements leave considerable residual powers to the assessing country, though the extent of these powers varies. Many agreements include general safeguards that enable the authorities to reassert regulatory jurisdiction in order to protect national policy objectives like the protection of the public good. Agreements may include the possibility to reverse or remove recognition obligations in the light of changes to the other party's regulatory system. Once signed, recognition

agreements require resources for ongoing monitoring and assessment. A more sustainable recognition regime, however, needs to be also associated with a recruitment framework that takes into account human resource development issues not only in the host country but also in the home country. Such a framework must also address the issues of remittances and of decent settlement and work conditions for the migrants in the new country. The portability of social security benefits is another topic that needs to be addressed by such a broader framework. In order to be able to balance between different, often conflicting, interests such a framework would have to provide opportunities for a broad range of stakeholders, including trade unions and employers' associations, to have their say.

So far two main actors have been the key players in establishing recognition arrangements and agreements: governments and professional organisations, the latter playing a major role in the field of regulated professions. In addition, there has been a strong increase in the number of technical credentials granted by companies, business associations and commercial bodies in the sphere of technical skills such as IT skills, but also in language skills and continuing education. There is a growing service sector offering certification and educational testing to standards which are likely to be recognised by employers in the host country.

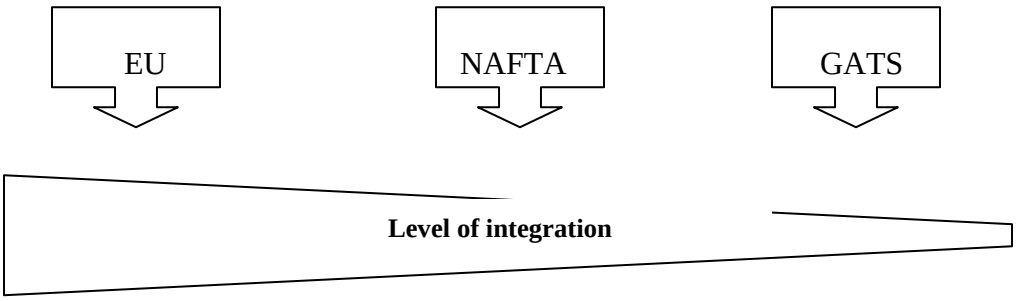
Two different types of treaties and agreements need to be distinguished within the group of intergovernmental arrangements. First, treaties and agreements aiming at economic integration; second, government-to-government agreements and conventions on cultural and educational cooperation which usually include a chapter on recognition of qualifications. In the next section I give an overview of economic integration agreements and how they deal with recognition issues, first at a multilateral level and then at a plurilateral/regional and bilateral level.

3 Economic integration agreements

The number of trade agreements has increased significantly in the last few years. The majority of these agreements are bilateral, though an increasing number is also plurilateral and often regional in scope (Whalley 2006). Many of these agreements are characterised by a shift from initial lim-

ited framework agreements to a deeper partnership agreement going well beyond trade. They cover not only trade in goods and services but also investments and cooperation, competition policy as well as the movement of persons and mutual recognition. This shift is also reflected in a renaming of these agreements, away from the term trade agreement towards titles reflecting wider forms of agreement (e.g. the Agreement between Japan and the Republic of Singapore for a New-Age Economic Partnership). Trade agreements thus provide important legal frameworks for the international recognition of qualifications. The following section provides a detailed overview of a number of agreements and the way they address the issue of recognition of qualifications.

Free trade agreements can be differentiated not only according to the number of countries they involve but also according to the level of economic integration they are intended to bring about. As a result they can be situated on a continuum, with a high level of integration at one end and a low level at the other end of the continuum.



Three different economic integration agreements can be taken as important points of reference along this continuum. It begins with the European Union, with its far-reaching integration, and ends with the General Agreement on Trade in Services (GATS). The North American Free Trade Agreement is positioned in the middle. These three agreements will be at the centre of the following overview, as they provide blueprints for other free trade agreements.

3.1 GATS provisions on recognition issues

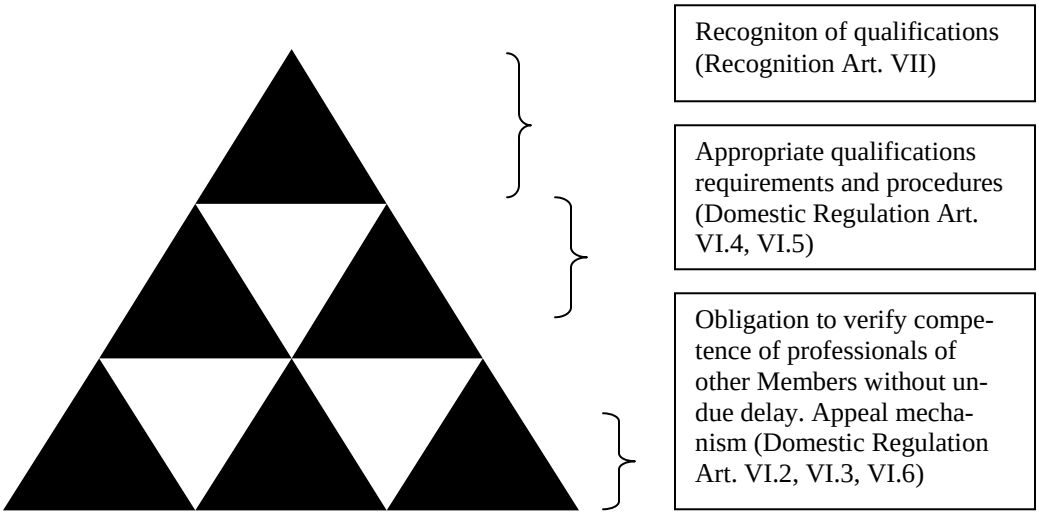
The GATS is designed to bring about the lowest level of economic integration, in comparison to the EU and NAFTA. Its major characteristic is the "positive list approach". This approach means that most GATS requirements are only relevant to the sectors and the mode of service delivery where a WTO member has made a liberalisation commitment. However, the GATS provides the widest coverage, and currently encompasses 149 member states and more than 30 countries with observer status. Its recognition regime is therefore of particular interest for developing countries. In the following I outline major characteristics of the GATS recognition arrangement before turning to its shortcomings, notably with regard to providing access to developing countries. I then point out the role the ILO could play in order to overcome these shortcomings.

The GATS recognition regime builds on the main difference between market access and market regulation, which includes recognition and authorisation. A WTO member may have committed itself to open its market for a certain professional service, e.g. accountancy. This commitment, however, does not mean that the country has to abolish its regulation of market access and accept any foreign professional service provider. Recognition and authorisation acts, in other words, as an additional hurdle in accessing a foreign market. The GATS agreement includes some provisions for the design of such additional barriers, in order to provide a balance between the members' right to regulate and a free trade agenda, the core objective of the agreement.

The GATS regulatory framework distinguishes between the recognition of qualifications on the one hand and qualification requirements on the other. The issue of recognition is treated in Article VII of the agreement, and the more procedural aspects in Article VI on domestic regulation. The GATS recognition regime could be compared to a three-layer pyramid. The basement of this pyramid is regulated through Article VI.6. This paragraph requires WTO members to provide adequate procedures to verify the competence of professionals of any other Member where they have undertaken specific commitments regarding professional services. This interlinkage between the provision and a specific commitment is characteristic of the GATS "positive list" approach. Article VI.3 of the agreement can also be seen as part of the basement of the recognition pyramid. This paragraph requires WTO members to make sure that the competent authorities

consider the application of a foreign service provider seeking authorisation within a reasonable time. At the request of the applicant, the competent authorities shall provide information on the status of the application without undue delay. In addition, WTO members are required to make remedy available against the decision of their competent authorities (Art.VI.2). This mechanism, allowing the applicant to file an appeal if she/he wants to do so, should be as independent as possible from the agencies entrusted with the administrative decision, according to another GATS provision. The basement of the GATS recognition pyramid therefore provides an interesting point of departure for the endeavour to enhance recognition of qualifications at a multilateral level. All of these requirements at the bottom of the recognition pyramid are, however, purely procedural in nature. None of these mechanisms specifies the norms and standards which member states have to observe when establishing qualification requirements and procedures. It is the middle layer of the pyramid, regulated by Article VI.4 and Article VI.5, which is designed to provide specification of this aspect. I will come back to this regulation later on. The top of the pyramid is linked to Article VII and is related to the very act of recognition. The regulation at the top leaves considerable power in the hands of the member States.

The GATS recognition regime



The top of the pyramid, Article VII of the Agreement, acknowledges the right of a Member to recognise the education or experience obtained, requirements met, or licences or certifications granted in WTO members. Recognition can be accorded autonomously or can be based upon an agreement or arrangements between members. It does not, however, require WTO members to recognise the professional qualifications of other members or to extend recognition accorded to some members to other members. This specific regulation is a clear deviation from one of the bedrock principles of the WTO, the Most-Favoured-Nation provision (MFN). This obligation requires WTO members to extend the trading opportunity guaranteed to the most-favoured nation to all other WTO members. The GATS requirement breaks with this rule in relation to recognition. Furthermore, Article VII does not specify the substance of recognition. The agreement also has little to say about the way in which recognition is to be achieved. Recognition can be achieved through harmonisation or other procedures. As a consequence Article VII provides for the establishment of unilateral, bilateral, or plurilateral recognition regimes outside the GATS framework (Nicolaidis and Trachtman 2000; Nielson 2004). This provision is, as I show later, a major difference between the GATS and the EU recognition regime.

The GATS regulation only interferes in these recognition arrangements in two ways. First, a WTO member must not accord recognition in a manner which constitutes a means of discrimina-

tion between the parties of such an agreement when applying its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction on trade in services (GATS Art.VII.3). This means that it remains within the competence of a member to decide on the standards and criteria it wants to apply. It must, however, apply the same standards to all members. For instance, members are not allowed to use different standards in order to assess the qualifications of engineers from India and the United States.

Second, the agreement requires WTO members entering into recognition arrangements among themselves to afford adequate opportunity for other interested members to negotiate their accession to such a recognition agreement or to negotiate comparable ones. Where Members accord recognition autonomously, they are requested to afford adequate opportunity for any other Member to demonstrate that education, experience, licences, or certifications obtained or requirements met in that other Member's territory should be recognised. Yet, the GATS regulations do not oblige a Member to accord recognition. Such a decision remains solely within the competence of a Member. Members must only give adequate opportunities to third parties to negotiate their access if they wish to do so. So far no specification has been made of the meaning of "adequate opportunity" (Beviglia Zampetti 2000: 299).

Article VII introduces two additional provisions in order to facilitate the access of third parties to such MRAs. First, WTO members must notify the WTO Council for Trade in Services of recognition measures (GATS Art. VII.4a). This requirement is designed to improve the information available to third parties about existing MRAs. The second mechanism underlines the importance of multilateral standards by stating that "wherever appropriate, recognition should be based on multilaterally agreed criteria". (GATS Art.VII.5) The agreement requests members to cooperate "with relevant intergovernmental and non-governmental organisations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions". (ibid) International norms are thus to play a mediating role in the negotiations for the access of new members to existing recognition agreements. Widely accepted international standards to which the applying member can refer when demonstrating that its education and qualifications should be

recognised would increase its persuasive power. The GATS, however, does not stipulate the norms that should be taken into account, it only prescribes that they should be multilateral in nature and calls upon the members to establish and adopt such norms. These requirements indicate that the main preoccupation of Article VII is to permit a departure from the MFN provision while ensuring the openness of any bilateral mutual recognition agreement.

However, the requirements designed to ensure openness have several shortcomings. The Agreement not only lacks a specification of the term "adequate opportunity", it also does not include a specification of "relevant organisations". Only a recommendation of the Council of Trade in Services (CTS), the governing body of GATS, specified in 1995 the definition of such standard-setting organisations: the membership of such an organisation should be open to the relevant bodies of at least all Members of the WTO (WTO/CTS 1995: para 2b). This specification is of particular relevance for low-income countries seeking to improve their negotiating position when claiming access to a mutual recognition agreement. To date the majority of mutual recognition agreements (MRAs) have been established between neighbouring high-income countries and countries with close historical, colonial and cultural ties (see section 4 and Annex). Taking the standards of these countries as the basis would be to the detriment of countries from other regions, given the fact that education and training systems are very much related to domestic cultural, social and economic circumstances. I come later to the implications of the specification introduced by the Council of Trade in Services for a possible ILO role.

Another shortcoming of the opening mechanism of Article VII is the ambiguous relationship between Article VII and Article V on economic integration. Article V introduces an MFN exemption. It provides for WTO members to participate in trade agreements while discriminating against third parties. The precondition for such an exemption from the MFN provision is that such economic integration agreements must have substantial sectoral coverage and provide for the absence or elimination of substantially all discrimination (GATS Art V.1.a,b). The same exemption from the MFN applies when WTO members enter into agreements designed to integrate labour markets which waive requirements concerning residency and work permits for the citizens of the other parties (GATS Art. V bis). Hence, the economic integration must be deeper than the

integration established in the framework of the WTO (Stephenson 2000). Some WTO Members have made use of the possibility of notifying mutual recognition agreements under Article V und not under Article VII. There is legal uncertainty as to whether agreements notified under Article V are still subject to the requirements of Article VII, which is - in contrast to Article V - designed to ensure a certain openness towards third parties (Mattoo 2000: 321; Stephenson 2000; Adlung 2005: 138).[5] Notification under Article V instead of Article VII is clearly to the detriment of developing countries, as they are barely involved in major economic integration processes.

Another legal uncertainty relates to the question of whether GATS requirements apply to mutual recognition agreements established between professional associations. This is a crucial point. As I outline in section four, the majority of the mutual recognition agreements have been established between professional entities. Professional or other self-regulatory organisations do not, however, possess the status of legal persons in international law. Beviglia Zampetti argues, therefore, that even when such recognition arrangements between professional organisations are established in the framework of regional integration agreements they are to be regarded at best as private commitments (Beviglia Zampetti 2000: 294). Such commitments can only be carried out and enforced as contracts. What they lack is a strong obligation for implementation, unless they included a clear delegation from governments. According to this view, the requirements and obligations set out in Article VII do not apply to mutual recognition agreements between professional and other self-regulating bodies. Such a limitation would be detrimental for developing countries as most mutual recognition agreements between professional associations are established between high income countries (see Annex). There is, however, no consensus amongst WTO members on this matter (Nielson 2004: 166).

[5] Furthermore, many existing MRAs are not notified at all Stephenson, S. M. (2000). Regional Agreements on Service in Multilateral Disciplines Interpreting and Applying GATS Article V. Service in Trade in the Western Hemisphere: Liberalization, Integration and Reform. S. M. Stephenson. Washington D.C., Brookings Institution Press: 86-104.
This non-compliance with the WTO rules is particularly criticised by low-income countries, which have hardly been included in such agreements to date WTO/CTS (2000). Communication from India. Proposed Liberalisation of Movement of Professionals under the General Agreement on Trade in Services, Special Session, S/CSS/W/12, 24 November 2000. Geneva, WTO.

These shortcoming can be seen as a major reason why low-income countries have barely benefited so far from the provisions set out in Article VII (WTO/CTS 2000: Para 13). In response to these problems two trade experts, Kalypso Nicolaidis and Joel Trachtman, have suggested that it would be advisable to develop further a "procedural MFN" (Nicolaidis and Trachtman 2000: 276). This would specify the meaning of "adequate opportunities", the concrete procedures through which third parties are brought into the process, and the regulation of the costs of demonstrating the equivalence of qualification.

Some of these aspects are addressed through the regulation characterising the middle layer of the GATS recognition pyramid, which addresses appropriate qualification requirements. The two crucial paragraphs here are VI.4 and VI.5. Their provisions aim at limiting the range of appropriate qualification requirements and procedures. Building upon the ground layer of the recognition pyramid, the middle layer specifies the meaning of adequate procedures and includes more substantial aspects. Article VI.4 expresses the intention of the WTO members to ensure that measures relating to qualification requirements and procedures, as well as technical standards and licensing requirements, do not constitute unnecessary barriers to trade in services. The members have therefore mandated the Council of Trade in Services (CTS) to develop such standards, which are known as necessary disciplines. The obligations imposed by such necessary disciplines should ensure that measures applied by the WTO members are *inter alia* based on objective and transparent criteria, such as competence and the ability to provide the service. Furthermore, they must not be more burdensome than necessary to ensure the quality of the service. The wording of the agreement (e.g. "shall aim to ensure") is remarkable, as it is couched in terms of best endeavours. It reflects the fact that in many countries the federal governments which conduct the GATS negotiations and are legally responsible for the implementation of the agreement do not have jurisdiction over the professions. The latter usually derive their self-regulatory authority from a delegation of power by the sub-national governments. This is an important aspect not only of the GATS but also of many regional integration agreements such as the North American Free Trade Agreement (NAFTA), to which I will come in section 3.2.2. It is an impor-

tant source of conflicts over competence, and can be seen as a major reason why the development of strong international recognition regimes is still in its infancy.

So far necessary disciplines have been developed in the framework of the GATS only for one sector, accountancy (WTO/CTS 1998a; WTO/CTS 1998b). These necessary disciplines specify further appropriate measures for qualification requirements and procedures as well as technical standards and licensing requirements, though only for trade in accountancy and where members have opened up the market to foreign accountancy services within the GATS framework. The "Disciplines on Domestic Regulation in the Accountancy Sector" were adopted in 1998 by the CTS, but are yet to enter into force. They are due to do so at the end of the current round of negotiations, the Doha Round (WTO/CTS 1998a: para 2). These disciplines introduce an important specification of the GATS requirements with regard to qualifications. The disciplines require WTO Members to ensure "that its competent authorities take account of qualifications acquired in the territory of another Member, on the basis of equivalency of education, experience and/or examination requirements"(WTO/CTS 1998b: para 19). So equivalency has been determined as the guiding principle. However, the accountancy disciplines do not provide further specification of equivalency. In addition, the requirement to "take into account" is not further concretised and is therefore open to many interpretations. With the adoption of the accountancy disciplines in 1998 WTO members agreed to develop further disciplines for professional services (WTO/CTS 1998a: para 2). A majority of the members prefer some generic standards applicable to all professional services, while some prefer a sectoral approach (WTO/WPDR 2005n). Up to now the designated committee, the Working Party for Domestic Regulation (WPDR), has not managed to adopt new necessary disciplines, a fact that suggests major difficulties within the working party in attempts to reach a consensus (WTO/WPDR 2006).

This failure opens up opportunities for international organisations to play a role in the recognition regime of the GATS. Part of the reason for this can be found in the GATS provisions themselves. In cases where no necessary disciplines have been adopted, the agreement envisages an alternative framework regulated through Article VI.5. In order to determine whether a WTO member's qualification and licensing requirements and technical standards meet the require-

ments set out in Article VI.4, international standards of relevant international organisations are to be taken into account. In contrast to Article VII, the agreement specifies in Article VI the term international organisation. The membership of such organisations must be open to the relevant bodies of at least all WTO members (GATS VI.5(b)). In other words, the organisations must be open to the current 149 WTO member states. Hence, as long as no necessary disciplines are in force, standards of international organisations provide the background against which the appropriateness of a member's requirements in the field of qualifications, licensing, and technical standards is to be assessed. The enforcement mechanism provided by VI.5, though, is much weaker than under VI.4. The complaining party must demonstrate that the regulatory practice of another member has nullified or impaired its commitments and that such nullification and impairment could not reasonably have been expected at the time when the specific commitment was made. Hence the burden of proof lies with the complaining party. Nicolaidis and Trachtman therefore call this regulation a standstill obligation, a lowest common denominator which introduces a certain constraint on domestic regulations but remains too vague to have a major impact (Nicolaidis and Trachtman 2000: 259). Nevertheless, this regulation highlights the potential role of international standards in facilitating mutual recognition. This provision can be seen as a major reason why WTO members have started to show interest in the conventions of the United Nations Educational, Scientific and Cultural Organization (UNESCO) on the recognition of higher education (WTO/WPDR 2005m: Para 16; WTO/WPDR 2005p: 3). Section five of this report describes in more detail the generic recognition standards established by these conventions. The UNESCO conventions, however, only cover the sphere of higher education. No multilateral instruments have been established so far which cover vocational training. The ILO with its mandate and its unique tripartite structure could play a major role in establishing generic standards for this sector of postsecondary education. So far, however, the ILO has no instruments in place which are designed to work towards this goal.

To summarise, the GATS provides a very comprehensive regime for recognition of qualifications that resembles a three-layer pyramid. The bottom of the pyramid requires WTO members to have certain procedures in place, such as verification of competence and remedy available. The major preoccupation of Article VI on domestic regulation is to constrain the range of measures relating to qualification and licensing requirements and procedures and technical standards,

in order to foster free trade while acknowledging the need for the members to regulate. Nevertheless, no consensus had been reached on this matter by the time of writing of this report, with the exception of the accountancy disciplines. In the meantime relevant international organisations provide the horizon, though a weak one, against which the compliance of WTO members with the GATS requirements is to be assessed. The very act of recognition, however, is delegated to agreements established outside the WTO. The main preoccupation of the Agreement here is to introduce a soft procedural MFN designed to ensure an openness of these agreements towards other WTO members. At the same time the agreement encourages its members to cooperate with relevant intergovernmental and non-governmental organisations with a view to establishing and adopting international standards and criteria for recognition. Through this provision bilateral and plurilateral mutual recognition arrangements established outside the framework of the GATS become the major terrain for developing such common standards. The longer it takes the WTO members to reach a consensus about standards for qualification requirements, the more these regulatory arrangements gain in importance for the specification of the procedural MFN. Beyond the multilateral level of the GATS a number of plurilateral and bilateral FTAs can be identified which also address the issue of recognition.

3.2 Regional and plurilateral agreements

3.2.1 Europe

European Union

The European Union is particularly active in the area of mutual recognition. Mutual recognition is considered to be instrumental to the realisation of market integration. Since the 1970s the European Community has established a series of recognition Directives for different regulated professional groups such as architects, dentists, doctors, lawyers, midwives, nurses, pharmacists, and veterinarians, on a profession by profession basis. A Directive is a legislative act of the EU which requires member states to implement certain policies, but how member states do this remains in their competence. Compliance with a Directive can be enforced through the European Court of Justice of the European Communities. Consequently, a Directive is backed up by a strong compliance mechanism. The sectoral recognition Directives oblige EU member states to recognise academic titles for professional purposes issued in one of the other members in these

sectors (de Cockborne 1995). This sectoral approach is also often called a vertical approach, in contrast to a horizontal approach which has cross-sectoral coverage. Many of the sectoral Directives for recognition include elements of harmonisation. In the health sector, EU member states are obliged to provide training for the profession in question in accordance with common rules (Dalichow 1987; de Cockborne 1995). This provision applies to professions such as doctors, registered nurses, dentists, midwives, veterinary surgeons, and pharmacists. In other fields such as architecture, harmonisation is less a matter of the content of training and more concerned with criteria for recognition. Advisory committees on training have been established made up of professionals, teachers, and supervisory authorities in order to develop these Directives and to ensure a high and comparable level within the European Community.

However, the legislative procedure for the adoption of recognition Directives turned out to be cumbersome and complex, often with a limited outcome for a given activity or profession. After establishing the single market in the 1980s, the member states therefore decided to abandon the sectoral approach in favour of a horizontal approach: the general systems for the recognition of qualifications. The first general system Directive, adopted in 1988, regulates the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration (Directive 89/48/EEC). The second general system Directive for recognition, adopted four years later, supplements the first by regulating the recognition of professional education and training of at least one year's duration, which is not covered by the first Directive (Directive 92/51/EEC). Finally, Directive 99/42/EC introduced a system for the recognition of qualifications for certain commercial, industrial or craft occupations that are not covered by the other two Directives.[6] All these Directives regulate the recognition of the qualification of citizens of other EU member states. In October 1999 the European Council extended their scope by stating that the legal status of third-country nationals holding a long-term residence permit should be granted a set of uniform rights as near as possible to those enjoyed by EU citizens.[7]

[6] Activities covered by this Directive include manufacturing of textile material, wood, chemical material, and metal products, but also electronic engineering, construction, postal services, recreation and personal services. For a complete list see Office for Official Publications of the European Communities (1999): Directive 1999/42/EC, CONSLEG: 1999L0042 — 31/07/1999 Annex A

[7] Council Directive 2003/109/EC provides that "long term residents shall enjoy equal treatment with nationals as regards: (…) c) recognition of professional diplomas, certificates and other qualifications, in accordance with the

The general system Directives oblige EU member states to recognise the qualifications of other EU members unless there is a substantial difference between the qualifications required in the host member state and the qualifications of the person in question. In that case member states are allowed to require compensation mechanisms (Jefferies and Evetts 2000). Such compensatory measures usually entail the requirement to pass an aptitude test or to take a course. Consequently the new approach eschews harmonisation and focuses on substantial difference as the main criterion which makes it possible to disregard the obligation to recognise qualifications awarded in another EU member state. It reduces harmonisation requirements to the definition of what can be justified as substantially different. In comparison to the first approach, aiming at automatic recognition, a host country gains more leeway in assessing foreign qualifications through the new approach. Simultaneously, however, the general system constrains host countries' competence by subsuming a broad range of professional activities under the EU recognition regime. In September 2005, the EU consolidated the general system of recognition of professional qualifications by adopting a new Directive which will replace the majority of existing sectoral Directives for the recognition of professional qualifications after a transitional period lasting until October 2007 (Directive 2005/36/EC). This Directive builds on the general system for recognition of professional qualifications where the recognition of qualifications issued by another member state can only be refused in case of a substantial difference. In the course of the transition period a common platform has been established, including professional associations and bodies, in order to define what counts as substantial difference in qualifications.

At the same time the EU has increased its efforts to improve coordination between its member States in the field of higher education and vocational training in more general terms, with the overall objective of facilitating recognition of qualifications for academic and professional purposes. A first step towards building up a European recognition regime had already been taken in

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relevant national procedures", including when they exercise the right to intra-EU mobility granted by this Directive Council of the European Union (2003). "COUNCIL DIRECTIVE 2003/109/EC concerning the status of third-country nationals who are long-term residents, 25 November 2003."

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the 1980s. In 1984, on an initiative of the European Commission, National Academic Recognition Information Centres (NARICs) were established in all member states of the European Community and the EEA countries, and later on extended to associated countries in Central and Eastern Europe. These centres in the countries where the qualifications were obtained have become important contact points for host countries looking for information on the quality of foreign higher education qualifications (Hildebrand 1996: 42). These centres are also the first contact point in the host countries for a person looking to have her/his qualification recognised. This system of information exchange has been incorporated into the general system of the EU for the recognition of professional qualifications.[8] In sections 5 and 6 of this report I will come to other activities of the EU member states aiming at enhancing the portability of skills and qualifications.

Wider Europe

The regulatory framework of the EU has also been adopted by the *European Free Trade Association* (EFTA). The EFTA members agreed to incorporate the recognition regulations of the European Union into their own convention (EFTA Apendix 3 Art. 22). In the framework of the Agreement on the European Economic Area (EEA) there is also substantial cooperation concerning the EU Directives for mutual recognition of professional qualifications (Protocol 29 and Protocol 30 in the Agreement on the European Economic Area (EEA)). Hence, these two institutional frameworks have adopted the EU model of recognition regime. However, there is one major difference between these agreements and the framework of the EU: its dispute settlements and surveillance mechanisms lack strong compliance mechanisms such as the European Court of Justice.

Europe and…

Recognition is also an issue in the agreements between European and non-European countries. In the EC-Mexico Free Trade Agreement, for instance, the parties agreed that the Joint Council

[8] For a overview of the addresses of the current focal points, see http://ec.europa.eu/internal_market/qualifications/docs/contact-points/info-points_en.pdf

shall take the necessary steps to negotiate agreements for the mutual recognition of requirements, qualifications, licensing and other regulations (Art. 9). The parties also agreed to be in conformity with the provision of Article VII of the GATS on recognition. Similarly to the GATS agreement, mutual recognition of qualifications is couched in terms of the commitment to pursue a goal.

The Free Trade Agreement between EFTA States and the United Mexican States also makes a clear reference to the GATS when it states that any mutual recognition agreements established between the parties shall be in conformity with the provisions of the GATS, notably Article VII on recognition. As in the EC-Mexico Free Trade Agreement, its members have mandated the Joint Committee to establish negotiations providing for mutual recognition. The parties of the Free Trade Agreement between the EFTA and Chile as well as that between EFTA and Singapore have established an even closer relationship to the GATS recognition regime by agreeing that they will jointly review the results of the WTO negotiations on necessary disciplines pursuant to Article VI.4 with a view to incorporating the result into their own agreement (Article 28).

In the EFTA – Singapore Free Trade Agreement the parties agreed furthermore to mandate the Joint Committee to establish negotiations providing for mutual recognition. In addition this agreement requires that when a party of the agreement enters into mutual recognition agreements and arrangements with a non-party, this party shall accord adequate opportunities to another interested party to negotiate its accession to such agreements and arrangements (Art.30.3). This mechanism is designed to facilitate interconnections between different recognition agreements.

3.2.2 North America

North American Free Trade Agreement

The North American Free Trade Agreement (NAFTA) trilateralised the Trade Agreement between the United States and Canada of 1989 by including Mexico. The NAFTA Agreement came into force on 1 January 1994. In many respects NAFTA has become a blueprint for other regional trade agreements, but it has also had this function for the GATS recognition regime (Sauvé 1995: 62). NAFTA nevertheless departs from the GATS in an important aspect. One of

its characteristics is a “negative list” approach. This means that all traded transactions between the parties are bound by the national treatment, market access and MFN provisions unless otherwise specified. In the case of the GATS these provisions apply only to the sectors which are explicitly mentioned in the list, hence the label “positive list” approach. In contrast a “negative list” approach covers all sectors and modes of supply, but exceptions relating to the maintenance of quantitative restrictions or discrimination in treatment as between foreign and domestic suppliers of services are specified.

The parties to NAFTA agreed to ensure that measures relating to qualifications, requirements, and procedures, as well as technical standards and licensing requirements, shall not constitute unnecessary barriers to trade in services (Pinera Gonzalez 2000). Like the GATS and in contrast to the EU, NAFTA does not require the parties to recognise experience, licences or certifications obtained in the territory of another party or a non-party. It only acknowledges the right of a member to recognise qualifications (NAFTA Art.1210.2). The agreement even underlines that the MFN treatment shall not be “construed as to require the Party to accord such recognition to education, experience, licenses or certifications obtained in the territory of another Party”. (NAFTA Art.1210a) As a consequence, the NAFTA provision for recognition of qualifications provides for unilateral, bilateral, or plurilateral recognition regimes. The signatory parties agree to “encourage the relevant bodies in their respective territories to develop mutually acceptable standards and criteria for licensing and certification of professional service providers and to provide recommendations on mutual recognition to the Commission” (NAFTA Annex 1210.5: Professional Services Section A2). So, as in the GATS the improvement of recognition is couched in terms of a goal to be pursued. To a greater extent than the GATS recognition regime, though, NAFTA seeks to become a platform for the development of such recommendations on recognition standards. These standards may include the accreditation of schools and academic programmes, as well as a specification of the length and nature of experience required for licensing and of continuing education and ongoing requirements to maintain professional certifications. The agreement puts a stress on the professions, for example legal consultants and engineers (NAFTA Section B and C). The parties have mandated the Commission to review the recommendations, and each party is requested to encourage the competent authorities to implement the recommendations.

To date, such recommendations have been established for engineering, legal services, public accountancy and architecture. In engineering, the "Mutual Recognition of Registered/Licensed Engineers by Jurisdictions of Canada, the United States of America and the United Mexican States to Facilitate Mobility in Accordance with the North American Free Trade Agreement" was signed in Washington on 5 June 1995. Signing parties are the Canadian Council of Professional Engineers (CCPE), the US Council for International Engineering Practice (USCIEP), and the Mexican Committees for the International Practice of Professions (COMPIs).[9] This mutual recognition agreement (MRA) is designed to specify the education, experience and examination requirements that are to be recognised in the other NAFTA jurisdictions in order to obtain a temporary or permanent licence to practise engineering. To date this agreement has found approval in Mexico and Canada, but only in one state in the US (Texas) (Nielson 2004: 190). For legal services, the "Joint Recommendation of the Relevant Canadian, Mexican and American Professional Bodies under Annex 1210.5, Section B, of NAFTA" was signed on 19 June 1998. This agreement is designed to permit lawyers from the NAFTA countries to act as foreign legal consultants in the other NAFTA countries. In September 2002, the representatives of the relevant professional bodies in the field of public accountancy from the USA, Canada, and Mexico signed an MRA on Principles for Professional Mutual Recognition, after more than a decade of negotiations. The agreement was approved by NAFTA's Free Trade Commission in October 2003. In October 2005, national representatives of the architectural profession in all three countries signed a tri-national MRA for International Practice.

North American and…

The Free Trade Agreement between the United States and Singapore, the Free Trade Agreement between the United States and Australia, and the United States-Jordan Free Trade Agreement all

[9] There are a number of Committees for the International Practice of Professions: Actuarial, Agronomy, Architecture, Public Accounting, Law (Juridical Adviser), Infirmary, Pharmacy, Engineering, Medicine, Veterinary Medicine and Zootechnics, Odontology and Psychology.

incorporate a direct reference to the necessary disciplines developed in the framework of the GATS. In all of these agreements the parties agree to review the necessary disciplines, once they have come into effect, with a view to incorporating the results into the agreements.

Recognition is regulated in the three agreements in a way that is comparable to the provisions of the NAFTA recognition regime. This also applies to the Canada – Chile Free Trade Agreement. All four of these FTAs acknowledge the right of the parties to provide recognition without the obligation to extend the recognition to other FTA members. Parties entering into mutual recognition agreements are required to afford adequate opportunities for other interested parties to negotiate accession to such an agreement or arrangement, or to negotiate comparable ones. The Free Trade Agreement between the United States and Singapore extends this opening mechanism to non-parties. This means that non-member countries can request an adequate opportunity where they can demonstrate that their education, licences and certifications should be recognised. All of these free trade agreements request the parties to encourage the relevant bodies in their territories to develop acceptable standards and criteria for licensing and certifications, and provide recommendations on mutual recognition to the Joint Committee. The parties also agree to encourage their respective competent authorities to implement the recommendations after they have been reviewed by the Joint Committee.

3.2.3 Asia-Pacific

Asia-Pacific Economic Cooperation

Asia-Pacific Economic Cooperation (APEC) was formed in 1989 in response to the growing interdependence among Asia-Pacific economies. Beginning as an informal dialogue group with limited participation, APEC has grown to become a major regional platform for promoting open trade and practical economic cooperation. Its decisions, though, are non-binding commitments. It therefore provides no market access, but aims at facilitating entry.

The APEC Human Resources Development Working Group (HRD), established in 1990, aims at facilitating recognition of qualifications between the participating members. It also fosters links and strengthens collaborative initiatives between the members by organising regular meetings of education ministers. One major outcome in the field of professional recognition so far has

been the APEC Engineers Register. After a consultation process and the agreement of the member governments and engineering professions to implement the APEC Engineer Framework, the register was launched in 2000. It is designed to reduce barriers to international mobility of professional engineers within the Members' economies. The countries which are authorised to operate sections of the APEC Engineers Register include: Australia, Canada, Hong Kong (China), Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, the United States, Thailand, Singapore, and Chinese Taipei. Others have expressed interest in operating a section of the register. The register requires engineers to be classified in one of several engineering disciplines, indicating their competence. Once registered, the engineers are required to restrict themselves under the code of ethics to work only in areas in which they are competent. [10] Based on the model of this register, the APEC countries have also started to develop a Register for Architects, which was launched in September 2005 (APEC 2005).

The management structure of these two registers includes a Central Council whose primary responsibility is to determine the standards and criteria required for registration as an APEC Engineer or Architect. The Council also establishes operational procedures for managing the APEC Registers. Each participating Member economy has established a Monitoring Committee, which is responsible for the management of the respective section of the Register authorised by the Central Council. One of the Monitoring Committee's main tasks is to provide timely and accurate information on whether an individual is registered as an APEC Engineer or APEC Architect. Furthermore, it develops and maintains an assessment system to ensure that candidates for the respective register have complied with the appropriate set of criteria and standards. As with the provisions for APEC Engineers, APEC Architects must restrict themselves under the code of ethics to work only in areas in which they are competent. The Committee also receives, investigates, and resolves complaints against APEC Engineers or APEC Architects and provides advice on professional conduct and professional practice, and maintains and disseminates a list of persons whose APEC Engineer or APEC Architect registration has been cancelled. The register is designed, in other words, to improve trust in the quality of a registered engineer or architect by establishing a kind of meta-control.

[10] For more details, see www.ccpe.ca/e/files/APECEngineerManual04.pdf

ASEAN Free Trade Area (AFTA)

The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967, and was designed initially to foster cooperation on security issues. The ASEAN Free Trade Area (AFTA) was launched in 1992. Three years later, in 1995, the ASEAN economic ministers signed the ASEAN Framework Agreement on Services (AFAS). The objective of this framework agreement is to achieve a free flow of professional services by 2020 or earlier through progressive liberalisation. The rules of this agreement are consistent with international rules for trade in services as provided by the GATS. ASEAN members have also opted for a positive list approach like the GATS framework. The agreement builds on the GATS-Plus principle, which states that liberalisation of services trade under AFAS shall be directed towards achieving commitments beyond Member Countries' commitments under GATS. This allows an exemption from the MFN provision of the GATS as regulated by Article V of the GATS Agreement.

With regard to recognition, the AFAS Framework copied NAFTA/GATS provisions on recognition. Paragraph 1 of Article 5 of the Agreement acknowledges the right of an ASEAN Member State to recognise the education or experience obtained, requirements met, or licences or certifications granted in another member state without obliging it to extend the recognition to other member states. At the same time the agreement provides a framework for the member states to negotiate mutual recognition agreements. Hence mutual recognition agreements are considered as the appropriate means to facilitate temporary migration of skilled labour.

Within the ASEAN Coordinating Committee on Services (CCS), the negotiating forum mandated to progressively liberalise services within ASEAN, an Ad Hoc Expert Group on Mutual Recognition Arrangements has been established with the objective of realising framework agreements on mutual recognition for identified priority professional services. This committee agreed at its 30th meeting in 2002 to adopt a sectoral approach to develop mutual recognition arrangements for the identified professional services and to draw up broad guidelines to assist the sectoral working groups in developing MRAs for the respective professional services. This decision was backed by the ASEAN Summit held in October 2003, where the ten Heads of Govern-

ment called for completion of MRAs for qualifications in major professional services by 2008 to facilitate free movement of skilled labour. On 9 December 2005 the member states adopted the ASEAN Mutual Recognition Arrangement on Engineering Services. The establishment of an ASEAN Chartered Professional Engineers Register (ACPER) has become a crucial mechanism for facilitating recognition. An engineer who is a citizen of an ASEAN member and who has completed a degree recognised by the professional engineering body of the country of origin or in the host country, can apply to the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) to be registered as an ASEAN Chartered Professional Engineer (ACPE). The successful registration authorises such an engineer to work in the host country, though not in independent practice but in collaboration with one or more professional engineers of the host country.[11] Similar agreements are currently being developed in other sectors such as architecture, accountancy, surveying, and tourism (Theo 2004).[12] Problems related to the lack of a common definition of, for instance, surveying services, and the scope of responsibility, have, however, hampered progress so far.

ANCERTA/Trans-Tasman Mutual Recognition Agreement

The Australia New Zealand Closer Economic Relations Trade Agreement (ANCERTA) entered into force in 1983. Based on a "negative list" approach, this agreement covers almost all aspects of the Australia - New Zealand trade and economic relationship. Hence, if a sector is not included in the services schedules (or excluded by provisions in the Services or General Exceptions chapters) then it is bound by the national treatment, market access, and MFN obligations. In addition to this regulation of trade in goods and services, ANZCERTA is the umbrella for close collaboration across quarantine, customs, transport, regulatory and product standards, and business law issues.

[11] ASEAN Mutual Recognition Arrangement on Engineering Services, Kuala Lumpur, 9 December 2005 www.aseansec.org/18009.htm

[12] See also, for instance, the ASEAN Tourism Agreement adopted at the 7th ASEAN Summit on 4 November 2001 in Brunei Darussalam. www.mofa.go.jp/region/asia-paci/asean/pmv0211/tourism.html, and for more general information see www.aseansec.org/6626.htm.

The signatory countries agreed to encourage the recognition obtained in another country for the purpose of certification and licensing requirements. The agreement was complemented in 1996 by the Trans-Tasman Mutual Recognition Agreement (TTMRA). The mutual recognition agreement builds on the mutual recognition agreement between the Australian Government and the State and Territory Governments of 1992, but includes New Zealand as well.[13] This recognition agreement aims at progressively removing regulatory barriers to facilitate the movement of goods and service providers. The recognition mechanism of the agreement is far-reaching. It builds on the country of origin principle, that is to say the agreement that a person registered to practise an occupation in one of the parties is entitled to practise an equivalent occupation in the other parties (with some exceptions, e.g. medical practioners) (TTMRA Para G).

New Zealand-Singapore Closer Economic Partnership Agreement

This agreement came into force on 1 January 2001. It also builds on a "negative list" approach. The recognition regime of this agreement is characterised by a delegation of standard-setting processes to the negotiations on necessary disciplines within the WTO framework. The two parties agreed to review the necessary disciplines of the GATS, once they entered into effect, with a view to incorporating them into their own agreement. In contrast to the GATS framework, however, the parties decided not to delegate the establishment of MRAs to other institutional frameworks. Similar to the NAFTA, the signatory parties agreed instead to establish a dialogue on recognition issues within the framework of the Closer Economic Partnership Agreement. Additionally, the parties agreed to identify priority areas in which they facilitate the establishment of dialogue between experts with the objective of achieving early outcomes on recognition of professional qualifications or registration in these areas. "Such recognition may be achieved through recognition for regulatory outcomes, recognition of professional qualifications awarded by one Party as a means of complying with the regulatory requirements of the other Party (whether accorded unilaterally or by mutual arrangements) or by other recognition arrangements which might be agreed between the Parties." (Art. 22.3)

[13] http://www.coag.gov.au/mra/ttmra.htm

This agreement also provides the matrix for a Trans-Pacific Strategic Economic Partnership Agreement (Trans-Pacific SEP) including besides New Zealand and Singapore also Chile and Brunei Darussalam as additional signatory countries. This agreement came into force on 1 May 2006.[14] The four countries have agreed that priority will be given to enhancing the recognition of architects, accountants, engineers, geologists, geophysicists, and planners.

3.2.4 Latin America and the Caribbean

Mercado Común del Sur

The *Mercado Común del Sur* (MERCOSUR) is a customs union established in 1991 by the Treaty of Asunción and later amended and updated by the 1994 Treaty of Ouro Preto. In December 1997, the Protocol of Montevideo was adopted by the member states. This protocol provides the legal framework for the liberalisation of trade in services (Peña 2000). Like the GATS and in contrast to NAFTA, the Protocol of Montevideo builds on a "positive list" approach that only authorises the liberalisation of services specifically included in the annexes.

Its recognition regime also resembles the GATS provisions. Article XI acknowledges the right of a member state to recognise the education, experience, licences, matriculation records, or certificates obtained in the territory of another member or any country that is not a member of MERCOSUR without requiring an extension to other MERCOSUR members. It also introduces a procedural MFN by requiring members which have entered into mutual recognition agreements to provide interested members with an opportunity to demonstrate that education, experiences, licences and certificates obtained in their territories should be recognised or to conclude an agreement or treaty of equivalent effect (Art. XI.1(b)). Furthermore, the signatory parties commit themselves to encourage the relevant bodies in their respective territories, including those of governmental nature, as well as professional associations and colleges, to develop mutually acceptable rules and criteria for the exercise of activities, and to propose a recommendation on mutual recognition to the Common Market Group. The parties have mandated the Commission to

[14] For an overview, see http://www.customs.govt.nz/about/News/tpsep120406.htm

review the recommendation, and each party is requested to encourage the competent authorities to implement the recommendation. In 1999, the Board of Architecture, Agronomy, Geology and Engineering Professional Entities for MERCOSUR Integration adopted a resolution on the temporary exercise of professional activities by foreign architects, agronomists, geologists, and engineers. Several initiatives have been launched in recent years with a view to developing common standards for the accreditation of programmes and awarding institutions, as well as for the recognition of qualifications. I will outline theses initiatives in more detail in section 6.

Andean Community

The *Comunidad Andina de Naciones* (Andean Community of Nations, until 1996 Andean Pact) is made up of the South American countries Bolivia, Colombia, Ecuador, and Peru.[15] With the new cooperation agreement with Mercosur, the Andean Community gained four new associate members: Argentina, Brazil, Paraguay, and Uruguay.

Decision 439 of the Andean Community on Services Trade, adopted in June 1998 by the Andean Community Commission, established a general framework of norms and standards with a view to liberalising trade in services in the Andean Community region (Dangond 2000). The Community is currently drafting a decision that will establish norms and standards aiming at facilitating the recognition of academic degrees and national requirements, in addition to professional diplomas (Nielson 2004).

Caribbean Community and Common Market

The establishment of the *Caribbean Community and Common Market* (CARICOM) also reflects the move from limited free trade agreements to a broader framework. In 1972, Commonwealth

[15] Venezuela used to be a member, but has recently renounced the founding treaty of the community, the Cartagena Agreement. However, it remains involved in the trade bloc. In August 2006, the Andean Community and Venezuela signed a Memorandum of Understanding whereby the trade advantages received and granted to the parties pursuant to the Andean Liberalization Program will remain fully effective. See Decision 641 Approval of the Memorandum of Understanding signed by the Member Countries of the Andean Community and the Bolivarian Republic of Venezuela www.comunidadandina.org/ingles/normativa/D641e.htm

Caribbean leaders decided at their Seventh Heads of Government Conference to transform the *Caribbean Free Trade Association* (CARIFTA) into a Common Market and establish the Caribbean Community. A major move towards the creation of a single market has been undertaken through a revision of the treaty by the protocol governing the treatment of services in CARICOM, formally known as Protocol II, issued in July 1997 (Coke Hamilton 2000). In 1989 the Heads of Governments adopted the strategy of developing a Caribbean Single Market and Economy (CSME), whose obligations were implemented in a number of member states on 1 January 2006.

The CARICOM framework incorporates a strong commitment of member States towards free movement of their nationals within the Community.[16] The member states agreed on undertaking a first step towards achieving this goal in relation to certain categories of Community nationals. At the same time the member states agreed to set up or employ appropriate mechanisms to establish common standards to determine equivalency or accord accreditation to diplomas, certificates, and other evidence of qualifications secured by nationals of the other member states. Currently, university graduates, artists and musicians, sportspersons, media workers, managerial, supervisory and technical staff as well as the self employed can move freely without work permits. In order to have their qualifications recognised, they must however obtain a Certificate of Recognition of CARICOM Skills Qualification, also called a CARICOM Skills Certificate, from their home or host country's ministry responsible for issuing skills certificates.[17]

3.2.5 Africa

Southern African Development Community

The Southern African Development Community (SADC) is a regional grouping encompassing 14 countries in the Southern African region. The ultimate goal of SADC is to promote peace and

[16] See Revised treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy, Article 45.

[17] For more details see www.jis.gov.jm/special_sections/caricomnew/applyingForACaricom.html

security in the region. SADC promotes regional cooperation and integration and helps its member states to develop in a globalising world. One means to reach this objective is the progressive elimination of obstacles to the free movement of capital and labour, goods and services. Member states signed the Protocol on Education and Training in September 1997, and this came into force on 31 July 2000. In the Protocol the member states agreed to "take all steps possible to act together as a Community, in the gradual implementation of equivalence, harmonisation and standardisation of their education and training systems under this Protocol".[18] As part of the implementation strategy the Technical Committee on Certification and Accreditation (TCCA) was established in 1997, with a view to developing policy guidelines, instruments and procedures to achieve the goals set out in the protocol. Since 2001 major efforts have been undertaken to develop standards and a classification system for national qualification systems, so that they can be linked to a regional qualifications framework in order to improve the understanding of the systems in other countries. I will come back to this initiative in section 6.

3.2.6 **Summary**

This overview of a number of free trade agreements points to a clear trend towards agreements with broad coverage. All these agreements or treaties include a chapter on recognition of qualifications. Three models of recognition frameworks can be differentiated: the EU, NAFTA and GATS/WTO. Each of these models provides for a different recognition regime.

As I have explained, the most elaborate recognition regime has been established in the framework of the EU. This regime increased its coverage significantly with the shift from a vertical to a horizontal approach. Building on a new harmonisation approach which only aims at specifying substantial requirements, the EU regime entails recognition of the professional qualifications obtained in another member unless a substantial difference can be demonstrated. The shift in the approach within the EU recognition regime is interesting, as it points to the limits of a fully-fledged harmonisation strategy in the field of qualifications standards. This strategy turned out to

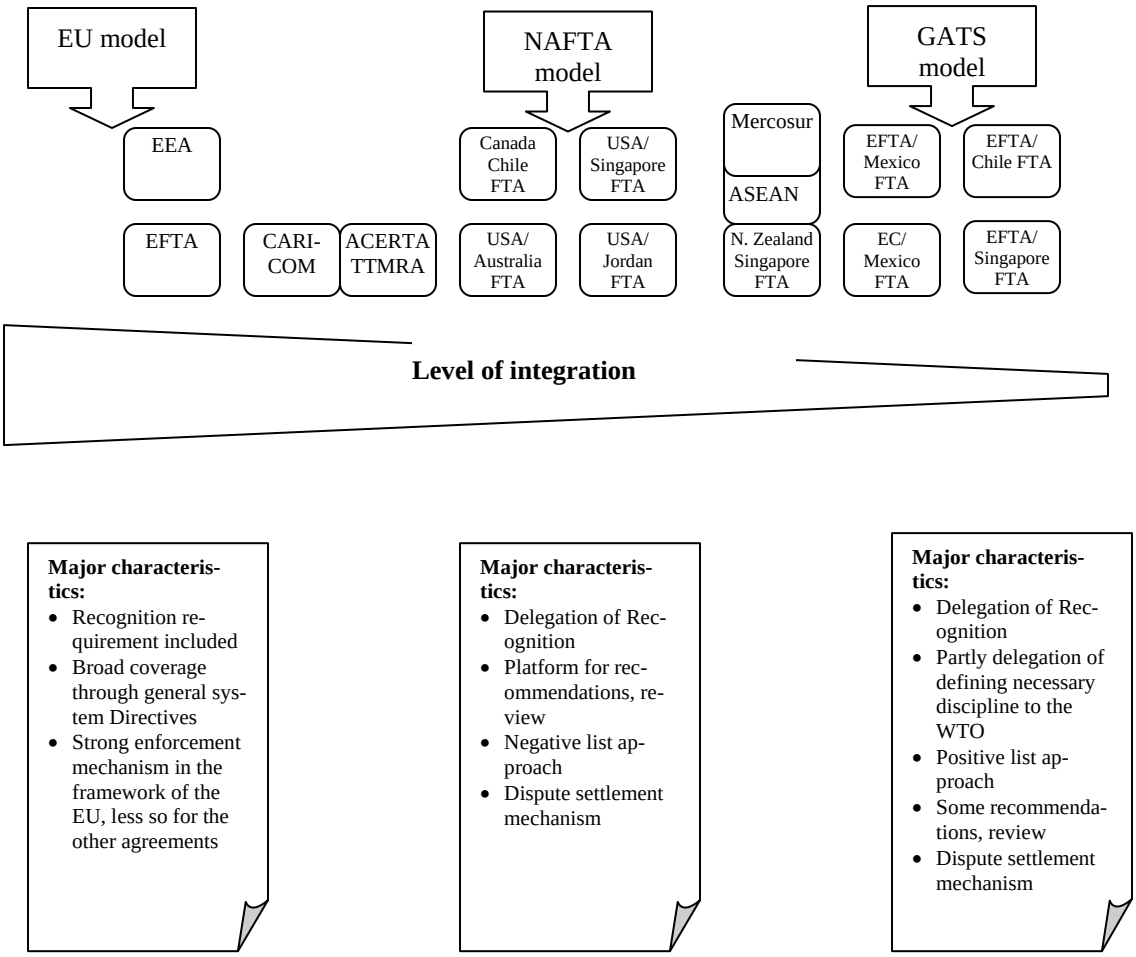
[18] See Protocol on Education and Training Article 2h, www.sadc.int/english/documents/legal/protocols/education_and_training.php

be cumbersome and complex, often with a limited outcome for a given activity or profession. What makes the EU recognition regime unique is its strong compliance mechanism, notably through the European Court of Justice. Other agreements, such as EFTA and EEA, have incorporated major aspects of the EU model. The new economic partnership agreement between New Zealand and Australia with its Trans-Tasman Mutual Recognition Agreement also provides for a far-reaching recognition regime based on the country of origin principle. However, all of these other agreements have a weaker compliance mechanism than the EU's.

The other two models do not provide for recognition but include general language requesting that recognition should be pursued between the parties subsequent to the trade agreement. One model framework is established through NAFTA. As shown, the parties of NAFTA agreed to make sure that measures relating to licensing or certifications for nationals of another party are based on objective and transparent criteria demonstrating the competence and ability to provide a service, and that they are not more burdensome than necessary to ensure the quality of service. At the same time, the agreement leaves the competence of recognition to the parties. The agreement only introduces an opening mechanism by requiring the members to afford other parties adequate opportunities to demonstrate that their education, experience, licensing, and certification should be recognised as well. Furthermore, the NAFTA model specifies priority professions which are usually the highly mobile professions where most progress has been made in agreements developed by professional associations and the industries themselves. The signatories agreed to encourage the relevant bodies to develop mutually accepted standards and criteria for licensing and certification of professional service providers and to provide recommendations on mutual recognition to the Commission, and agreed to encourage the implementation of these recommendations. Hence the second model differs substantially from the EU model by couching the objectives in terms of best endeavours and not obligations. Many bilateral and plurilateral trade agreements have incorporated major features of the NAFTA model.

To a certain extent the NAFTA model can also be considered as the blueprint for the third variant, the GATS model.

Economic integration agreements



In contrast to NAFTA, the GATS model is based on a "positive list" which limits its coverage significantly. In addition, the agreement does not specify priority professions. It leaves open whether the necessary disciplines shall be developed on the basis of a vertical or a horizontal approach. The Council of Trade in Services did, though, prioritise accountancy when developing the first necessary disciplines. The Council for Trade in Services also adopted in May 1997 a set of Guidelines for Mutual Recognition Agreements or Arrangements in Accountancy.[19] In general, the GATS framework provides only to a limited extent the terrain for the negotiation of mutual recognition agreements; instead, it delegates the negotiations to the member parties. This is

[19] Under the auspices of the *United Nations Conference on Trade and Development* (UNCTAD), the intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR) adopted also guidelines for professional accountants in 1999.UNCTAD Press Release, "UNCTAD expert Group agrees guidelines for professional accountants", dated 24 February 1999.

an important difference between the GATS and the NAFTA framework. There is still legal uncertainty as to whether this provision is applicable when an agreement is notified under Article V on economic integration and not under Article VII on recognition. Furthermore, it is disputed whether the provision covers MRAs which were established between professional associations and self-regulatory bodies without delegation of power by governments and authorities.

In contrast to the other two models, though, the GATS framework includes a clear drive towards multilateralism when it calls upon the parties to establish and adopt common international standards and criteria for recognition and common international standards for relevant services, trades, and professions. As such it is a means, though a weak one, to counterbalance the trend to establish MRAs mainly between OECD countries.

A number of other recognition frameworks are hybrid models. CARICOM's objective is far-reaching integration comparable to the EU, though with less developed institutional structure and dispute settlement procedures. ACERTA can be seen as a hybrid of the EU und NAFTA models, designed to bring about strong integration but without a dispute settlement mechanism comparable to the European Court of Justice. Most hybrid models are situated between NAFTA and the GATS framework. Like the NAFTA and GATS models, they acknowledge the right of their members to recognise qualifications without requiring the extension of this recognition to other members. Similar to the GATS, most of them build on a "positive list" approach so that they have a limited coverage. At the same time they aim at establishing platforms within the agreement in order to establish a consensus on mutually agreed standards for the recognition of qualifications. In this respect they resemble the NAFTA model. Some of these hybrids, however, have delegated the establishment of standards for requirements to the GATS framework.

In general, regardless of the regulation mechanisms, what these economic integration agreements have in common is that they provide a framework for the different endeavours aiming at facilitating recognition of qualifications. The following sections focus in more detail on these initiatives, the actors involved, and the ways in which they try to achieve the goal. Two main types of actors are to be distinguished: private actors such as professional associations, and governments. The

first type of actors strives mainly for a sectoral approach, while the second pursues a horizontal approach.

4 Mutual recognition initiatives by industry-based and professional associations

A number of mutual recognition agreements have been established between professional or industry associations independently of free trade agreements. Many agreements have, though, been established in the broader framework of economic integration agreements (EIAs) and the intensified economic interrelations fostered by them (for an overview see Annex). The line between industry agreements and agreements pursued consequent to EIAs is therefore difficult to draw. Only very few of the professional associations, notably the *International Council of Nurses*, address the labour rights of migrant workers in their policy (ICN 2002).

What is recognised?

Mutual recognition arrangements and agreements have so far been established predominantly for internationalised professions such as accountancy, surveying, architecture, engineering and legal services, and nursing. These arrangements differ in their provisions and compliance mechanisms. A number of MRAs go no further than promoting information exchange and dialogue on the education and training systems of the members. Such agreements often entail international standards for education and professional skills, as well as guidelines for assessing professional capabilities and competence guidelines for the member associations. These standards are non-binding and considered to be "good practice". Member bodies are expected to take them into account when developing their own recognition mechanisms. The International Federation of Accountants (IFAC), for instance, has developed such guidelines.

Lists of recognised schools or institutions of higher education are another form of information exchange. The Commonwealth Association of Architects, for instance, regularly publishes a list of recognised schools of architecture. The World Federation of Medical Education (WFME) is currently establishing a database for Health Professions Education Institutions (HPEI), in cooperation with the World Health Organization (WHO) (WHO and WFME 2005). The collection of the data for this database, though, remains within the competence of the governments. The

WFME and its network only assist the database administrators with information about accreditation issues.

Other arrangements are designed to provide a kind of soft meta-control through the establishment of a register. Such registers have been established in the field of engineering and architecture, for example the already mentioned APEC Registers for Architects and Engineers and the ASEAN Chartered Professional Engineers Register (ACPER).

Many national professional associations have established reciprocal agreements with other national professional associations. In some arrangements the signatory organisations have agreed that members of each organisation are eligible to apply for membership of others without having to undergo a separate assessment of their qualifications (e.g. Reciprocal Agreement between the Institute of Australia and the Royal Institute of Chartered Surveyors of UK). According to these agreements, a registered professional in one country is considered as registered in the other if the home authority confirms that it has awarded a current practising certificate. They build heavily on the country of origin principle. Other recognition agreements are also based on the principle of equivalence, but complement it with some mutually agreed standards for education and experience requirements as minimal requirements. Other agreements allow members of another association to take an abbreviated exam to achieve reciprocal membership (e.g. Institute of Chartered Accountants of New Zealand and the Australian Society of Practising Accountants). Most arrangements and agreements have been established between neighbouring countries within the OECD, or follow former colonial ties and thus linguistic and possibly educational similarities. Most of these agreements reflect, in more general terms, the intensity of trade relations between different countries (for more details see Annex).

In recent years, there has been a growing number of private sector certification programmes leading to technical credentials granted by companies, business associations, and non-profit organisations. According to a study conducted by the OECD, Cisco, Microsoft, Novell and other firms or private bodies had awarded more than 1.8 million credentials on the basis of test results by early 2000 (Lopez-Bassols 2002: 17). A well-known non-profit organisation in the field of language certification is the Education Testing Service, which offers the Test of English as a

Foreign Language (Toefl) to help to evaluate the English language skills of students, employees, or individuals. There are, however, different "business models" in the field. Some of these testing firms or organisations provide only the tests, without checking the quality of the institutions providing the teaching. As a result the consumers bear the main risk of test failure due to the possibility of poor teaching. Other companies or organisations offer vocational training. On successful completion, the trainees receive a certificate from these companies or organisations. Other organisations delegate the training to learning centres while ensuring the quality of these centres. A learning centre which gains the approval of these certification organisations is entitled to award the label of the company or organisation. At the same time the organisations promote networks involving employers, higher education, and other training institutions in order to increase the acceptance of their certifications. However, the recognition of such certifications cannot be enforced as long as the awarding organisation lacks authorisation. In the absence of international recognition conventions, such private organisations and firms have taken up the request for international qualifications by offering certification and accreditation services to other countries. An example of a certification organisation in the area of vocational training is the UK-based City and Guilds of London Institute (City & Guilds). According to the organisation's own information, it is now offering its services to 8,500 training centres located in about 100 countries.

A similar private control structure can be found in higher education. Quality assurance and accreditation agencies, many of them closely related to professional associations or industrial organisations, offer their accreditation services to higher education institutions. A prominent example is the US-based Accreditation Board for Engineering and Technology (ABET) in the field of engineering education, which has started to offer accreditation to higher education institutions outside the US (Sursock 2001: 7). ABET is also a founding member of the Washington Accord. This international accord establishes mechanism of mutual recognition and builds on the mutual recognition of accreditation decisions. In the framework of the Washington Accord, signatory accreditation agencies from different countries have agreed to recognise the substantial equivalence of each others' accreditation decisions in relation to engineering qualifications (for more details see Annex).

In the framework of international law, universities can also be considered as private entities. A growing number of agreements on recognition of higher education qualifications for academic purposes have been established between higher education institutions in different countries on a bilateral and plurilateral basis.

What all of these agreements have in common is that they are established and enforced as private contracts. Unless they entail delegation from governments or other authorities, they lack strong implementation obligations. With the exception of the universities, such arrangements have close relations to employers' and other industrial organisations. Hardly any of them include representatives of trade unions. Consequently, workers' interests are only rarely taken into consideration when establishing internationally recognised standards of quality qualifications. Furthermore, the more market driven the offers are, the more they run the risk of providing training which is tailored to particular, short-term needs of employers. Such a trend would be to the detriment of more thorough, but longer lasting and therefore more expensive training and education. In the fast-changing world of skills, which makes profound knowledge even more important in order to increase workers' adaptability over time, such a trend would have a disempowering impact on the labour force and its future employability. This trend may also have a negative impact on the overall development of a society and its economy, which increasingly depend on a skilled labour force. Furthermore, the international services of such private certification and accreditation organisations with close links to employers' organisations might undermine existing tripartite structures designed to establish standards for vocational training.

5 Conventions on the recognition of higher education qualifications

Recognition issues are also covered by a number of government-to-government agreements and conventions providing for cultural cooperation. Many of these agreements entail a horizontal approach covering the recognition of higher education qualifications. In some agreements recogni-

tion of qualifications is accorded only for the purpose of enrolling in further studies.[20] Other government-to-government conventions include the recognition of qualifications for professional purposes as well. A significant number of such conventions and agreements have been established in Latin America and Europe. One well-known example is the *Convenio Andrés Bello* signed or acceded to by ten countries of Central and Latin America and Spain.[21] This framework, established in 1970, has become an important platform designed to improve communication and facilitate agreement between the education ministries which meet on a regular basis. An important means to facilitate recognition is the list of equivalent degrees, designed to assist members in the comparison of higher education qualifications.

5.1 UNESCO convention on the recognition of higher education qualifications

On a multilateral level, UNESCO provides a unique framework aiming at facilitating recognition of higher education qualifications for academic and professional purposes. At the heart of this framework are the five UNESCO regional conventions: there is one for Latin America and the Caribbean (adopted in 1975), one for the Arab States (1978), one for the region of Europe (1979 and 1997), one for Africa (1981), and one for Asia and the Pacific (1983).[22] An interregional convention was established for the Arab and European States bordering on the Mediterranean in 1976. The convention for the European region signed in 1997 in Lisbon is part of a projected revision of the UNESCO recognition conventions. To date, the Lisbon Convention has been signed

[20] For instance the *European Convention on the Academic Recognition of University Qualifications* (CETS No.: 032) signed by the member states as long ago as 1959.

[21] Bolivia, Colombia, Cuba, Chile, Ecuador, Mexico, Paraguay, Peru, Spain, and Venezuela. For an overview see www.cab.int.co.

[22] The full title of the regional conventions are: The Regional Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and other Academic Qualifications in Higher Education in the African States, adopted at Arusha on 5 December 1981 (UN Treaty Series No. 21522); The Convention on the Recognition of Studies, Diplomas and Degrees concerning Higher Education in the Arab States, adopted at Paris on 22 December 1978 (UN Treaty Series No. 20367); The Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and the Pacific, adopted in Bangkok on 16 December 1983 (UN Treaty Series No. 32021); The Convention on the Recognition of Studies, Diplomas, and Degrees concerning Higher Education in the States belonging to the European Region, adopted at Paris, 21 December 1979 (UN Treaty Series No. 20966); The Convention on the Recognition of Qualifications concerning Higher Education in the European Region, adopted at Lisbon on 11 April 1997 (European treaty Series No. 165); The Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Latin America and the Caribbean, adopted at Mexico City on 19 July 1974 (UN Treaty Series No. 14287); The International Convention on the Recognition of Studies, Certificates, Diplomas and Degrees in Higher Education in the Arab and European States bordering on the Mediterranean, adopted at Nice on 17 December 1976 (UN Treaty Series No. 16889).

or acceded to by 46 countries of Western and Eastern Europe. Australia, Canada, the US, and Israel have also signed the convention, though out of this group only Australia has so far ratified it. The broad scope of the Lisbon Convention reflects UNESCO's unique definition of Europe. Major efforts are currently being made to revise the other regional conventions. The African education ministers amended their regional convention on the occasion of the 8th conference of African Education Ministers (MINEDAF VIII) in Dar es Salaam on 6 December 2002 (UNESCO 2004d: 8).[23] In the Asian Pacific region as well as in the Arab states, major activities have been undertaken with a view to revising their UNESCO recognition conventions (UNESCO 2000a: 14; UNESCO 2004: 5). A resolution adopted by the UNESCO General Assembly in 2003 supports these endeavours, as do the Guidelines for Quality Provision in Cross-border Higher Education recently issued by the OECD and the UNESCO secretariat (UNESCO General Conference 2003; UNESCO/OECD 2005). The Lisbon Convention, the first of the new generation, has become a major point of reference for the other regions (Lisbon Convention 1997). The following paragraph therefore outlines its major features in more detail.

The Lisbon Convention provides a very detailed regulatory framework for the recognition of higher education qualifications obtained in another signatory state. According to the convention, recognition shall have one or both of the following consequences (Lisbon Convention Art. VI.3): firstly, it should lead to access to further higher education studies including relevant examinations and/or preparations for the doctorate, and secondly it should allow the use of the academic title in which recognition is sought. Furthermore, the convention also states that recognition may facilitate access to the labour market. In addition, the convention sets out principles of recognition. It requires that a higher education qualification conferred by another party should be recognised "unless a substantial difference can be shown between the qualification for which the recognition is sought and the corresponding qualification in the Party in which recognition is sought" (Lisbon Convention Art. VI.1). Hence the UNESCO convention for the European region has adopted the new EU harmonisation approach which only provides for substantial requirements. A crucial element which strengthens the UNESCO recognition regime is the regulation of

[23] See also UNESCO *news release*: UNESCO Conference of Ministers of Education of African Member States, Dar es Salaam,Tanzania, 2-6 December 2002, www.col.org/colweb/site/pid/3656

the burden of proof. The responsibility to demonstrate a substantial difference lies with the assessing body (Lisbon Convention, Art. III.3(5)). Such a regulation of the burden of proof clearly strengthens the position of the applicant. The responsibility of the applicant, but also of the institution that issued the qualification in the home country, is to provide the relevant information about the qualification to the assessing body (Lisbon Convention, Art.III.3(2-3)). Furthermore, each state party of the convention is requested to provide adequate information on the awarding institution and its programme (Lisbon Convention, Art. VII). The Convention also introduces institutional procedures and arrangements that are designed to ensure the provision of the necessary information for the assessment.[24] Consequently, these provisions established by the convention specify important procedures for the recognition of foreign formal qualifications.

In the framework of the GATS and in particular in the light of the failure so far to establish necessary disciplines the UNESCO convention may gain an important facilitating role. The tools and procedures for recognition have the potential to complement the GATS recognition regime by specifying the procedural MFN of the GATS. With its horizontal approach the UNESCO recognition regime could enhance a horizontal approach within the GATS. Many experts consider this horizontal approach an important way of strengthening the GATS recognition regime (Mattoo 2000). This potential role of the UNESCO convention for a horizontal approach can be seen as a major reason why WTO members have started to show interest in the regional UNESCO conventions (WTO/WPDR 2005m: Para 16; WTO/WPDR 2005p: 3).

The knowledge area of higher education

The Lisbon Convention has become the major legal framework for the project of establishing a European Higher Education Area by the year 2010, a goal on which European education minis-

[24] A crucial element is the *Europe Diploma Supplement*, which provides additional information on degrees in higher education. Additionally, the signatory countries have agreed to establish national information centres and link them together in the framework of the *European Network of National Information Centres on academic mobility and recognition* (ENIC Network) with a view to facilitating information exchange between the home and the host country. This network is not only designed to provide information to the institution of higher education where students apply for access, but also to employers from other countries Bergan, S. (2002). The European Higher Education Area and Recognition of Qualification in the Context of Globalization. Globalization and the Market in Higher Education. UNESCO. Paris, UNESCO.

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ters agreed in Bologna in 1999. The still ongoing process designed to implement this agenda by further developing standards for higher education has become known as the Bologna process.[25] This process includes both EU member states and all other European countries, and 45 countries have joined the process so far. Hence the vast majority of countries that signed or acceded to the Lisbon convention have also joined the Bologna process.[26] Both the Lisbon Convention and the Bologna process have attracted interest from non-European countries. In 2003, on the occasion of a follow-up conference in Berlin, Mexico joined the process as an observer. For the next follow-up ministerial conference due to take place in UK in 2007, Australia and China have both sought observer status (Hijden 2005).[27] Very recently, the European University Association (EUA), a major non-governmental player in the Bologna process representing universities, and the Latin American University Council agreed that they would work together towards the creation of a European-Latin American knowledge area for higher education and research.[28] The following paragraphs therefore outline in more detail the major achievements of the process.

Through the Bologna process many recognition procedures have been further developed. An important tool the ministers have agreed upon is the *European Credit Point Transfer System* (ECTS). Credit points are awarded to students after they have completed a specific course or learning module to the satisfaction of the instructor. The points are linked to parameters such as student workload, learning outcomes and contact hours. The credit points can then be accumulated until the student meets the institutional requirements for the award of a degree or a certificate. Such credit systems, which are also widespread in the U.S. and are increasingly being adopted in other countries, facilitate the comparison of different degrees. Based on an initiative of Australia, the organisation University Mobility in Asia and the Pacific (UMAP), a voluntary

[25] The next conference takes place in London in May 2007. For the current stage of the process see www.dfes.gov.uk/bologna/

[26] Countries which signed the Lisbon Convention but do not participate in the Bologna process are: Australia, Belarus, Canada, Israel, Kazakhstan, Kyrghyz Republic, Monaco, Tajikistan, and the United States. Greece and Spain participate in the Bologna Process but have not signed the Lisbon Convention to date.

[27] See also Response to the House of Representatives, Economic, Finance and Public Administration Committee's Inquiry into Australia's Service Industries
www.aph.gov.au/house/committee/efpa/services/subs/sub035.pdf

[28] Europe news issue 24 march 2006,

www.europeunit.ac.uk/resources/This%20Month%20in%20Europe%20March%202006.pdf

association of governmental and non-governmental representatives of the higher education sector, started a pilot project in 1999 to introduce the ECTS to the Asian Pacific region. This initiative led to the development of the the *UMAP Credit Transfer System* (UCTS). The African ministers have also shown interest in implementing such a credit transfer system (UNESCO 2004: 5).

The issue of quality assurance and accreditation

The countries participating in the Bologna process have also agreed on establishing a quality assurance and accreditation system for higher education institutions at the national level, based on European standards. The prospect of being obliged to recognise foreign higher education qualifications, unless a substantial difference can be demonstrated, strengthened the interest of many governments in such a formal assessment system. The concerns were aggravated by an increasing number of private education providers using the great demand, especially in Eastern Europe, to expand their market beyond their own national borders overnight. The quality of their programmes was sometimes rather dubious. A formal assessment system may play an important role in facilitating mutual recognition. Such a system can also be linked to the recognition regime provided by the Lisbon Convention. The convention includes a specification on the obligations of the home country to provide information on its higher education institutions and programmes that addresses the issue of quality assurance. Article VIII.1 of the Convention states that where parties have established such a formal assessment system, they are required to provide information about the methods and results of the assessment as well as the standards of quality specific to each type of higher education institution granting higher education qualifications. In order to develop common standards for the national assessment systems, the European Network of Quality Assurances (ENQA) was established in 2000 and mandated to develop a set of standards, procedures, and guidelines. The education ministers adopted this set in Bergen in 2005. The ministers also agreed in Bergen to establish a European register of quality assurance agencies, a decision which is supported by a recommendation of the Council and the European Parliament (European Parliament and Council 2006). This register will only include quality assurance and accreditation agencies which meet the European set of standards. A quality label issued by the register therefore entails a kind of meta-control, and aims at increasing the reliability of the in-

formation on the quality of the awarding institution provided by quality assurance agencies. As a consequence this mechanism is likely to consolidate the recognition of foreign qualifications.

Other regions have also started to develop regional quality networks such as the Network of Central and Eastern European Quality Assurance Agencies in Higher Education (CEE Network), the Eurasian Education Quality Assurance Network, the Asia-Pacific Quality Network (APQN), and the Iberoamerican Quality Network. In the framework of CARICOM, the Caribbean Area Network for Quality Assurance in Tertiary Education (CANQATE) has been established and given the task of developing regional quality standards. Regional accreditation bodies are also planned to assess qualifications for equivalency. To this end, the CARICOM member states have now concluded the Agreement on Accreditation for Education in Medical and other Health Professions. This agreement establishes an Authority which is responsible for accrediting doctors and other health care personnel in the region. In the framework of MERCOSUR, a Work Group of Specialists in Accreditation of Higher Education (GTEAE) has been assigned the task of elaborating common standards for quality assurance through evaluation and accreditation processes. The Association of African Networks, a forum of African higher education institutions, has also initiated programmes designed to foster quality assurance systems in African universities. The ministers responsible for education in the Arab states have in their recent conferences adopted a series of resolutions calling on all Arab states to establish national agencies for quality assurance and all higher education institutions to establish an internal quality assurance system (UNESCO 2005a: 5). A major international platform facilitating the discussion on quality issues among quality agencies is the International Network for Quality Assurance Agencies in Higher Education (INQAAHE), established in 1991.[29]

The role of the social partners

At the conference in Bergen in 2005, the European ministers also agreed to include the social partners represented by Education International (EI) Pan-European Structure and the Union of Industrial and Employers' Confederations of Europe (UNICE) as new consultative members of

[29] See www.inqaahe.org

the Bologna Follow-up Group, the steering group of the Bologna process. The social partners have therefore joined the governing structure as consultative members in the very recent past.

The influence of employers' organisations as well as professional associations has also become an issue with regard to quality assurance and accreditation systems. With the development of European standards for quality assurance and accreditation, a debate emerged on the definition of the institutional autonomy of the agencies assigned this task. At the core of this debate are questions about the relationship between higher education institutions and governments, and also about the influence of the private sector und employers' interests on higher education programmes. Representatives from higher education in particular fear that this influence may be detrimental to academic freedom. Trade unions have hardly participated in quality assurance and accreditation processes so far. Germany is an exception; here, a meta-accreditation structure for the quality assurance and accreditation system has been established. In the Council for Accreditation (*Akkreditierungsrat*), which is in charge of this meta-accreditation of quality assurance and accreditation agencies, trade unions are represented as well as representatives from the private sector (Schade 2004).[30]

6 Regional qualifications frameworks

The establishment of qualifications frameworks (QF) as a means of improving recognition has attracted a lot of interest from different stakeholders in recent years. The ILO recommendation on human resource development (R195) also calls upon the members to develop a national qualifications framework to facilitate recognition. In very general terms such frameworks are devices to support coordination, correspondence, coherence, integration or harmonisation of alternative education and training systems. At the heart of the framework lies a classification of qualifications. The major objective of the national framework is to improve the domestic portability of skills. Such frameworks have been developed at the national level, so far mainly by predominantly English-speaking Commonwealth states such as New Zealand, Australia, South Africa, and the United Kingdom which has separate frameworks in Northern Ireland, Scotland, Wales

[30] See also www.akkreditierungsrat.de

and England. In fact, the qualifications frameworks of these countries differ significantly in their structure (National Qualification Authority of Ireland 2002; Blackmur 2004). For example, in New Zealand a single, central authority has statutory responsibility for all qualifications, which provides a more tightly-structured system of regulation. In contrast the Australian framework, which is designed to operate in a federal system, functions more as a comprehensive instrument for national policy with less centralised power. Accordingly, frameworks vary considerably in their legal status. They can be voluntary, regulatory, statutory or treaty-based. Finally frameworks may be comprehensive, including all sectors of education and training, or they may distinguish between vocational training and academic education. Many of these frameworks incorporate mechanisms for recognition of smaller bundles of learning outcomes than those associated with traditional qualifications. This distinguishes this system of classification from traditional qualifications. New Zealand, South Africa, and Scotland, for instance, have established such a credit system. The different frameworks in the UK are also moving towards such a system.

In recent years efforts have been undertaken to link national qualifications framework to regional frameworks to improve the portability of skills across borders. The European Union has put the development of a European Qualifications Framework at the top of its agenda. In 2000, the Lisbon European Council concluded that the transparency of qualifications, in addition to lifelong learning, should be one of the main components of efforts to adapt Europe's education and training systems both to the demands of the knowledge society and to the need for an improved level and quality of employment (European Council 2000). This had led to the development of a single Community framework for the transparency of qualifications and competences (Europass), which introduces a set of European criteria to be used by individuals to describe their qualifications and competences (Decision No 2241/2004/EC of the European Parliament and of the Council of 15 December 2004). Parallel to this initiative, the EU member states decided to establish a common European framework for lifelong learning which is also often called the European Qualifications Framework (EQF) (Copenhagen Declaration 2002; Council of the European Union 2002; European Commission 2006; The Helsinki Communiqué 2006). The European social partners, relevant European associations and other NGOs and networks, as well as the European industry sector associations, have been involved in the consultation process. A communiqué recently adopted by the European Ministers of Vocational Education, the European social partners,

and the European Commission emphasises once more the importance of developing active partnerships, especially with social partners at local, national and regional level (The Helsinki Communiqué 2006: 6)

The European ministers responsible for higher education agreed at their conference in 2005 to adopt an overarching framework for qualifications in the European Higher Education Area. By doing so they related their project to the European Qualifications Framework (EQF). As a result of this decision EQF now covers the entire range of qualifications from those achieved at the end of compulsory education to those awarded at the highest level of academic and professional or vocational education and training. The framework's objective is to develop common standards for classification of levels of education in order to facilitate comparison between qualifications in different countries linked to a national qualifications framework. The EQF entails a set of eight reference levels describing learning outcomes of learners regardless of the system where the particular qualification was acquired. Such learning outcomes entail a description of what a learner knows, understands, and is able to do. In the field of validation of non-formal and informal learning, a set of European principles for the identification and validation of non-formal and informal learning were agreed by the Council in 2004 (Council of the European Union 2004).

The EFQ has benefited in several respects from the standard-setting process advanced by the education ministers in the intergovernmental Bologna process. Very recently the EU ministers responsible for vocational training have agreed to the development of a system similar to ECTS for the transfer of learning credits for vocational education and training, the European Credit Transfer System for Vocational Education and Training (ECVET) (European Commission 2005; The Helsinki Communiqué 2006). A detailed description of vocational training or education expressed in credit points may also facilitate partial recognition.

The issue of regional standards for quality assurance in vocational training has also been taken up. In 2005 the Commission established a European Network on Quality Assurance in Vocational Education and Training on the basis of a conclusion of the Council (European Commission

2005). Similar to ENQA, the task of this network is to promote common standards for assessing and accrediting vocational training.

The qualification framework itself does not grant migrants the right to recognition of their qualifications in one member state with a view to exercising a regulated profession in another member state. In general terms, however, this standardisation process through a common classification system and meta-supervised quality assurance and accreditation systems will further specify what may count as substantial differences. Hence the NQF gains its full significance for an EU recognition regime in the context of the EU general system for professional recognition. The experience acquired, as well as the constraints encountered, in the European context may be of interest for other regions which have also taken up the instrument of a regional qualification framework with a view to facilitating the recognition of qualifications.

As early as 1990, the CARICOM member states articulated a common regional strategy for technical and vocational education and training (CANTA Secretariat 2005: 4). Since 2002 a Competency Based Education and Training model for vocational training has been adopted by Council for Human and Social Development. The major effort to coordinate vocational training and education culminated in the Memorandum of Agreement between the Community members establishing the *Caribbean Association of National Training Agencies* (CANTA) in November 2003. CANTA has been given a mandate to "establish a regional certification system, which will be labelled THE CARIBBEAN VOCATIONAL QUALIFICATIONS (CVQs) to accredit a standard and uniform delivery of competency-based technical and vocational education and training and certification within the CSME so as to ensure acceptance and recognition of the qualification/certification throughout the Caribbean and the international community".[31] The CVQ framework includes a Regional Qualifications Framework covering five levels of skill, responsibility, and autonomy and ties this to typical entry requirements, credits, and academic levels. To date, some 120 occupations have been recognised and certified under CANTA (CANTA Secretariat 2005: 37-38).

[31] See Memorandum of Agreement establishing the Caribbean Association of national training agencies (CANTA). www.cinterfor.org.uy/public/english/region/ampro/cinterfor/news/canta.doc

In 2001 the member states of SADC also agreed to develop standards and a classification system for national qualification systems that will make it possible to link them to a regional qualifications framework, in order to improve the understanding of the systems in other countries. Such a mechanism would permit comparisons between entry requirements, curricula, und exit qualifications (Samuels 2003). The project seeks simultaneously to pool efforts to improve the general standards of skills, knowledge, and values. In June 2005, the recently established Integrated Committee of Ministers approved the SADC Qualifications Framework concept paper which provides guidelines and a proposed implementation plan for the development of such a framework. So far, national qualifications frameworks have been established mainly in South Africa and Namibia.[32]

The developing regional qualifications framework has also moved up the political agenda in the Asia Pacific region. Australia has declared its interest in working collaboratively with regional partners to develop an Asian Pacific qualifications framework.

7 The ILO's potential role

Recognition of qualifications is a crucial element of the migration regime with regard to skilled labour. Recognition is likely to improve the position of migrant workers in the host country. Qualified people with internationally or regionally recognised skills and qualifications are, on the other hand, more likely to migrate. The adoption of mutually recognised standards without possible compensation mechanisms will therefore be detrimental to the sending countries. In this context, human resource development needs to be addressed in the sending as well as in the host countries. Hence, with the increasing mobility of skilled labour human resource development issues are no longer only a matter of the national policy agenda but need to become part of the international agenda as well. An encompassing recognition framework needs to address decent

[32] For an overview of the national qualifications framework in South Africa, see www.saqa.org.za, and for Namibia see Franz E. Gertze (2005) Mechanisms for recognizing life skills. The Namibian experience www.vox.no/upload/2830/F.%20Gertze.pdf

settlement and recruitment practices as well as the portability of social security benefits. In other words, it should link migration to development issues and social justice.

This report has provided an overview of current efforts to facilitate recognition of qualifications in the different regions, in order to analyse how far they are able to take up these issues. The overview reveals complex institutional arrangements underlining such efforts. The encompassing frameworks of such recognition arrangements are regional integration agreements. Regional integration processes of the EU/EFTA and CARICOM provide the most far reaching arrangements designed to facilitate mutual recognition of professional qualifications. The EIAs which build on the NAFTA model and the GATS model call for the improvement of mutual recognition of qualifications, but delegate the establishment of such agreements and arrangements to the signatory parties. They provide, in other words, for the establishment of unilateral, bilateral, or plurilateral recognition regimes outside their framework.

The overview has identified two different types of such recognition regimes and arrangements: arrangements between private entities, and government-to-government agreements. The majority of the first type of arrangements have been established between private entities such as professional associations. The overview of mutual recognition agreements established between professional organisations showed that so far they have been established mainly between neighbouring countries. In addition, they are limited to highly internationalised professions. As a result, developing countries rarely benefit from this structure.

The report has also outlined how organisations and firms have taken up the request for internationally recognised qualifications by offering certification services, particularly for lower-level skills or technical and language skills. These arrangements aim at establishing close relationships to employers in order to improve the recognition of their certificates. They usually do not involve governments or trade unions in their standards-setting processes. In the long run, this trend towards private certification may run the risk of undermining existing tripartite arrangements at the national level designed to develop vocational training. In addition, none of these arrangements is designed to address issues relating to the brain drain, decent settlement and recruitment practices,

or the portability of social security benefits. In other words, they do not link migration and development issues.

In contrast, government-to-government recognition arrangements and agreements are frameworks which could provide a forum where these issues could be addressed. The UNESCO regional recognition conventions, in particular, provide an interesting framework at the multilateral level. In the light of the difficulty of agreeing on standards for assessing qualifications in the framework of the GATS, the UNESCO conventions may also play an important role in strengthening the procedural Most-Favoured-Nation provision of the GATS and thus improving the access of third parties to existing mutual recognition arrangements. It would therefore be important to support efforts in the different regions to amend and further develop the existing UNESCO conventions.

However, these UNESCO conventions are targeted only at the recognition of higher education qualifications. Such recognition plays a pertinent role for professionals and other skilled sections of the labour force. The further development of mutually agreed standards and criteria within the legal framework of the UNESCO conventions may have a positive impact on the recognition of lower-level skills. This report has pointed to the development of the European Qualifications Framework as a successful example of such an endeavour. This framework has taken up standards and procedures developed in the framework of the UNESCO recognition convention for the European region and the Bologna process. Within the European Qualifications Framework, these standards have now also been applied to vocational education and its recognition. This framework does not grant recognition of foreign qualifications, but provides for a classification system with a view to facilitating comparison. The establishment of such a framework at the national level, however, tends to be not only an instrument aiming at improving transparency, but may lead to some regulatory adaptation in the countries involved. In the EU this framework gains its full significance in the context of the EU general system for recognition for professional purposes. In contrast, the qualifications frameworks developed in other regions lack such a strong instrument to a greater or lesser degree. This major difference needs to be taken into account when we consider the relevance of lessons learned in Europe for other regions of the

world. Adaptation costs and capacities have to be weighed up against possible benefits. It will be important to ensure that national needs and requirements are at the core of developing qualifications frameworks. Last but not least, such a broader framework needs to promote the generation of full and decent employment in the home country so that migration is undertaken by choice and not as a matter of necessity. In other to achieve these objectives, the inclusion not only of employers' organisations but also of trade unions will be crucial, with a view to developing a balance between different and often conflicting interests. Here again the European context provides an interesting example as the social partners have been involved in the consultation process of the European Qualifications Framework.

Several conclusions can be drawn in relation to a future role for the ILO in efforts to facilitate the international portability of skills and qualifications. The ILO could provide a tripartite forum for the exchange of experiences acquired in the different regions while promoting a stronger link between migration and development. Such a forum would make it possible to address the issue of human resource development in its global dimension. Furthermore, as outlined in this report, recognition involves much more than "pure" recognition. It needs well-established dialogues between the home and the host countries in order to improve the understanding of each party's education system. The ILO could provide an interesting forum for such a dialogue. The involvement of different stakeholders would make it possible to paint a broader picture of the different systems. In the longer term, the ILO could even attempt to provide a tripartite forum for establishing mutually recognised standards for the recognition for qualifications which are not related to a higher education degree. In other words, the ILO could complement the UNESCO conventions on the recognition of higher education qualifications in the field of vocational training with its own instruments.

Annex: List of MRAs between professional and industry-based associations

Accountancy

The international activities of the professional organisations in the field of accountancy reflect the strong interaction between this regulated profession and the emerging global market. Most mutual recognition agreements have been established on a bilateral and plurilateral basis.

The International Federation of Accountants

The International Federation of Accountants (IFAC) is a global organisation for the accountancy profession working with 163 member organisations in 120 countries. IFAC initiates, coordinates, and guides efforts to achieve international technical, ethical, and educational guidelines for accountancy. Such standards are considered to be "good practice". Member bodies are expected to take them into account when developing their own recognition mechanisms. In the field of qualifications IFAC has developed international standards for education and professional skills, as well as guidelines for assessing professional capabilities and competence.

Other standard-setting processes involve governmental entities. In the GATS framework, the Council for Trade in Services adopted in May 1997 Guidelines for Mutual Recognition Agreements or Arrangements in Accountancy. Under the auspices of UNCTAD, the intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (ISAR) adopted guidelines for professional accountants in 1999.[33]

[33] UNCTAD Press Release, "UNCTAD expert Group agrees guidelines for professional accountants", dated 24 February 1999.

Reciprocal agreements

A number of national professional associations have established reciprocal agreements with other national professional associations which emphasise the principle of the country of origin. Examples are:

- The *Institute of Chartered Accountants in Singapore* recognises the equivalence of final examinations in accountancy awarded by the *Australian Society of Certified Practising Accountants, the Institute of Chartered Accountants in New Zealand* and the *Association of Chartered Certified Accountants*.
- Bilateral agreements between the *Institute of Chartered Accountants in Australia* and its counterparts in England & Wales, Scotland, Ireland, Canada, South Africa, New Zealand, Zimbabwe, and Hong Kong consider each others' members as eligible to apply for membership without assessment of their qualifications.
- In the Agreement of International Reciprocity, the *National Association of State Boards of Accountancy* (NASBA) and *US Certified Public Accountants* (AICPA) and the *Institute of Chartered Accountants in Australia* have agreed to recognise each others' examinations as equivalent as long as these examinations have integrated some education and experience requirements outlined in the agreement. US AICPA and NASBA have established a similar agreement with the *Canadian Institute of Chartered Accountants* and with the *Institute of Chartered Accountants in Ireland* (ICAI).
- The *Canadian Institute of Chartered Accountants* has entered into agreements with its counterparts in Belgium, England & Wales, Hong Kong, Ireland, Japan, Mexico, the Netherlands, New Zealand, Scotland, South Africa, and the United States.

Architectural services

International Union of Architects

The International Union of Architects (UIA) represents some 1,300,000 architects in more than 100 countries. A major achievement in the field of recognition is the Accord on Recommended International Standards of Professionalism in Architectural Practice (WTO/WPDR 2005a: 11). Nine years of intensive study and debate paved the way for the development of this accord, which was unanimously approved by the triennial UIA Con-

gress and Assembly in Beijing in July 1999.[34] This accord serves as a non-binding framework for mutual recognition agreements between associations of architects. It provides not only for guidance on the recognition of an academic diploma, but also on waiving examinations, adaptation periods or tests, the issue and registration of a practicing certificate for cross-border work and on establishment practice, and also on membership of the local order and use of titles.

The Commonwealth Association of Architects

The *Commonwealth Association of Architects* (CAA) has established many recognition arrangements between institutes in the Commonwealth countries, based on the inscription and accreditation of the architectural training provided in specific educational institutions (Beviglia Zampetti 2000: 291). Since 1968, the CAA has periodically published a List of Schools of Architecture whose qualifications it considered, after inspection, to be a sufficient standard to recommend to national authorities that they be accepted for recognition as meeting the academic requirements appropriate for registration, accreditation, or acceptance as an architect. The CAA revised its validation system in 2000 and introduced new procedures and criteria. Since then the CAA has regularly assessed schools on the basis of these procedures and criteria. The assessment team is composed of CAA 'out of country' representatives and representatives of the national institute and registration board. Requests for visiting boards by schools are only accepted with the endorsement of the CAA member national institute. Currently about 68 schools in 12 countries are covered by this multilateral system.

Other mutual recognition agreements in this sector have been established on a bilateral level. The Inter-recognition Agreement between the *Committee of Canadian Architectural Councils* (CCAC) and the *National Council of Architectural Registration Boards* (NCARB), for instance, permits Canadian and US architects whose provinces/states are signatory to the Agreement to be eligible to be licensed in a jurisdiction that is also signatory. 34 US states and 7 Canadian provinces have signed this recognition agreement so far (Nielson 2004: 197).

[34] www.uia-architectes.org/

Engineering services

A number of initiatives have been developed in the field of engineering services designed to facilitate recognition. The APEC as well as the planned ASEAN Engineers Register have already been mentioned. An initiative that has become a role model for other fields is the Washington Accord.

Washington Accord

This Accord was signed in 1989 between relevant organisations responsible for accrediting professional engineering degrees in each of the signatory countries. To date agencies from Africa, the United Kingdom and the United States have become members. Agencies from other countries have gained probationary status (e.g. Germany). New members hold this status for two years before they are accepted as full members. Under the Accord, institutions which are full members agree to recognise the substantial equivalence or comparability of accreditation processes used by other institutions in relation to engineering qualifications (first professional degree or basic engineering education). However, the Accord does not address the mutual recognition of professional credentials such as the Professional Engineer (PE) or Chartered Engineer.

Sidney Accord

This Accord, signed in June 2001, recognises the substantial equivalence of the accreditation decision of the signatories at the level of 'Engineering Technologist' in the same signatory countries of the Washington Accord, apart from the USA. The term Engineering Technologist is generic and used throughout the agreement but is also the normal title used in New Zealand [to be checked?]. In the UK this is equivalent to Incorporated Engineer. Australia, Hong Kong China and New Zealand are currently transitional signatories, as they have been unable to complete the verification activities because technologist type degrees have not been sufficiently developed and/or accreditation systems are not in place. The Sidney Accord is thus an illustrative example of the difficulty of regulating the recognition of professions whose regulations differ significantly.

Dublin Accord

In May 2002 the national engineering organisations of the UK, Ireland, South Africa, and Canada signed an agreement mutually recognising the qualifications which underpin the granting of Engineering Technician titles in the four countries. The operation of the Accord is similar to that of the Washington and Sidney accords.[35]

Engineers Mobility Forum

The Engineers Mobility Forum (EMF) agreement is a multi-national agreement between engineering organisations in the member jurisdictions which creates the framework for the establishment of an international standard of competence for professional engineering, and then empowers each member organisation to establish a section of the International Professional Engineers Register.

Engineering Technologist Mobility Forum

The signatories to the agreement of this forum have agreed to facilitate cross-border recognition of experienced practising engineering technologists by establishing a framework for their recognition based on confidence in the integrity of national assessment systems, secured through continuing mutual inspection and evaluation of those systems.

Fédération Internationale d'Associations Nationales d'Ingénieurs

Associations from 26 European countries are represented in the Fédération Internationale d'Associations Nationales d'Ingénieurs (FEANI) today, bringing together more than 80 national engineering associations, all of which are recognised in their countries as the representatives of the engineering profession. FEANI has developed education standards and maintains a list of schools and programmes –the FEANI INDEX – which meet the standards and are accredited or officially recognised at national level. FEANI also offers the possibility for individual engineers to become part of its register on the condition that they meet the required standards. Registration as European Engineer gives the right to be called European Engineer in the language of the na-

[35] www.ieagreements.com/Dublin/Agreement.pdf

tional member and to use the professional title EUR ING with the national title.[36] The EMF international register of engineers complements the FEANI register for countries outside Europe. The signatories parties of these broader frameworks include all those who signed the Washington Accord plus, Japan, Korea, and Malaysia.

Legal services

International Association of Lawyers

Today, the International Association of Lawyers (UIA) is an association open to all lawyers of the world, made up of both general and specialist practitioners, including more than 200 bar associations, organisations or federations (representing nearly two million lawyers) as well as several thousand individual members from over 110 countries. In October 2002 the General Assembly of the Association adopted a resolution on Standards for Lawyers establishing a Legal Practice outside their Home Country. In this non-binding document, the Assembly recommends that the host country should require any foreign lawyer to use the same title as is used in the foreign lawyer's home country (without translation except where it is necessary to make the characters readable in the host country language), along with an indication of the bar, bar association or law society of his or her affiliation in the home country. Furthermore, the resolution recommends that any foreign lawyer who identifies his or her legal education, or a university or higher degree in law or membership in a bar, bar association or law society as one of his or her qualifications to render services, should be automatically deemed to be engaged in offering legal services in the host country (3g).

Medical and health related services

Major initiatives have been developed in the field of nursing but also in other areas of medical education.

Medical education

[36] For more information, see www.feani.org

In 2004, the *World Federation for Medical Education* (WFME), together with the *World Health Organisation* (WHO), set up an international Task Force on Accreditation. This task force developed Guidelines for Accreditation of Basic Medical Education in 2005. These non-binding guidelines outline standards for accreditation with the objective of facilitating mutual recognition of accreditation systems. Both organisations aim at improving international information about accredited medical schools by providing a web-based WHO Database (WHO and WFME 2005). They do not, however, accredit medical schools themselves. The collection of the data for this database remains within the competence of the governments. The WFME and its network only assist the database administrators with information about accreditation issues.

International Council of Nurses

The International Council of Nurses (ICN) is a federation of national nurses' associations representing nurses in more than 128 countries. The Council seeks to improve cooperation between nurses worldwide and further their interests. The ICN has developed codes of ethics and standards for professional practice and for nursing regulation. The Council addresses the issue of nurse migration regularly in its codes, guidelines and recommendations. The Council has identified the lack of recognition of degrees and diplomas, as well as work experience, as a major reason for the lower professional status of nurses who migrate to another country (ICN 2002). It also promotes the freedom of association for nurses.

Australia/ New Zealand – Memo of Cooperation

In the framework of the Trans-Tasman Mutual Recognition Agreement (TTMRA), the nursing councils of the signatory parties have agreed on standards designed to facilitate mutual recognition of equivalent registration/enrolment and a streamlined registration process (except for Western Australia).

Caribbean - Regional Examination Nurse Registration

The Regional Examination Nurse Registration (RENR) in the framework of CARICOM was established in 1993. The objective of this initiative is manifold: the introduction of reciprocity in nurse registration among the countries in the region; the establishment of a pool of qualified

nurses as regional examiners; the development of criteria and procedures for accreditation of schools and the development and improvement of common exam procedures.

The Eastern, Central and Southern African College of Nursing

The Eastern, Central and Southern Africa College of Nursing (ECSACON) has developed a prototype of a Profession Qualification Framework (PRF) that is designed to help countries of the region to develop their country-specific PRF documents. The framework address the scopes of practice standards, competencies, and the core content and standards for education. Four countries have so far developed their own documents – Botswana, Lesotho, Uganda, and Zambia (Ward, Butler et al. 2005).

South East Asia/ Western Pacific –Core Competency Initiative

The nursing regulatory authorities of the Western Pacific and South East Asian Region (WPSEAR) launched a process in 1996 to develop common standards of competencies for nurses. The common standards were developed over a period of 6 years in consultation with nurses representing 27 Asian-Pacific countries. The standards were adopted at the 5th WPSEAR meeting in Kuala Lumpur in 2004. One major objective of this project is to provide the basis for formulating common education and professional standards, which in turn facilitate the recognition of qualifications and skills of nurses from other countries and foster multi-country licensure programmes.

The European Union (EU) - Nursing Directives and the new Directive on Mutual Recognition of Professional Qualifications

National nurses' associations in the EU/EEA countries have elaborated together fundamental standards with regard to the training of generalist nurses, which formed part of the EU Directives of the Nurse Responsible for General Care. Advisory Committees specified the minimum standards required for the nature, content and length of education and training programmes leading to a qualification that is automatically recognised by the member states. With the new general Directive, efforts are currently being undertaken to specify essential differences in nursing education.

Surveyors

International Federation of Surveyors

The International Federation of Surveyors (FIG) is a federation of national associations founded in 1978. [37] FIG promotes the principle of mutual recognition of professional qualifications by encouraging communication between professional organisations to ensure a better understanding of how surveyors acquire their qualifications in different countries. It has developed a methodology for implementing mutual recognition of surveyors, supports professional organisations where difficulties are identified in achieving mutual recognition, and encourages efforts at the national level to remove such difficulties. In April 2002, the General Assembly of the FIG adopted a Policy Statement on Mutual Recognition of Professional Qualifications prepared by the Task Force on Mutual Recognition of Professional Qualifications. A working group has been established to improve knowledge and available information about relevant aspects of professional education, in order to implement the process of mutual recognition of professional qualifications.

Many institutions of surveyors have established reciprocity agreements with institutions in other countries on a bilateral level, e.g. between the Institution of Surveyors of Australia and the Royal Institute of Chartered Surveyors UK.

References

Adlung, R. (2005). "The (Modest) Role of the GATS." Intereconomics(May/June): 135-139.

APEC (2005). APEC Professional Recognition Projects: APEC Engineer / APEC Architect, 2005/SOM3/GOS/010 Agenda item: V.3.

Bergan, S. (2002). The European Higher Education Area and Recognition of Qualification in the Context of Globalization. Globalization and the Market in Higher Education. UNESCO. Paris, UNESCO.

Beviglia Zampetti, A. (2000). Market Access through Mutual Recognition: The Promise and Limits of GATS Article VII. GATS 2000: New Directions in Services Trade Liberalization. P. Sauvé and R. M. Stern. Washington D.C., Harvard University, Brookings Institution Press**:** 283-306.

[37] For an overview www.fig.net

Blackmur, D. (2004). "A critique of the concept of national qualification frameworks." Quality in Higher Education **10**(3).

CANTA Secretariat (2005). CARICOM process for workforce training, assessment and certification. Kingston, Carribbean Association of National Training Agencies.

CIHI (2006). Workforce Trends of Registered Nurses in Canada, 2005.

Coke Hamilton, P. (2000). Service in the Carribbean: Protocol II on Establishment, Services, and Capital. Service in Trade in the Western Hemisphere: Liberalization, Integration and Reform. S. M. Stephenson. Washington D.C., Brookings Institution Press**:** 192-207.

Copenhagen Declaration (2002). Declaration of the European Ministers of Vocational Education and Training, and the European Commission convened in Copenhagen on 29 and 30 November 2002, on enhanced European cooperation in vocational education and training.

Council of the European Union (2002). Council Resolution on the promotion of enhanced European cooperation in vocational education and training, 19 December 2002, (2003/C 13/02). Brussels

Council of the European Union (2003). "COUNCIL DIRECTIVE 2003/109/EC concerning the status of third-country nationals who are long-term residents, 25 November 2003."

Council of the European Union (2004). Conclusions of the Council and of the representatives of the Governments of the Member States meeting within the Council on Common European Principles for the identification and validation of non-formal and informal learning, 9600/04. Brussels.

Dalichow, F. (1987). "Academic Recognition within the European Community." European Journal of Education **41**.

Dangond, M. E. (2000). Andean Community Decision 439 on Service Trade. Service in Trade in the Western Hemisphere: Liberalization, Integration and Reform. S. M. Stephenson. Washington D.C., Brookings Institution Press**:** 180-191.

de Cockborne, J.-E. (1995). Professional Services in the European Union. Liberalisation of Trade in Services. OECD. Paris, OECD**:** 55-69.

European Commission (2005). European Credit System for VET (ECVET). Technical Specifications (Report of the Credit Transfer Technical Working Group), 28/06/2005, EAC/A3/MAR. Brussel.

European Commission (2005). Fundamental of a 'Commong Quality Assurance Framework' (CQAF) for VET in Europe.

European Commission (2006). Proposal for a Recommendation of the European Parliament and the Council on the establishment of the European Qualifications Framework for lifelong learning COM(2006) 479 final. Brussels.

European Council (2000). Presidency Conclusion - Lisbon European Council, 23-24 March 2000, European Union.

European Parliament and Council (2006). Recommendation of the European Parliament and the Council on further European cooperation in quality assurance in higher educationm PE-CONS 3666/1/05 REV , Strasbourg, 15 February 2006.

Global Commission on International Migration (2005). Migration in an interconnected world: New directions for Actions, 5 October 2005. Geneva.

Hijden, P. v. d. (2005). Towards a global qualifications framework? Bologna as a model for global cooperation in higher education. Opening up the wider world: the external dimension of the Bologna Process. F. Muche. Bonn, Lemmens**:** 121-125.

Hildebrand, M. (1996). "Overview of the development of academic recognition practice in Europe." Higher Education in Europe **21**(4): 39-49.

ICN (2002). Career Moves and Migration: Critical Questions. Geneva, International Council of Nurses.

ILO (2004). R195 Human Resources Development Recommendation, 2004. Geneva, International Labour Organization.

ILO (2004). Towards a fair deal for migrant workers in the global economy, Report VI, Sixth Item on the agenda of the International Labour Conference, 92nd Session, 2004. Geneva, International Labour Organization.

ILO (2005). ILO Multilateral Framework on Labour Migration. Non-binding principles and guidelines for a right-based approach to labour migration, adopted by the Tripartite Meeting of Experts, Geneva 31 October-2 November 2005, TMMFLM/2005/1(Rev.). Geneva, International Labour Orgnization.

IOM (2004). The Migration of Health Care Workers: Creative Solutions to Manage Wealth Workforce Migration, Seminar on Health and Migration, 9-11 June 2004.

Jefferies, D. and J. Evetts (2000). "Approaches to the international recognition of professional qualifications in engineering and the sciences." European Journal of Engineering Education **25**(1): 99-107.

Kromann, W. (1999). A cross-country report on "the state of play of regulated professions, as defined by Council Directive 92/51/EEC, in the candidate countries of Central and Eastern Europe. Torino, European Training Foundation.

Lisbon Convention (1997). Convention on the Recognition of Qualifications concerning Higher Education in the European Region.

Lopez-Bassols, V. (2002). ICT Skills and Emplozment. STI WORKING PAPERS DSTI/DOC(2002)10. Paris, OECD.

Manning, C. and P. Bhatnagar (2004). Liberalizing and Facilitating the Movement of Individual Service Providers under AFAS: Implication for Labour and Immigration Policies and Procedures in ASEAN, REPSF Project 02/004.

Martin, P. (2005). Migrants in the global Labor Market. A Paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration, September 2005.

Mattoo, A. (2000). Comment. Gats 2000 - new directions in services trade liberalizatio. P. Sauvé and R. M. Stern. Washington D.C., Harvard University, Brooklings Institution Press**:** 317-321.

National Qualification Authority of Ireland (2002). Framework of qualifications: A review of developments outside the State, Working Paper, 25 June 2002.

Nicolaidis, K. and J. Trachtman (2000). From Policed Regulation to Managed Recognition in GATS. Gats 2000 - new Directions in Services Trade Liberalization. P. Sauvé and R. M. Stern. Washington D.C., Harvard University, Brooklings Institution Press**:** 241-282.

Nielson, J. (2004). Trade Agreements and Recognition. Quality and Recognition in Higher Education. OECD/CERI. Paris, OECD**:** 155-203.

Peña, M.-A. (2000). Services in Mercosur. The Protocol of Montevidea. Services trade in the Western Hemisphere. Liberalization, Integratioin and Reform. S. M. Stephenson. Washington D.C., Brookings Institution Press**:** 154-168.

Pinera Gonzalez, C. (2000). Mexico's Free Trade Agreements: Extending NAFTA's Approach. Service Trade in the Western Hemisphere. Liberaliyation, Integration, and Reform. S. M. Stephenson. Washington D.C., Brooklings Institution Press**:** 139-153.

Salt, J. (2001). Current Trends in International Migration in Europe, CDMG (2001) 33. Strasbourg, Council of Europe.

Samuels, J. (2003). Toward a regional qualifications framework and the work of the SADC/HRD Technical Committee on Accreditation and Certifications.

Sauvé, P. (1995). The Long and Winding Road: NAFTA and the Professions. Liberalisation of Trade in Professional Services. OECD. Paris, OECD**:** 61-77.

Schade, A. (2004). The Case of Germany. Country Report Germany. Accreditation in the Framework of Evaluation Activitites. S. Schwarz and D. F. Westerheijden. Frankfurt am Main, GEW**:** 163-180.

Stephenson, S. M. (2000). Regional Agreements on Service in Multilateral Disciplines Interpreting and Applying GATS Article V. Service in Trade in the Western Hemisphere: Liberalization, Integration and Reform. S. M. Stephenson. Washington D.C., Brookings Institution Press**:** 86-104.

Sursock, A. (2001). Towards Accreditation Schemes for Higher Education in Europe?, Final Project Report February 2001, Association of European Universities (CRE).

The Helsinki Communiqué (2006). "The Helsinki Communiqué on Enhanced European Cooperation in Vocational Education and Training Communiqué of the European Ministers of Vocational Education and Training, the European Social partners and the European Commission, convened in Helsinki on 5 December 20063."

Theo, C. H. (2004). Mutual Recognition of Surveying Qualifications within the ASEAN Framework Agreement on Services.

UNESCO (2000a). The Regional Convention on the Recognition of Studies, Diplomas and Degrees in Higher Education in Asia and Pacific. Sixth Sessin of the Regional Committee Bangkok, Thailand, 10 November 2000.

UNESCO (2004). Second Global Forum on International Quality Assurance, Accreditation and the Recognition of Qualifications in Higher Education “Widening Access to Quality Higher Education” Background Document, Paris, 28 – 29 June 2004, ED-04/CONF.205/GF2/2. Paris.

UNESCO (2004d). UNESCO/OECD Guidelines on "Quality Provision in Cross-Border Higher Education", Drafting Meeting 2, 14-15 October 2004, Tokyo, Japan ED-04/RIQ/GF2. Paris.

UNESCO (2005a). UNESCO's Capacity Building Activity in Qualifications Recognition, Quality Assurance and Accreditation: Towards a coherent Framework, UNESCO/OECD Guidelines on "Quality Provision in Cross-Border Higher Education", Drafting Meeting 3, 17-18 January 2005, ED-04/RIQ/GF2.

UNESCO General Conference (2003). Item 5.17 Higher education and globalization: Promoting quality and access to the knowledge societ as a means for sustainable development.

UNESCO/OECD (2005). Guidelines for Quality Provision in Cross-border Higher Education. Paris.

Ward, W. B., E. E. Butler, et al. (2005). Mid-Term Assessment of REDSO&ESA'S strategic objective 7: Enhance regional capacity to improve health systems.

Whalley, J. (2006). Recent regional agreements: Why so many, why so much variance in form, why coming so fast, and where are they headed? CESIFO Working Paper No. 1790.

WHO and WFME (2005). WHO/WFME Guidelines for Accreditation of Basic Medical Education. Geneva, Copenhagen.

World Bank (2006). Global Economic Prospect 2006, Economic Implications of Remittances and Migration. Washington D.C., World Bank.

WTO/CTS (1995). Decision on professional Services (S/L/3). Geneva, WTO.

WTO/CTS (1998a). Decision on Disciplines relating to the accountancy sector. Geneva, WTO.

WTO/CTS (1998b). Disciplines on Domestic Regulation in the Accountancy Sector, S/L/64, 17 December 1998. Geneva, WTO.

WTO/CTS (2000). Communication from India. Proposed Liberalisation of Movement of Professionals under the General Agreement on Trade in Services, Special Session, S/CSS/W/12, 24 November 2000. Geneva, WTO.

WTO/WPDR (2005a). Results of Secretariat Consultations with International Professional Services Associations, Informal Note of the Secretariat, Job(03)/126/Rev.6, 15 September 2005. Geneva, WTO.

WTO/WPDR (2005m). Summary of the informal Meeting held on 20 and 23 September 2005, Note by the Chairman, Job(05)/223, 7 October 2005. Geneva, WTO.

WTO/WPDR (2005n). Communication from Australia, Development of Disciplines on Domestic Regulation for the Legal and Engineering Sectors, S/WPDR/W/34, 6 Sepember 2005. Geneva, WTO.

WTO/WPDR (2005p). Domestic Regualtion: Preparation for the Sixth Ministerial Conference, Note by the Chairman, Job(059). Geneva, WTO.

WTO/WPDR (2006). Disciplines on Domestic Regulation pursuant to GATS Article VI:4 Consolidated Working Paper, Note by the Chairman, Job(06)225. Geneva, WTO.