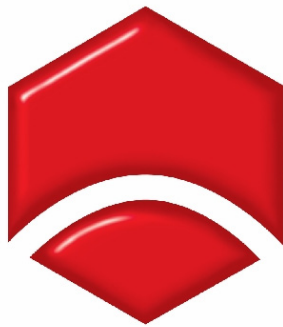


United States – Australia Free Trade Agreement

Submission to the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America



**ENGINEERS
AUSTRALIA**

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1. Introduction

Engineers Australia is the peak body for engineering practitioners in Australia and represents all disciplines and branches of engineering. Engineers Australia has around 73,000 members Australia wide and is the largest and most diverse engineering association in Australia. All members are bound by a common commitment to promote engineering and facilitate its practice for the common good. Engineers Australia welcomes the invitation by the Senate Select Committee to make a submission on the free trade agreement between Australia and the United States (US).

Engineers Australia believes that opportunities within the FTA to address barriers to trade and strengthen existing mutual recognition agreements should be embraced and that commitments toward enhancing and supporting the cross-border supply of engineering services should continue be sought.

Engineers Australia believes that the FTA provides future opportunities for reducing barriers to trade in engineering services in three main areas, particularly with regard to Australian engineers practising in the US. These are:

- Opportunities to develop mutually acceptable standards and criteria for licensing and certification of professional services.
- Mutual recognition of professional service providers facilitated by professional associations.
- Opportunities to develop licensing models for engineering.

Engineers Australia also believes the provisions of the FTA dealing with expansion of access to government procurement contracts will provide a significant benefit to the Australian engineering profession.

2. Development of standards and criteria for licensing and certification of professional services

Chapter 10 of the FTA (cross border trade in services) has the potential to provide benefits to Australian engineers wishing to offer services in the US. While the chapter does not specifically mention engineering services, it does provide for national treatment for service suppliers. The chapter removes barriers to trade in services by imposing a prohibition on limits to market access based on numbers of service suppliers, number of employees and number of service operations. It also prohibits limitations based on requirements of specific types of legal entities or joint ventures.

Of particular interest to Engineers Australia is Annex 10A of the FTA where the parties are to agree to encourage relevant bodies to develop mutually acceptable standards and criteria for licensing and certification of professional service providers and to then provide recommendations on mutual recognition to the Joint Committee. Upon the signing of the FTA, Engineers Australia will liaise with the Department of Foreign Affairs and Trade to explore opportunities for pursuing mutual recognition opportunities for engineering services.

This is particularly important given the licensing regime for professional engineers in the US, as set out below.

Within the US, there are fifty-five separate and independent jurisdictions (States and Territories) which undertake assessment and licensing of professional engineers. In each

jurisdiction, it is a statutory requirement to be licensed in order to engage in the practice of engineering or to use the title of “Professional Engineer.” The government body in each jurisdiction for administering the engineering practice law is the “Board of Registration of Professional Engineers”¹. An engineer that has been granted a license to practice by a board is considered to be registered in that jurisdiction. To remain registered, one must practice within the regulatory standards and periodically renew the practice license.

While each US State and Territory has its own engineering practice laws, and hence its own registration system for licensing engineers there are many similarities among the qualification standards. In general, all jurisdictions rely on an assessment system that is founded on the principles of education, experience and individual competency examination; and they rely upon the practitioner’s adherence to the *Code of Professional Conduct* which has been adopted by the jurisdiction and codified into law by statute or regulation.

In general there is a four step process leading to registration for US nationals:

- Graduation from a university degree accredited by the Accreditation Board for Engineering and Technology (ABET), the nationally recognised accrediting organisation for engineering and technology curricula.
- Sit and pass the Fundamentals of Engineering Exam administered and developed by the National Council of Examiners for Engineering and Surveying (NCEES)
- Obtain work experience under the supervision of someone who is already licensed (the type of experience differs from State to State)
- Sit and pass the Principles and Practice of Engineering Exam also administered by NCEES.

There are important differences that exist among each US State and Territory. For example although education is an important qualification for licensure, there are differences as to what constitutes minimum acceptable education. In all jurisdictions, a degree from an engineering program accredited by the Engineering Accreditation Commission of ABET is considered to be acceptable education. In many jurisdictions, but not in all, a number of science or engineering-related (including engineering technology) degrees are also considered acceptable education. There are also a number of States and Territories that have included requirements in their engineering licensing laws for continuing professional education as a condition for renewal of the practice licence.

The form of licensure also varies to some extent within the US. Most jurisdictions license engineers under the generic title of “Professional Engineer”, and rely upon the practitioner’s ethical obligation to practice only within their area of professional competence. Other jurisdictions refer to licence by discipline, and restrict the registrant to practice in the specific discipline licensed.

¹ In one jurisdiction, the State of Illinois, there are actually two engineering registration boards, one for structural engineers and another for all other professional engineers. A listing of each board can be found from: http://www.ncees.org/licensure/licensing_boards/

To facilitate interstate mobility, the laws of one jurisdiction do provide for mutual recognition by another jurisdiction. While these laws vary somewhat among jurisdictions, in general, a host jurisdiction will accept the assessment results of another jurisdiction, if qualification standards are comparable.

Ideally, Engineers Australia would like to see commitments from US State and Territory governments to facilitate the recognition of overseas qualifications and registration at a national level allowing Australian engineers to practice in all jurisdictions after one application process. Given that Australian qualifications are recognised under the Washington Accord, a single application mechanism could be administered with little difficulty. For example, the mission of the US Council for International Engineering Practice (USCIEP) could be widened to include the operation of a register of overseas persons approved to practice in the US. Currently the USCIEP exists to develop and promote procedures to enable US-registered professional engineers to practice internationally, for example by operating the US Engineers Mobility Forum International Register of Professional Engineers.

Another mechanism could involve the streamlining of mutual recognition arrangements between US jurisdictions for Australian engineers. A single application form leading to registration in numerous States and Territories could be formulated. Already a number of jurisdictions have complementary licensure procedures for Australian applicants. These complementary jurisdictions could work together to develop a single application process resulting in registration in all participating States and Territories.

3. Mutual recognition between Australia and the US facilitated by professional associations

Annex 10A of the FTA provides an opportunity for greater recognition of the development of mutual recognition arrangements among professional bodies. This would allow Australian professional bodies such as Engineers Australia the opportunity to expand existing mutual recognition agreements, which may, in turn, expand the export opportunities for Australian engineering services.

Accredited Australian qualifications and overseas engineering qualifications are recognised through formal agreements with engineering accreditation bodies in other countries. Engineers Australia would be seeking recognition of these agreements under the FTA through the process outlined in Annex 10A. These agreements include:

APEC Engineer

The APEC Human Resources Development Working Group Steering Committee for mutual recognition of professional engineers developed the initiative for the APEC Engineer Register over the period 1997 – 1998. The intent of the APEC Engineer Register is to recognise the equivalencies in the qualifications and experience of practising professional engineers in the participating economies and to facilitate trade in engineering services between those participating economies. It is anticipated that engineers entered on the APEC Engineer Register will be granted a high degree of mutual exemption from further assessment when practising in any of the participating economies: Australia, Canada, Hong Kong SAR, Indonesia, Japan, Korea, Malaysia, New Zealand, Philippines, Thailand and the US.

An APEC Engineer is defined as a person who is recognised as a professional engineer within an APEC economy, and has satisfied an authorised body in that economy (for example Engineers Australia) operating in accordance with the criteria and procedures approved by the APEC Engineer Coordinating Committee, that they have:

- completed an accredited or recognised engineering program;
- been assessed within their own economy as eligible for independent practice;
- gained a minimum of seven years practical experience since graduation;
- spent at least two years in responsible charge of significant engineering work; and
- maintained their continuing professional development at a satisfactory level.

All practitioners seeking registration as APEC Engineers must also agree to be bound by the codes of professional conduct established and enforced by their home jurisdiction and by any other jurisdiction within which they are practising. Such codes normally include requirements that practitioners place the health, safety and welfare of the community above their responsibilities to clients and colleagues, practise only within their area of competence, and advise their clients when additional professional assistance becomes necessary in order to implement a program or project.

APEC Engineers must agree to be held individually accountable for their actions, both through requirements imposed by the licensing or registering body in the jurisdictions in which they work and through legal processes.

As required by the *APEC Engineer Framework*, the National Council of Engineers Australia has convened an APEC Engineer Monitoring Committee, which includes representatives from leading stakeholders. The Committee is a sub-committee of the National Engineering Registration Board. The Committee monitors mechanisms for determining the eligibility of professional engineers practising in Australia to be placed on the APEC Engineer Register – Australia.

Washington Accord

The Washington Accord was signed in 1989. It is an agreement between the bodies responsible for accrediting professional engineering degree programs in each of the signatory countries. It recognises the substantial equivalence of programs accredited by those bodies, and recommends that graduates of accredited programs in any of the signatory countries be recognised by the other countries as having met the academic requirements for entry to the practice of engineering. The Washington Accord covers professional engineering undergraduate degrees. *Engineering technology and postgraduate-level programs are not covered by the Accord.*

The signatory countries of the Washington Accord are:

Australia	Institution of Engineers, Australia
Canada	The Canadian Accreditation Board of the Canadian Council of Professional Engineers
Hong Kong SAR	The Hong Kong Institution of Engineers
Ireland	Institution of Engineers of Ireland
New Zealand	Institution of Professional Engineers, New Zealand
South Africa	The Engineering Council of South Africa
United Kingdom	The Engineering Council of the UK
US	The Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology
Japan	Japanese Accreditation Body for Engineering Education

The signatories have exchanged information on, and have examined, their respective processes, policies and procedures for granting accreditation to engineering academic programs, and have concluded that these are comparable. Through the Accord, the signatories recognise the substantial equivalence of such programs in satisfying the academic requirements for the practice of engineering at the professional level.

International Register of Professional Engineers

The Register is governed by the Engineers' Mobility Forum, a grouping of international professional associations who enter into various types of mutual recognition agreements for membership. The following professional associations participate:

Australia	Institution of Engineers, Australia
Canada	Canadian Council of Technicians and Technologists
Hong Kong, SAR	The Hong Kong Institute of Engineers
Ireland	Institution of Engineers of Ireland
Japan	Details unconfirmed
Korea	Korean Professional Engineers Association
Malaysia	Board of Engineers, Malaysia
New Zealand	Institution of Professions Engineers, New Zealand
South Africa	Engineering Council of South Africa
United Kingdom	The Engineering board of the UK
US	US Council for International Engineering Practice

Through this Agreement, the signatories aim to facilitate cross border practice by experienced engineers. The signatories have agreed to use their best endeavours to ensure that the bodies responsible for licensing engineers to practice in their own economies simplify as much as possible the requirements for those on the International Register. Some economies have more complex licensing laws than others, for example, the US and Canada. All signatories have agreed to identify what local requirements will still remain to be met by engineers on the International Register who wish to practice in the signatory's economy, and to work towards minimising such requirements. Engineers with an accredited degree and who have gained a minimum of seven years practical experience since graduating and have spent at least two years in responsible charge of significant engineering work will be eligible to be entered on the International Register.

4. Licensing models for engineering

Annex 10A of the FTA also provides that the working group consider the feasibility of developing model procedures for the licensing and certification of professional service providers.

Engineers Australia believes that the APEC Engineer model should be used as best practice to facilitate the movement of professional engineers between Australia and the US. While the Washington Accord has greatly strengthened mutual recognition of qualifications between the two countries, the APEC Engineer model has the potential to increase trade in engineering services beyond the opportunities presented by the other multilateral agreements outlined above.

While the Washington Accord operates at a professional association level, the APEC Engineer model was developed under the auspices of the APEC Human Resources Development Working Group. The register was an initiative of regulatory authorities, professional bodies and relevant ministries from APEC economies to remove barriers to professional mobility. The inclusion of national governments in some aspects of the APEC Engineer register poses opportunities for other APEC initiatives supported at a national government level to strengthen the register.

These opportunities could include APEC initiatives such as the APEC Business Travel Card which operates to cut through the red tape of business travel, and gives accredited business people pre-cleared entry to participating APEC economies (the US is not currently a participant). The use of APEC facilitated programs like the Business Travel Card have the ability to address issues limiting the trade of engineering services beyond problems associated with the mutual recognition of qualifications and registration. Fast-tracked business travel and migration procedures between Australia and the US will boost Australian involvement in US markets and open the way for higher levels of cross-border trade in engineering services within the two countries.

5. Conclusion

Engineers Australia is aware that there may be problems in applying the FTA at the sub-national level in the US, where only thirty-seven States are signatories to the World Trade Organisation trade rules. However, overall, Engineers Australia supports the provisions of the FTA regarding trade in services and will continue to work with the Department of Foreign Affairs and Trade to enhance future opportunities for the export of Australian engineering services.