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Architectural Services in Global Trade  
in Professional Services

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## **I. THE SIZE AND POTENTIAL GLOBAL TRADE IN ARCHITECTURAL SERVICES**

### **An Overview**

The continued emergence of expanding national economies will be prime markets for expanding architectural services, both domestically and internationally. At this point in time, China is by far and away the leading example representing an expanding market for international services and it is all the more significant in how rapidly it has occurred and how it continues to expand. It is also noteworthy because foreign architects are not yet licensed in China.

Forward looking architects, together with their national professional bodies, have embarked on a concerted effort in the last twenty years to expand the range of professional services offered by architects to clients. The traditional role and image of the architect as the designer of buildings has been expanded to include feasibility studies, post-occupancy evaluations, facilities management, etc.

Although not yet stressed in undergraduate architectural education, the accumulation of advanced professional business management skills, including those related to international business practice, continues to enhance and advance the expansion of professional services into a global marketplace.

Increasing public policy attention, legislation and regulation on the environment is resulting in an increased focus on architectural design that incorporates a focus on energy conservation, sustainability and green building technology. Foreign architects working in many European countries have had to meet standards far advanced than in their home country.

As both developed and developing countries begin to enter the mutual recognition agreement process, they are encountering the issue of whether they will have to establish a system to evaluate and accredit their schools of architecture to a minimum standard in order to have the degrees awarded their graduates recognized in other countries.

National, and where they exist, state regulatory bodies, will continue to come under pressure from architects and their professional bodies within their jurisdictions to revise their laws and regulations to recognize and accommodate the realities of the changing global practice of architecture in order to have their constituencies remain competitive in the international marketplace. Such a pattern of change is emerging in those countries with a developing history of expanding international practice. Where new regional governmental bodies exist, such as seen in the European Union, the national architectural regulatory bodies find themselves having to accept and practice under new regional legal and regulatory requirements.

Regional mutual recognition agreements effecting cross border architectural practice have been limited to a few regions, North America, Europe and the Pacific Basin. As these agreements reach maturity in their application, one can anticipate that other regions will also be pursuing such agreements in support of their architectural profession.

Future action by the World Trade Organization's Working Party on Domestic Regulation in addressing standards for the domestic regulation for the provision of architectural services will be

welcomed by organizations such as the International Union of Architects. Having such a standard being applied by the governments of WTO member states will complement the existing adopted UIA standards.

### **Extent and Pattern**

Architectural services continue to follow expanding foreign construction project markets. It reflects changing patterns in domestic economic conditions. More recently it has been influenced by government free trade agreements which have resulted in domestic clients taking their architects with them as they expand their businesses to foreign markets.

This globalization process is dominated by architectural firms based in developed countries. It is characterized by large firms entering the global marketplace. However, the number of architectural firms, those with at least 100 employees, practicing globally is still a small percentage of the overall number of firms in the country.

A period of rapid change, commencing in the early 1980s, in the electronic technology employed in the provision of architectural services is a very significant driving force in the globalization process. A firm's commitment to, and ability to support, the ongoing changes in technology plays an increasing role in their retaining a competitive position in global practice.

Since the mid-1990s the gradual increase in the numbers of negotiated and signed mutual recognition agreements among architectural regulatory and professional bodies is beginning to show the first signs of facilitating increased global practice.

The development since 1994 of the first accepted and approved global architectural professional practice and education standards are serving to enhance and facilitate increased global practice and registration.

### **Evolution in Recent Years**

Domestically, architects have established a national identity and presence through the creation of national professional bodies. While this movement has its beginnings in the 19<sup>th</sup>-century, it was not until 1948 that they came together in the first worldwide professional body, the International Union of Architects (UIA). It is not until 50 years later that the UIA establishes a standing commission charged to address the subject of professional practice and set about creating the first international recommended standards, the UIA Accord on Recommended International Standards of Professional Practice.

A number of regional professional bodies have been created throughout the 20<sup>th</sup> century. To varying degrees, they are all now engaged in addressing issues related to global trade in architectural services. The oldest is the Pan American Federation of Architects Associations uniting national bodies in North, Central and South America. Other examples are found in The Commonwealth Architects Association which unites the professional bodies in the British Commonwealth. The Architects' Council of Europe formation is directly associated with the creation of the European Union. The Architects Regional Council of Asia was founded in 1969. The Union of African Architects unites the national architectural bodies throughout Africa.

With an increasing membership now residing and practicing abroad, a more recent development is the formation of foreign chapters of domestic professional bodies. Commencing in 1993, the American Institute of Architects now has foreign chapters in the United Kingdom, Continental Europe, Hong Kong and Japan. The Royal Institute of British Architects has a United States Chapter.

With the significant recent changes in the political and/or economic restructuring of the former republics of the Soviet Union and the People's Republic of China, we are in a period of change in both their architectural professional and regulatory bodies.

Among the most significant changes in the governing rules and regulations of a number of domestic professional bodies have been the elimination of mandatory fee schedules, the elimination of prohibitions on advertising and the professional prohibition on offering alternative types of professional services, e.g. design-build. Design-build is project delivery system in which someone other than the architect may sign a contract with a client for a comprehensive service providing for both the design and construction of a building for a fixed fee. The new addition of mandatory requirements for continuing professional education to retain both membership in a professional body, and increasingly to maintain a professional license to practice, is requiring architects to remain current with changing practices.

Increasingly, domestic regulatory bodies, be they national or state based in a federal system, are coming to understand and embrace the need for reform in their rules and regulations related to the provision of cross-border professional architectural services.

Within many developed countries, there is a steady progression towards the establishment of larger architectural firms.

In the process of expanding architectural practices into foreign markets, architects are responding to a rapidly changing set of building and code standards related to environment, sustainability, and disability access standards that are often far different than what exists in their home country.

Beginning in the early 1980s the computer assisted design (CAD) programs radically changed the manner in which architects were educated and worked. Such computer programs no longer require the architect to draw by hand the building design and the construction working drawings. The complete design process can now be done electronically. The building specifications can now also be prepared electronically. They played a significant role influencing and facilitating global practice. Today, emerging systems such as building information modeling (BIM) are now in the early stages of yet another major transformation of how architects will be working in relation to clients, product manufacturers and contractors, both domestically and internationally. Such a system electronically links all of the building project participants in a unified computer system which greatly advances instant communications, expedites decision making and reduces opportunities for project errors and omissions. It results in more cost effective projects which are able to be delivered on schedule.

### **Extent of Trade in Architectural Services**

The systematic documentation of the extent of international trade in architectural services is not yet being compiled. It is being done on a national basis by one country, the United States, both by the publication Engineering News Record (ENR) and by the national professional body, the American Institute of Architects. The documentation is focused on the export of services and does not include the import of architectural services. The 2005 ENR survey shows that 108 of the largest architecture and architectural-engineering firms practicing in the United States earned a total of \$ 3.8 billion in fees from their international work. The same ENR survey shows the 500 largest design firms in the United States (architects, engineers, engineer-contractors, environmental, landscape and planning) earning \$11.9 billion in international billings for the year 2005. This represented an 8.9 % increase over their international earnings in 2004.

Several other surveys provide some insight into aspects of the global construction market of which architectural services are a part. A 2002 survey of the United Kingdom construction professional services

(architects, engineers, surveyors and management) showed that 11%, 1.4 billion pounds, of their overall fee income was earned by work outside the United Kingdom. A 2005 survey by Global Insight, Inc. showed that the top 15 nations in construction spending were estimated to have spent \$ 3,592.8 billion. This survey did not detail the amount represented by building construction versus engineering related construction.

**Architectural Services: The Exporters**

To date the author has not been able to identify any surveys that document and/or rank which countries are the primary exporters of architectural services. Based on his professional experience it would be surmised that the major developed countries are the leading exporters of architectural services. Included in this group would be the United States, member states of the European Union, Australia, Japan and Canada.

**Architectural Services: The Importers**

The importing of foreign architectural services to developed architectural markets is characterized by three leading situations; a) the commissioning of recognized design architects of distinction having achieved a high public recognition and a record of award winning commissions; b) clients seeking a foreign architect with recognized experience in a particular building type; and c) architects who have entered and won an open or invitational architectural competition.

Three recent surveys give some overall indication of where architectural services are being provided on a global basis.

The 2005 Firm Survey published by the American Institute of Architects shows the following global regional distribution of the firms engaged in international work.

<b>Region</b>	<b>Percent of firms working in the region</b>
Central America/Caribbean	32%
Western Europe	27%
Pacific Rim	24%
Canada	24%
Middle East	14%
Mexico	12%
Central and Eastern Europe	12%
South America	10%
Subcontinent Asia	8%
Central Asia	6%
Sub-Saharan Africa	4%
Australia and New Zealand	2%



The Engineering News Record 2005 survey of the 500 largest U.S. based design firms (includes architects, engineers, environmental, landscape architecture and planning) evidenced that the international work was distributed in the world's regions as follows:

Region	Number of Firms	Revenue in Millions USD	Percent of Total
Europe	125	4,078.9	34.4%
Asia/Australia	142	2,895.1	23.4%
Canada	102	1,857.9	15.7%
Middle East	102	1,423.2	12.0%
Latin America	119	719.4	6.1%
Africa	61	619.5	5.2%

A 2005 survey by Global Insight, Inc. shows a five year projection (2003-2008) of projected annual construction growth. Although not broken down to identify architectural services, it is a likely indicator of where the international market for architectural services is and will be heading. Public and private entities spending money on construction, be it buildings, engineering works, transportation systems, city planning, etc. generate the need for architectural services. Such works include not only new buildings but also increasingly the adaptation, rehabilitation and/or restoration of existing buildings. Architectural firms aggressively market their services to such centers of both domestic and foreign construction spending.

Region	Percent of Project Annual Construction Growth (2003-2005)
Asia	3.3%
Non Japan Asia	5.1%
Eastern Europe	3.5%
Middle East and Africa	3.2%
North America	2.7%
South America	2.9%
Western Europe	1.8%

### **Modes Through Which Architectural Services Take Place**

Global architectural services are provided under all four recognized modes.

- In Mode 1, Cross-border Supply, architectural services regularly flow from one country to another via electronic telecommunications and mail. Indeed, the advancements in telecommunications have been a driving force in changing and facilitating international practice.
- In Mode 2, Consumption Abroad, foreign clients retain the services of an architect in another country to execute a project in their country.
- In Mode 3, Commercial Presence, depending on their international business plan, a foreign architectural firm establishes an office, including through ownership or lease of premises, in another country to provide ongoing professional services in that country and in many instances to the geographic region.

- In Mode 4, Presence of Natural Persons, foreign architects enter another country to provide architectural services in that country.

### **How Much Intra-Service Trade Can We Observe**

It is common practice for a foreign architectural firm to contractually affiliate with a domestic registered firm to provide a range of defined professional services to accept and complete a commission in another country. Such a process avoids the necessity for the foreign architect to become licensed in the country in which the project is located. The process provides the foreign architect with a partner who is experienced and well versed in the broad scope of the country's building tradition - codes, regulations, permitting, bidding, contracting, construction supervision, etc.

Where such a process is applied there may be situations where the professional and regulatory bodies in the host country may have a legitimate concern whether the domestic architect is fully engaged in the process and not merely serving as a "plan stamper" on behalf of the foreign architect in order to get the project accepted and approved by local governing authorities. The adherence to well prepared and enforced professional codes of ethics is the responsibility of both parties in such a project partnership.

Off shoring and outsourcing of the preparation of defined portions of an architectural project is an expanding part of Intra-Service trade. (See discussion under Section II.)

With foreign commissions often involving large building projects, the number of related professions brought into the design process, both domestic and foreign, is often sizable and diverse. While traditionally these would have included structural, lighting and mechanical engineers, interior designers, landscape architects and urban planners, international projects may also have a more substantial involvement with lawyers, quantity surveyors and project construction managers.

### **Changing Patterns in Trade in Architectural Services**

Technology has, and continues to play a profound role in dramatically changing both domestic architectural practice and in facilitating the continued expansion of international trade in architectural services. Four of the primary resources have been: a) the advent of jet air travel beginning in the late 1950s; b) beginning in the 1960s the enhanced communication systems, beyond the telephone, represented by copying and facsimile machines, e-mail, video-conferencing and the Internet; c) beginning in the early 1980s the availability and continued rapid evolution of the computer and the cellular phone as a basic technological resource of architectural practice; and d) beginning in the 1990s the availability of the digital camera.

Rapidly expanding national economies have historically been a primary driver for foreign architectural services. Examples can be found in the post WW-II development of oil rich countries such as Saudi Arabia; the intensive tourism infrastructure development of southeast Asia, with the availability of mass-market international travel; the global expansion of Japanese real estate investments; business deregulation in the United Kingdom and the evolution of London as a global economic center; and the current rapid development of many Gulf States.

Recognizing that many of their most important clients were aggressively moving into a global market, increasing numbers of architectural firms are developing business plans that incorporate an international component. This is especially true where such firms have developed a specialized niche market, e.g. hospitals and specialized medical facilities, high technology manufacturing facilities, shopping malls, luxury hotels and resorts, airport terminals, museums, high-rise office buildings, new towns and urban planning, etc.

The creation of new political entities such as the European Union is dramatically altering the manner in which architects can provide their professional services among the member states. As the domestic economies of individual member states change, architects are now in a position to market their services in other member states with more advantageous economic conditions.

The architectural registration examination process has undergone significant change in countries such as the United States where it is now administered as a national, computerized, standardized exam taken at remote sites throughout the country. Under the NCARB-CCAC Inter-Recognition Agreement, this examination is also now standardized in Canada and is available in both English and French.

## **II. REGULATORY STEPS AND PROCEDURES INVOLVED IN ARCHITECTS WORKING ABROAD**

### **Regulatory Restraints**

The common domestic regulatory constraints may include: a) the acquisition of a university degree from an accredited university/school of architecture; b) the accumulation of a specified period of recognized and documented post-degree professional internship experience; c) qualifying for, taking and passing a legally mandated registration examination; and d) the maintenance of a record of professional practice not diminished by ethical or professional issues. In a number of countries there exists a legal requirement that to be professionally registered one must be a legal resident of the country. Prohibition on advertising and the adherence to mandatory fee schedules exist in many countries. A newly developed constraint is the requirement to participate in an organized system of continuing professional development in order to maintain membership in a professional body and/or maintain one's professional license.

### **Driving Forces**

There are five major driving forces that take architects into foreign markets. First are the clients undertaking design and building projects seeking the services of foreign architects who have established an internationally renowned design reputation or who are seeking the services for specialized building types. The second are business decisions by clients encouraged and facilitated by free trade agreements who then wish to take their established domestic client relationships with them into an international arena. Third are public agencies commissioning domestic architects for projects in foreign countries. Fourth are architects winning public and private design competitions in foreign countries. Fifth is the downturn in the domestic economy which results in architects turning to more successful national economies seeking project commissions in those countries.

### **Deciding the Form of Foreign Practice**

Any architects working outside their own country are required to make both a legal and a business decision with regard to engaging the regulatory regime in the host country. Is this form of practice likely to a one-time event or potentially the initiation of a long term project presence?

If it is a one-time event then the most likely course of action will be to identify a competent local registered architect, negotiate and sign professional service contract with them, and have the local architect serve as the legal project architect of record. The contractual relationship defines their respective

responsibilities and how the client fee will be apportioned. This apportionment varies from project to project depending on the scope of work negotiated between the foreign and domestic architects. Most commonly the foreign architect carries the project through the entire design development process. The domestic architect commonly prepares the working drawings and specifications, assumes responsibility for adhering to codes of ethics, signing and stamping all of the building documents and assuring adherence to all applicable building codes and regulations. The local architect is also knowledgeable in the country's language, construction bidding procedures and construction supervision methods. This approach avoids the necessity of the foreign architect becoming registered in the host country. It is a common form of international practice.

If the foreign architect is making a business decision to maintain an ongoing professional business presence and practice in a foreign country in order to be the sole architect of record, then it is necessary to become legally registered in that country under the prevailing laws and regulations.

There are increasing instances of architectural firms in one country buying a firm in another country to expand their international practice.

### **Information Sources for National Architectural Registration**

Within the last decade the availability and accessibility of national information on architectural registration laws, regulations, procedures and responsible national bodies have improved significantly. The Internet has made this information readily available on a global basis. Transparency in finding such information is not a major concern. The primary international reference source, the UIA-COAC International Practice Survey, is maintained by the Colegio de Arquitectos in Barcelona, Spain, in collaboration with the International Union of Architects Professional Practice Commission. The data base is on a cycle of regular updating. It contains basic information on the national licensing requirements and administering bodies in 91 countries. Most of the national registration bodies in developed countries now maintain detailed information concerning their registration laws, procedures and requirements on their own Web sites. The Web sites for regional professional bodies such as the Architects' Council of Europe are another source of registration information for their members.

In those countries where the individual states are responsible for the regulation of the architectural profession, e.g. Australia, Canada, the United States, the state regulatory bodies maintain Web sites with detailed information concerning their state. These Web sites are in addition to those sites maintained by their national coordinating bodies.

### **Authorities Issuing Professional Licenses for Architects**

The condition varies from country to country. There is no universal standard or system. There are four basic systems: a) licenses granted by the national professional body; b) licenses granted by the national public regulatory body; c) licenses granted by the state public regulatory body; and d) licenses granted by a national government ministry.

In countries where the state issues the license, such as the United States, a national system has been created among the state issuing authorities, wherein a "certificate" can be secured from a national coordinating body that makes the process of securing licenses in multiple states more efficient and less burdensome. Such "certificates" are now becoming recognized instruments for application between countries signing mutual recognition agreements for licensure, e.g. Canada and the United States.

A recent and expanding requirement for the retention of a professional license to practice architecture is that of meeting new requirements and standards for continuing professional development. In order to ensure that their registered architects are keeping current with new developments, increasing numbers of

public regulatory bodies are now requiring architects applying to renew their existing license to provide documentation that they have met established minimal continuing education requirements in subject areas such as health, safety and public welfare. This development will come to have an important bearing on foreign architects from countries not yet having such a requirement applying to renew their licenses in countries that do have such a requirement.

### **Regulatory Requirements for Architects Working in a Foreign Country**

There is no universal standard of regulatory requirements for architects working in a foreign country. However, with the advent of regional public directives, e.g. the European Union, and the development of mutual recognition agreements, e.g. North American Free Trade Agreement, there are some emerging commonly recognized and acknowledged requirements.

There are two common requirements among national regulatory bodies for an applicant to qualify for the registration examination - a university degree in architecture and a defined period of professional internship and/or experience. The applicant is required to pay a fee to take the licensing examination and in most countries to renew the license once granted. Other country and state requirements may include language proficiency, a personal interview, and jurisdictional specific further technical examination requirements, e.g. seismic engineering, arctic construction standards, etc.

Examinations and interviews may be applied by regulatory bodies in a discriminatory manner if they are not conducted in a fully transparent manner.

### **Emergence of Mutual Recognition Agreements and Other Instruments for the International Practice of Architecture**

Although there had been isolated examples of bi-lateral mutual recognition agreements between national regulatory bodies, e.g. the United Kingdom and the United States 1970-1990, it is not until the General Agreement on Trade in Services that the architectural profession begins to see a broader development of agreements and instruments to facilitate cross-border licensure.

The Canadian-United States Free Trade Agreement, signed in 1989, was among the first to specifically incorporate the practice of architecture and resulted in an inter-recognition agreement between Canada and United States in 1994. The process of negotiating it was a pioneering educational experience for all of the regulatory and professional bodies involved. It also had a side effect of bringing the Canadian provincial regulatory bodies into a more unified national regulatory system. Over the period of its operation, it has resulted in the harmonization of the educational systems, internships systems and the computer administered registration examination between the two countries. In response to project opportunities over 600 architects have secured cross-border licensure.

With the coming of the North American Free Trade Agreement, Mexico joined these negotiations in 1994. The cultural, social and legal evolution of the applicable education and registration systems in Mexico since the 17<sup>th</sup> century differed significantly from those developed much later in Canada and the U.S. The parties finally agreed to an underlining protocol of recognizing: a) citizenship, b) established architectural university degrees, c) internship requirements, d) granted professional licenses and e) most significantly, a minimum of seven years of demonstrated professional practice experience. The Tri-partite NAFTA Agreement is fully operative between Canada and the United States. It has just become operative with Mexico with the 2006 signing by all the parties.

A number of other mutual recognition agreements have recently been negotiated and signed – Architects' Council of Europe with Mexico, Cuba and the United States; Australia and New Zealand: and Australia with Singapore and the United States. Although while officially signed, a number of them still

are in the process of having all of the actual implementation details negotiated before architects may utilize them. One complicating factor that has emerged is that the European Commission, the negotiating entity on behalf of the ACE, has taken the position that the United States Trade Representative must bind all of the fifty states to any such mutual recognition agreement. This EC position is in conflict with the U.S. Constitution wherein the power to regulate the practice of architecture lies with the individual states and not with the federal government. Therefore they will have to negotiate with a national private entity that represents the state licensing authorities.

The recent advent and evolution of mutual recognition agreements for the registration of architects is just beginning to diminish the historical role of applicants being required to: a) have their university academic courses evaluated in detail for acceptance; b) passing state and/or national registration examinations; and c) submitting to personal interviews. However, for countries not entering into such mutual recognition agreements these will continue to be requirements.

The International Union of Architects has been active in developing resource advisory documents to assist their national member sections in the area of mutual recognition agreements. They have adopted a Policy on Mutual Recognition Agreements and are currently in the process of developing a recommended standard format for a Mutual Recognition Agreement. There is also a Recommended Guideline on Practice in a Host Nation which is intended to serve as an interim agreement between two countries before reaching a full mutual recognition agreement.

There are a number of other national and regional agreements that are intended to facilitate cross border practice. Since the mid-1960s, the National Council of Architectural Registration Boards (NCARB) in the United States has worked to harmonize the educational, internship, examination and licensing laws and regulations of the 50 states and territories. NCARB has recently established a Task Force on Registration Impediments to identify and make recommendations for the elimination of existing intra-state registration impediments. The impediments include: a) supplemental state examinations on specific technical subjects and/or state rules and regulations; b) personal interviews; and c) forms of practice.

Similar national entities exist in Australia and Canada.

Since 1985 the European Economic Community Architects' Directive has served as the basis for mutual recognition of architectural qualifications within the Member States of the European Union and Switzerland. The 1993 European Economic Area Agreement extended the application of the Directive to all Member States of the European Free Trade Area. The Architects' Directive has brought about increased cross-border architectural services and national reciprocal registration. The responsible national bodies do not appear to be systematically tracking a statistical measure of such changes.

The Asia Pacific Economic Cooperation Agreement on Architectural Service was signed by 14 countries in 2005 and is in the early stages of implementation.

### **Securing a Professional License in Another Country: Selected Examples**

#### ***Example 1: A Registered Foreign Architect Securing Permission to Execute a Project in the People's Republic of China***

Foreign architects are not presently permitted to secure a license to practice architecture in China. They are required to work in collaboration with either a recognized Chinese design institute or a private firm.

### *Professional Practice*

In order to practice as a foreign architect in China one must first submit the following to the Ministry of Construction for their review and approval: 1) a professional resume documenting one's credentials; 2) examples of prior project experience; 3) copies of diplomas from schools of architecture; and 4) proof of registration in one's home country.

The submission process is typically done through the project client who assumes the responsibility and burden of shepherding the required submittals through the ministerial review process at the metropolitan, provincial and/or national level.

These submissions are all done at the contract phase of the project, in order that the government recognizes a foreign architect as a legitimate design entity. This is separate from professional licensure and is repeated for every project since there is not yet a centralized record data base to document that once registered one is in fact a legitimate design entity.

### *Professional Licensure*

Foreign architectural firms opening and maintaining an office in China can be registered in China as a Wholly Foreign Owned Entity (WFOE) to perform work only as a design consultant for architectural and planning services. Such foreign firms cannot be the architect of record for a project in China. As a recognized WFOE, such firms can officially stamp (chop) or sign letters of notice and contracts. They cannot officially sign and stamp (chop) project working drawings.

All design work is submitted to the client and to authorizing entities in conjunction with a local architectural design institute, who along with a small number of emerging private architectural offices, are the only entities recognized by the government as legally able to act as the architect of record for a built project.

### ***Example 2: A Registered Foreign Architect Securing a License in Japan***

The applicant applies to the Architectural Licensing Board within the national government's Ministry of Construction for a First Class Architect/Engineer Licenser. The professional license is issued only by the national government; there are no Prefecture issued licenses. There are three alternative routes to securing this license.

First, the foreign applicant can register for and take the official examination, which is given once a year and only in Japanese.

Second, if the foreign applicant has: a) a valid professional license in their home country; b) significant practice experience; and c) is a recognized architect of world renown, they may submit an application and sit for an interview.

Third, if the foreign applicant has: a) held a valid professional license in their home country for a period of at least ten years; and b) worked in Japan under the direct supervision of a licensed Japanese architect for a period of at least three years, they submit an application. The application, in addition to affidavits documenting their education and professional work experience, includes: a) official education transcripts; b) summary descriptions of course work; c) a description of the contents of the registration examination already taken and passed together with a certified copy of the applicant's licensing exam results; and d) a dossier of work experience accompanied with signed letters from past employers.

Upon acceptance of these submitted materials, the applicant is invited to take a written essay examination. The examination is offered once a year. The essay exam consists of three two-hour essay questions; the topics of which are unknown beforehand. The only reference material allowed in the examination is a dictionary. The essays may be written in Japanese or in English. If in English, the applicant is required to submit an authorized translation in Japanese within two weeks of the test. Notification is made in about six months as to whether the applicant passed the essay examination. The applicant pays a one time fee of approximately \$600 and is issued a license. There is no renewal required and the architect may maintain the license for a lifetime.

***Example 3: A Registered Architect in the United Kingdom Seeking Registration in Another Member State of the European Free Trade Area***

The 1985 European Economic Community Architects' Directive is the basis for mutual recognition of architectural qualifications within the Member States of the European Union and Switzerland. The 1993 European Economic Area Agreement extended the application of the Directive to all Member States of the European Free Trade Area.

Each participating Member State has a designated "Competent Authority" responsible for all matters relating to the implementation and administration of this Directive.

The Directive provides that a person who: a) is a national of a Member State; b) holds an approved qualification obtained in the EU/EEA/Switzerland; c) if required by the host State, has completed a specified period of practical training experience; and d) complies with any additional local requirements will be eligible for professional recognition and the right to hold the title "architect" in another Member State.

Recognition is not automatic and is subject to a formal application procedure that includes the submission of required supporting documentation and payment of the relevant fees in each Member State. In most States, recognition is conferred by means of statutory registration. The terms of the Directive apply only to individuals; it does not provide for the mutual recognition of architectural firms.

For an architect in the United Kingdom licensed by the Architectural Registration Board (ARB) seeking registration in another European Economic Area Member State or Switzerland, the following procedure is followed:

A request is made to the designated national Competent Authority for the necessary application forms and information on applicable fees and other conditions.

The normal application consists of: a) a certificate of nationality or passport; b) original or certified copy of degree, diploma or other evidence of qualification; c) certification by the UK ARB that the applicant's qualification is accredited under the terms of the Directive; d) if required by the host Member State, certification by the UK ARB of the applicant's practical training experience; and e) additional evidence, if required, e.g. certification of disciplinary record with the UK ARB.

Certified translations must accompany any documents submitted in a language other than that of the host State.

Some Member States may require evidence of: a) good character and repute; b) no previous bankruptcy; and c) current professional indemnity insurance.



***Example 4: A Registered Architect from an APEC Economy Applying for Registration in the United States***

As a signatory to the APEC Architect Agreement, the responsible authority within the United States is the private National Council of Architectural Registration Boards (NCARB). Applicants are considered within the framework of their program of the Broadly Experienced Foreign Architect (BEFA). The NCARB Certificate allows the applicant to apply for reciprocal registration within the United States.

An architect from an APEC economy, other than those with which the United States has a mutual recognition agreement, may go through the process described below on an expedited basis as many of the eligibility requirements have been fulfilled by virtue of being placed on the APEC Register in the home economy.

*Eligibility* - Applicants must first document: a) the process by which they were credentialed in their home country; b) their having graduated with a professional degree in architecture from an accredited/validated/officially recognized architecture program; c) a minimum of seven years of comprehensive practice over which they exercised responsible control in the country in which they are credentialed; and d) being credentialed in a country that has a formal record-keeping mechanism for disciplinary actions in the practice of architecture.

*Application* - Applicants file a NCARB Council Record application together with the prescribed fees, after which initial eligibility will be determined. They then provide all requested documents in order to compile their Council Record.

*Dossier* - The applicant submits a dossier for review by an NCARB committee that documents a minimum of seven years of comprehensive practice and to demonstrate competence to independently practice architecture in the U.S.

*Interview* - With the dossier meeting all requirements, the applicant is invited for an interview before an NCARB committee to verify the applicant's: a) responsibility over the development, management and implementation of the submitted projects; b) understanding of U.S. licensing and professional conduct requirements; and c) knowledge of U.S. building codes and laws.

Assuming the applicant architect's submissions are complete and adhere to the specified formats, it is estimated that the process should take a minimum of six months.

***Example 5: A Registered Architect in India Seeking Registration in the United States***

The national coordinating registration body within the United States, the National Council of Architectural Registration Boards (NCARB), has two paths for foreign architects seeking registration in the United States where there is no existing Mutual Recognition Agreement: a) under the provisions of the "Broadly Experienced Foreign Architect"; or b) under the provisions of the "Foreign Architect".

The Broadly Experienced Foreign Architect path was created in 2006 in response to changing global practice to recognize applicants coming from countries where NCARB determines there are reasonable reciprocal registration opportunities for U.S. architects. India does not qualify for such a determination since Indian national law governing the registration of architects requires that an architect registered in India must be a resident of India. Such a legal requirement is viewed by NCARB as a barrier to free trade in architectural services.

Under the Foreign Architect path, the applicant would have to follow and meet the requirements:

1. Submission of an NCARB Council Record which records the basic information concerning the applicant's current status, professional background and existing national registration.
2. *Education* - The applicant would be expected to hold a university professional degree in architecture. They would be required to have this post-secondary education evaluated by the U.S. National Architectural Accrediting Board (NAAB) to determine its equivalency to the NAAB university standards for schools of architecture. Should the applicant hold a degree from a U.S. NAAB accredited school of architecture this condition would be met.
3. *Professional Training* - The applicant would be expected to document that they had engaged in the equivalent amount of professional internship training experience as that required of U.S. applicants. If the applicant can document that they have served for
4. A minimum of five years as a principle in an architectural practice, no additional professional training experience is required.
5. *Examination* - Having met the two previous conditions, the applicant would then take and pass the standard, computer administered Architect Registration Examination.

If India were to qualify for the Broadly Experienced Foreign Architect provisions, the applicant would have to document: a) holding a university professional degree in architecture; b) holding a valid current national registration to practice architecture; c) submitting a dossier demonstrating seven years of experience in the practice of architecture in positions of responsible control; d) no record of unethical conduct; and e) sitting for an interview.

### ***Bottlenecks***

Looking at these five examples, there are a number of bottlenecks within regulatory bodies. They include:

1. Resistance/hesitancy by regulatory bodies to change a long established national system.
2. A challenging encounter during the MRA negotiating process between countries with an Anglo-Saxon and those with a Napoleonic background of law and culture. The situation is made all the more difficult by negotiators who have not had any prior professional exposure to such differences and automatically assume their way is the best way.
3. A fundamental lack of understanding and recognition between constitutional systems where the power to regulate is vested with the national government and those where it is vested with the state governments in a federal system.
4. A prohibition on the registration of foreign architects who are not legal residents in the country in which they are seeking registration.
5. The lack of a centralized registration body where a record base may be maintained for use by multiple governmental regulatory bodies within a country.
6. The slow implementation of national obligations contained in a negotiated and signed international agreement.
7. The lack of systematic gathering of cross-border registration data together with the identification of country specific concerns.

8. The lack of any established international body bringing together architectural regulatory bodies to begin the process of national data gathering, systematic analysis of existing national regulatory regimes, initiation of efforts to establish common standards

### **Emerging Issues Related to Working Abroad**

Although there have been occasional international meetings of national architectural registration bodies, the last one being held in the United States in 1996, there has not yet emerged an organized international body bringing together national regulatory bodies. They are not represented within the membership of the International Union of Architects unless the member section serves both as the professional body and the national regulatory body. The only existing recommended standards for national licensing of architects are to be found in the 1999 UIA Accord on Recommended International Standards of Professionalism in Architectural Practice (UIA Accord) and the accompanying Recommended Guidelines.

Beginning in the mid-1990s some national professional bodies adopted policies and programs that required their members to participate in, and document, continuing professional development in order to maintain their annual membership. This was seen as a professional obligation to remain current with changing practices, technologies, building codes and regulations, etc. The aforementioned UIA Accord included it as a recommended policy for all UIA member sections. Within a short period of time, some regulatory bodies changed their requirements for renewing a professional license to require documentation of participation in continuing professional development. This requirement continues to expand and will come to have a major bearing on foreign architects maintaining their licenses in a host country having such a requirement. It can be expected to be challenging for foreign architects whose home countries do not have such a requirement.

It may be anticipated that the implementation within the European Union of the Bologna Accord provisions that would provide for the granting of a degree in architecture following only four years of study, may negatively impact graduates from EU countries. In the first instance it may become difficult for the EU to reach MRA's with countries having requirements for a minimum of five years to obtain a degree in architecture. Secondly, applicants for reciprocal registration may encounter challenges to the acceptance of their university degree.

A more recent and expanding development related to architects working abroad is that of off shoring and outsourcing. It is characterized by architects in developed countries sending project work on a contractual basis to a qualified source in a foreign country. The actual building project will most likely be located in the architect's home country. Because the architect doing the outsourcing has to maintain legal and responsible control over the total project, there is no need to become licensed in the off shore country. It is being driven by an expanding global economy that is commissioning more building projects. In some countries it is also reflective of a current shortage of qualified architects.

Off shoring and outsourcing has been made possible by the advances in international communications and the availability of standardized architectural computer programs on a global basis. The outsourced locations are presently determined by: a) a common language; b) a professionally educated labor force; and c) an established and stable base of the rule of law. It commonly permits architects doing the outsourcing to: a) work on an expedited schedule due to international time differences; b) in a time of rapidly expanding commissions to find qualified architects when they are not readily available in their home country; c) avail themselves of qualified foreign professional services without having to increase the size of their domestic staff; d) have the necessary work done on a lower cost basis than would be possible in their home country; e) establish a business relationship with foreign architects who have often been

educated and practiced abroad before returning to their home country; and d) establish and/or expand a foreign basis for future international commissions.

At present the work outsourced is generally confined to the development of architectural working drawings and the preparation of presentation models and renderings. Although the off shore countries are presently largely confined to Asia, e.g. India and the Philippines, the practice is also seen in Mexico. With the continued expansion of this practice, it is to be anticipated that other countries in Central and South America and Eastern Europe, will also soon be engaged in the practice.

The foreign outsourcing architect enters into such an arrangement when it is determined that there is an economic reason for doing so, e.g. it may allow their domestic client fee proposal to be more competitive and/or allow for the architect to provide more design development services to the client rather than having those costs devoted to the preparation of detailed working drawings.

Outsourcing of architectural services does not and should not be a barrier to entry for architects from developing into developed countries. In a diverse and well managed outsourcing services contract, the service providers should be in a position to gain ever-increasing professional experience that would be to their benefit should they seek licensure in the partner contract country.

The 2006 AIA Firm Survey indicated that 8 percent of American firms have sent domestic work offshore. Another study has projected that by 2009 20 percent of American firms will send work offshore.

### **III. REGULATORY ARCHITECTURAL REGIMES IN ORIGIN COUNTRIES**

#### **Importer's Perspective on Current Regulatory Regimes in Origin Countries**

In addition to the professional regulatory issues already noted, an architect seeking to practice in another country may also encounter, depending on the country, difficulties in an array of other legal issues. Depending on the country the foreign architect may face difficulties in: a) securing a business visa; b) meeting custom regulations that restrict or inhibit bringing architectural documents, materials and models into the country (although this situation has been largely changed by the development of the Internet); c) establishing a business presence; d) restrictive practices on the movement of business earnings out of the country; and e) discriminatory tax policies and regulations.

#### **Recommended Regulatory Standards**

The 1999 UIA Accord identifies the recommended basic elements of a domestic regulatory standard for architects. Although not every UIA national member section may meet them, the goal is that over time domestic regulatory standards will become increasingly harmonized.

The recommended standards include and define the following specific elements:

- The practice of architecture;
- Regulating the conduct of registered architects;
- Legal authorization for the registration body;

- Rules of conduct for the registration body;
- Registration qualifications;
- A qualified educational degree;
- Post-degree professional training;
- The architectural examination;
- A post-examination personal interview;
- Acceptable moral character;
- Reciprocity with other registration bodies;
- The process and procedure for a non-resident seeking to practice;
- The process and procedure for a non-resident seeking a commission;
- The procedures for entrants into architectural competitions;
- Accepted forms of professional practice;
- Accepted corporate structures of professional practice;
- The conditions governing the creation and registration of a firm name;
- Conditions governing the engagement of an architect during the construction project; and
- How unregistered individuals are precluded from practicing architecture.

### **Do Educational and Regulatory Weaknesses at Home Legitimize Barriers Abroad**

As it relates to the architectural profession, in view of the emerging generally accepted contents of mutual recognition agreements, deficiencies in domestic educational and regulatory standards will increasingly serve as barriers to participation in the bilateral and/or regional agreements governing the cross border provision of architectural registration.

There are many countries that have not put in place any system to evaluate and accredit their schools of architecture. Absent any basic system, such countries can expect to encounter difficulties in entering into licensure mutual recognition agreements. In recognition of this condition, the UIA and UNESCO signed an agreement to institute an international system and service to establish the basic elements of an architectural education and to then support the accreditation of schools of architecture where no such national system exists. It is in its formative stage. Most recently, a first international meeting was held in Washington, DC, in May 2005 to explore the establishment of an international system among countries that have established accreditation systems for schools of architecture to enable such systems to agree on a common standard and then to be able to recognize the degrees from accredited schools in the participating countries.

With the increasing attention on a graduate architect holding a degree from an accredited school of architecture, the individual architect seeking to independently qualify for taking the registration examination in a foreign country not party to any mutual recognition agreement will face increasing challenges in having his or her academic credentials readily accepted.

There are major differences in the existing national laws and regulations that govern the regulation of architects. The most significant continuing difference is whether the applicable law addresses on the protection of the professional title of “architect” or whether the laws govern the practice of architecture. Until only recently, there has been no strong motivation to make major alterations in them. Those countries with weak and/or outdated regulatory systems will encounter difficulties in entering into licensure mutual recognition agreements that are currently in the process of development and evolution.

#### **IV. MEETING THE OBJECTIVES THROUGH LESS RESTRICTIVE MEANS**

##### **Public Policy Objectives Related to Regulating Architectural Services**

Historically the three most commonly recognized public policy objectives are the protection of public health, safety and welfare. More recently the protections of both the natural and built environment in accordance with the principles of sustainable design are coming to be recognized as legitimate public policies. Design to accommodate the disabled is also increasingly mandated by law. The increasing globalization of architectural practice is also generating increased attention on the need for foreign architects to have a greater understanding and appreciation of a country's social and cultural heritage. Although these last two subjects may not be incorporated in the regulation of the service, they are being seen in the regulation applicable to the conduct of a practice and the execution of individual commissions.

Public health, safety and welfare generally serve as the legal underpinnings of state and national regulation of the architectural profession. Public health recognizes the need for individuals to be able to occupy buildings that by their design, materials and construction do not represent a threat to their physical well-being, e.g. dangerous materials and/or bacteria spread through mechanical systems. Public safety recognizes the need to structural systems and materials that are designed to withstand natural forces such as fire, wind, earthquakes and/or person generated decisions such as structural floor loads, emergency egress systems, and/or proper selection, fabrication and construction of building component systems that do not fail. Public welfare recognizes the obligation to provide both the building occupants and the public at large with designed environments that meet their intended functions and contribute to their overall well being both functionally and esthetically.

While varying from country to country, it is common for specialized and highly technically qualified bodies to research, author, submit for public review and comment, issue and administer and keep current a complex body of codes and regulations that architects are legally obligated to meet in the design of any building. Their designs have to be certified by public building departments as meeting all of the provisions of the applicable codes before they can secure a building permit to commence construction. The completed building then also has to be inspected prior to being issued a formal occupancy permit. Building and zoning codes are enacted by public bodies in order to assure that buildings meet defined minimal conditions to protect the health, safety and welfare of the occupants and public. The education of architects of architects is intended to assure that in professional practice they are knowledgeable regarding their existence, content, interpretation and application. A major component of most architect regulatory regimes is to insure by examination that they are experienced and qualified to apply building and zoning codes in actual practice. Being able to read a code does not automatically translate into being able to apply it to meet the legal obligations of applying it.

Beyond such building specific codes, there are a host of other local, state, national and international regulations that bear upon the work of architects. At the local level examples include an array of transportation related policies, air emission standards, landmark building and historic district regulations, architectural design review commissions, etc. At the county/ state level examples are found in land-use planning and density requirements, coastal/river commission controls, etc. In countries that are signatories to international convention/treaties an increasing and expanding body of legal obligations and regulations are influencing architecture. The Kyoto Convention is setting forth a higher standard of environmental conditions that need to be met. The UNESCO World Heritage Convention has an expanding roster of natural areas, historic cities, sites and buildings that are requiring ever higher standards for any architectural interventions.

The historical and continuing evolution of architectural education, required professional internship experience and the content of registration examinations is substantially influenced by and based upon these aforementioned conditions.

In addition to the public policies there are professional codes of ethics that have been established by international and regional professional bodies. Most national professional and regulatory bodies also have developed professional codes of ethics. The ability of national professional and regulatory bodies to monitor and enforce such codes varies from country to country. Such codes focus on the protection of consumers, the quality of services provided, maintenance of professional competence, avoidance of conflicts of interest and maintaining the integrity of the profession.

### **Meeting Objectives Through Other Less Trade Restrictive Measures**

The process to date of negotiating the existing limited number mutual recognition agreements and implementation of the Architects' Directive within the European Union have resulted in less restrictive measures in securing access to a professional license in another country. In broad terms they have established a foundation of providing recognition for: a) an applicant having a university degree in architecture; b) holding a professional license from a recognized authority; and c) a defined term period of documented professional practice experience. It would be highly unlikely that these basic elements would be subject to further change.

The only international professional body, the International Union of Architects, uniting national professional bodies, has already adopted recommended international standards for: a) university curricula in architecture; b) accreditation of schools of architecture; c) professional practice including registration standards; and d) a policy on mutual recognition agreements. It will take a considerable period of time for the individual member sections to modify their existing regulations and laws to incorporate many of these standards. It has taken a policy position in supporting the World Trade Organization's adoption of disciplines on the domestic regulation of the architectural sector.

In those countries having a federal system of government, there is a continuing need to examine and deal with existing impediments that still exist in securing a professional license in different states.

The global process to address existing restrictive measures would likely be enhanced and advanced by the establishment of an international body bringing together and representing the national and state professional regulatory bodies.

### **Measures at Governments' Disposal**

As it relates to the regulation of architects, there are measures available within the three general structures of national and state governments - the legislative, the executive and the judicial.

Potential reform within the legislative framework at the state level is most effectively served by having available a nationally developed and recognized model jurisdictional law governing the regulation of architects. Legislative bodies also enact laws and approve treaties that include provisions bearing on international trade in architectural services, which in turn may require domestic legislative reforms.

The executive branch of government has the responsibility to enforce the laws and establish the detailed regulations that govern the regulation of architects. It is often the branch of government that appoints the people who serve on the state regulatory boards and commissions. The quality and experience of these individuals is a major determinant in any reform process. The executive branch can play a powerful force in the application and enforcement of anti-competitive laws and regulations.

The judicial branch serves to interpret the laws and regulations governing the regulation of architects.

### **Similarities Among Different Professional Services**

The regulation of architectural services share many similar characteristics with the professions of engineering and landscape architects. The prerequisite educational and professional internship requirements to qualify for taking the registration examination may share common characteristics in terms of accredited university degrees and lengths of internship. The requirements and procedures for securing and maintaining a professional license are often similar. In many instances the public regulatory bodies administer the regulatory systems for all three professions.

### **Feasibility of Adopting New International Standards for Services and Education**

Two international bodies with memberships from developed and developing countries have found it feasible and desirable to prepare, adopt, promote and apply international standards related to architectural education, practice and regulation. The International Union of Architects on practice and regulation in 1999 and UNESCO and the UIA jointly in 2002 on architectural education.

The UIA's leadership decided in 1993 that the time had arrived for the profession to address, for the first time in its history, the need for and the appropriateness of developing and adopting recommended international standards applying to the practice of architecture. It was a decision endorsed by the 91 national member sections representing both developed and developing countries. Six years later those member sections unanimously adopted the first set of UIA recommended standards addressing 16 specific policy areas. They were prepared by an open commission, internationally circulated to all member sections and refined by consensus. Beyond the UIA's official working languages of English and French, they have now been translated into a host of other languages, i.e. Spanish, Russian, Chinese, Turkish, Japanese, Korean, etc. for use and application throughout the world. In the past six years they have begun to be applied to individual national conditions, i.e. Korea's expanding required architectural education from four to five years; Turkey establishing a continuing professional development program; the Architects' Council of Europe revising their recommended Code of Ethics based on the UIA model; Slovakia restricting its professional body based on the UIA Accord; the Canada, Mexico and USA Mutual Recognition Agreement utilizing the UIA Accord definition of an architect, etc.

The Accord and Recommended Guidelines are seen as aspirational and advisory documents for the consideration and application of the individual national member sections. The UIA has no power to require member sections to adhere to them.

With architectural education being so closely related to professional regulation, the work of the relatively new UIA Commission on Architectural Education has resulted in the preparation and adoption by the 2002 UIA General Assembly of the UNESCO-UIA Charter on Architectural Education. It is now being applied in the first instances of the accreditation of schools of architecture in countries not having a national system. The fact that there are major differences in the curricula for architectural education between not only geographically different countries, but also between schools of architecture within a given country, was a driving force in UNESCO and the UIA joining together to develop the Charter. It sets forth broad minimum standards. It recognizes the need for the incorporation of variants in areas such as environmental context, building materials, construction systems, cultural and social history, etc.

The response to the International Organization for Standardization (ISO) by the architectural profession has been limited. The utilization of the ISO 9001 series of quality management standards by architects has to date been largely driven by clients who are ISO certified and wish to see their professional service providers so certified.



Since its creation, the UIA has followed with interest the work of the WTO's Working Party on Domestic Regulations. It has monitored and commented on the Working Party's documents related to the accounting profession and has participated in WTO organized programs related to professional regulation. Following the lead and model developed by the engineering profession, the UIA Council approved in June 2006 the document "Draft Regulations on Domestic Regulation in the Architectural Sector." It is now in the process of securing commitments from UIA member sections to have them formally submit the document to their national WTO representatives and encourage them to submit it to the WTO's Working Party.

### **Concerns Emerging from Bilateral and Regional Initiatives**

There are several primary concerns to have emerged from those mutual recognition agreements related to the regulation of architects that have been negotiated and signed to date. One was the difficulty in attempting to define, measure and evaluate equivalencies in education, university degrees and professional internship. Another was in determining the equivalent standing of the regulatory body issuing and renewing the professional license. The equivalency of the registration examination was another concern. In the early instances of mutual recognition agreements an enormous amount of time and money was spent by the parties involved in addressing these three concerns. It was finally recognized that reaching an agreement based on precise equivalencies was impossible. From this experience emerged an approach sometimes referred to as "the broadly experienced foreign architect" which in principle recognizes that an architect with a university degree, an existing professional license, an accumulated body of professional experience between seven and ten years, and a record without any ethical or legal issues should be qualified for recognition under a mutual recognition agreement.

Some bilateral and regional agreements have recognized and incorporated the standards contained in the UIA Accord.

## V. POLITICAL ECONOMY OF REGULATORY STANDARDS

### Current Regulatory Standards for Architects: Constituent Beneficiaries and Negatively Affected

STANDARDS	CONSTITUENTS	BENEFICIARIES	NEGATIVELY AFFECTED
<b>University Degree</b>	Educators	If accredited, assures institution of meeting minimum standards.	If not accredited, may result in lack of recognition of degree.
	Students	If accredited, allows for portability of studies and recognition of degree.	If not accredited, may be an impediment to registration.
	Regulators	If accredited, ease of acceptance as an element of registration.	If not accredited, may hinder foreign recognition of education credentials.
<b>Internship Experience</b>	Graduates	If required, increases post graduation practice knowledge and experience.	If limits or prohibitions on the non-national experience, limits employment opportunities.
	Regulators	If required, serves as qualification measure for registration exam.	If non-existent, may result in more comprehensive registration exam.
	Architects	If required, increases their mentoring responsibility for graduate employees.	If non-existent, may reduce post graduate work experience of young architect employees.
<b>Licensure</b>	Clients	If exists, assures that service providers are legally qualified.	If non-existent, impacts ability to seek qualified service providers.
	Architects	If exists, assures a standard of professional competency for employment and for professional body membership.	If non-existent, allows competition from a diversity of other service providers such as contractors, engineers, etc
	Regulators	If exists, their legal role and responsibility assures the public, clients and architects of legally qualified service providers.	If non-existent, public has no responsible authority determining and enforcing professional competency.

STANDARDS	CONSTITUENTS	BENEFICIARIES	NEGATIVELY AFFECTED
<b>Advertising</b>	Clients	With no restrictions, wider access to potential competing service providers.	If prohibited, limits market access to wide pool of potential competitive service providers.
	Architects	With no restrictions, allows wider market access through diverse mediums.	If prohibited, limits market access and reduces competition.
	Public	With no restrictions, facilitates better understanding of what architects do.	If prohibited, limits public understanding of architectural services.
<b>Fee Schedules</b>	Clients	If non-existent, allows for open competition among potential service providers.	If existing, restricts development of competitive fee proposals.
	Architects	If non-existent, increases competition for services, forces maintenance of current relevant business practices.	If existing, restricts competition among national service providers and can be handicap in entering foreign markets.
<b>National Residency</b>	Clients	If non-existence, increases access to potential service providers.	If existent, restricts ease of access to qualified foreign service providers.
	Architects	If exists, protects domestic service providers.	If non-existent, opens domestic market to foreign service providers.
	Regulators	If exists, reduces need to engage with foreign applicants and protects the local domestic market.	If exists, restricts ability to engage in foreign reciprocity agreements.
<b>Reciprocal Registration</b>	Clients	If operative, increases access to foreign service providers with increased competition for services.	If not operative, restricts ease of seeking qualified foreign service providers.
	Architects	If operative, increases access to foreign markets with greater efficiency and at less cost.	If not operative, restricts ease of access to foreign markets, reduces potential income and growth.
	Regulators	If operative, increases harmonization of regulation law/ regulations and ease of processing foreign applicants and maintenance of records.	If not operative, increases complexity and cost of license holders seeking entry into foreign markets.

## Interest Groups

The public, clients and architects all have a primary interest in the regulation of the profession. The public expresses its will through the legislative process that is responsible for the laws enacted to regulate the profession at the national and state level. The public is further engaged through the executive branch of government which is responsible for administering the laws. They appoint and administer the public bodies that oversee this process. When necessary, the public has recourse to the judicial branch to seek interpretation of the governing laws and regulations.

Clients, public and private, wish to be assured that the architect being commissioned to undertake a project is fully qualified to be responsible for the full scope of such work.

Architects wish to see that professional regulatory standards are established to qualify them for practice and to govern how they conduct that practice. They also wish to be able to be qualified in multiple states, and increasingly in multiple countries, with equitability and efficiency. They are watchful and protective of efforts by other related professions - such as engineers and interior designers - to enact or amend national and state laws that would intrude upon or alter the requirements applicable to the regulation of architects.

There is a broad range of non-profit organizations having a focused interest in the regulation of architects. Included are: a) the national private bodies that collectively represent the state public regulatory bodies; b) the local, state, national architect membership professional bodies; and c) the regional and international entities uniting national professional bodies.

University schools of architecture, together with their national accrediting bodies, have a closely related interest in the regulatory standards because those standards have a direct and significant bearing on what they will be expected to include in their curricula.

Contractors engaged in the construction of buildings designed by architects expect to be assured that what they actually build based on the architects work products will meet all applicable code and safety standards.

Lending institutions that finance the design and construction of buildings likewise expect their investments to be protected against deficient and unqualified designs. Insurance companies providing coverage to those responsible for the design of the building expect their clients to be fully qualified to undertake the work they are insuring.

### **Primary Beneficiaries**

Since most human beings will spend most of their lives in and around buildings, the general public is a primary beneficiary of regulating the profession in order to ensure that these buildings and surroundings are safe, not a threat to their health and support and enhance their general well being.

Any client commissioning an architect to program, design and produce the documents necessary to construct the building, wishes to be assured that the individual providing this broad scope of design and technical services is professionally competent to do so and is so recognized by a public body.

The public bodies with the legal responsibility for reviewing and approving all of the documents necessary to secure a building permit to construct a building, legally require that the submissions be signed and stamped by an architect licensed to practice in that jurisdiction.

The public bodies and private entities who research, test, author, issue, interpret and monitor building codes and regulations engage the services of registered architects to meet their needs and are beneficiaries. Architects with a diverse body of professional experience in specialized technical areas, e.g. fire codes, structural analysis, materials testing, etc., regularly contribute to the ongoing enhancement of all aspects of applicable codes and regulations.

### **Negatively Affected**

The regulation of the practice of architecture often intersects with the interests and domains of other professions. Historically and continuing to this present time, the most common intersection is found with

the engineering profession. There are numerous examples of where the national professional body is still constituted of both engineers and architects with the architects often seeing themselves in a minority position.

In some countries there is an ongoing initiative by interior designers to secure recognition as a licensed profession. These initiatives are being strongly opposed by the architectural profession as an infringement on the defined legal responsibilities of architectural practice.

Although not a regulatory issue, the emerging practice of “design-build” as advocated and supported by building contractors and public agency clients was, and continues to be, a contentious issue for many national professional architectural bodies, some of which had banned the practice in their codes of ethics.

With the inception of public regulatory procedures for architects, there was often a provision for the recognition of a period of extended documented apprenticeship experience in lieu of a university degree in order to qualify for taking a licensing examination. In countries with mature registration systems, that provision is in declining recognition and use to qualify for examination. There is a steady movement towards requiring applicants for the registration examination to possess a university degree.

### **Driving the Political Economy**

Architectural regulatory systems have evolved in most countries over a considerable period of time and within a national context of laws, culture and tradition. Some evolved with strong influences coming from a shared colonial past. It is not uncommon to find a first instinct to protect the established system.

It has only been within the last three decades that we begin to see most of them having to respond to international influences. The mature systems in many instances would now represent over a century of experience and thus are not easily subjected to major changes. It is often challenging enough to have them respond to changing domestic concerns much less have them initially respond in a favorable light to a foreign body urging or pressing for change.

One finds in many countries an ongoing state of watchful concern and wariness among the practicing professionals, their state and national professional bodies and their regulatory authorities; even though in most instances the governing bodies of regulatory authorities and organizations have a membership consisting of fellow architects.

In countries with a federal system of government, the issue of states rights has and will remain to varying degrees a challenge for regulatory reform. For architects coming from countries having only experienced a national form of professional regulation, it is difficult for many of them to accept and understand that in federal systems, the individual states regulate the professions.

It is not uncommon to see domestic architects entering into international practice serving as vocal advocates for architectural regulatory reform in their own country. Architects in countries experiencing an influx of foreign architects can also be readily motivated to advocate equal access to practice in the home countries of the foreign architects.

Within undergraduate and graduate programs in architectural education there remains a notable lack of educational offerings to prepare the graduates for the opportunities and realities of international practice. This element of an architect’s education remains almost exclusively post-degree on the job learning experience.

## **Accomplishing Reform**

Ongoing internal domestic regulatory reform is driven by a broad array of constant changes in how architecture is practiced in response to changes in society and technology. It can also be jolted into action and response by a disaster such as an earthquake in Turkey, a terrorist attack such as World Trade Center, or a federal finding on the illegality of required fee schedules.

Based on the author's experience, the active engagement of organized consumer interests with the regulation of architectural services as it applies to matters of licensure is limited. It is more commonly seen in regard to the existence and application of mandatory fee schedules. An example of a national government aggressively stepping in to eliminate fee schedules is seen in the U.S. Department of Justice informing all of the professions in the United States in 1971 that they must adhere to the existing federal anti-trust laws. As a result the American Institute of Architects eliminated their mandatory member fee schedule. While this action was not well received at the time by the members, it has shown in the long term that it: a) made client project proposals much more competitive; b) forced architects to become much better at determining fee proposals; and c) required architects to conduct their practices in accordance with evolving best business practices. It had obvious benefits for the clients in that it increased their ability to negotiate fees with a wider base of potential architects. It is noteworthy that the U.S. Department of Justice closely monitored this directive. When it found that certain elements within the AIA were not adhering to the directive, it brought legal proceedings against the AIA which resulted in negotiated consent decrees that resulted in the AIA having to establish and operate a national educational program on anti-trust requirements for their members for a ten-year period. All of these focused regulatory efforts did not negatively affect the number of architects in practice or the continued expansion of architectural practices. The AIA membership at 80,000 is the highest in its history.

Currently the architectural profession and regulatory bodies within the EU are having to adjust accepted past practices, i.e. mandatory fee schedules, to bring them into line with the Architects' Directive.

More recently it is being also driven by the necessity to respond to changes in the globalizing economy. In this arena it can become especially challenging since those bearing the major legal responsibility for administering the architectural regulatory process often have little, if any, actual exposure to, or experience in, the international practice of architecture. It introduces a new array of factors and considerations they must confront. The national professional bodies are often pressuring their regulatory bodies to be more responsive to a changing global marketplace.

Experience to date has evidenced that in order to accomplish reform in architectural registration practices, it is necessary to recognize the linkages among architectural education, post degree internship experience, licensure, professional practice, ethical standards and continuing professional development.

There is an increasing disparity between the reforms being seen in developed economies where the regulation of architectural practice is undergoing reform due to engagement with other countries and that of developing economies where little, if any, reform is taking place. As the process within the developed economies continues, it may be anticipated that the gap in architectural regulatory reform will become ever wider. The result may be expected to be that the developing economies will face a greater challenge in being able to meet the accepted standards being accepted and applied among the developed economies.

A basic foundation for domestic architectural regulatory reform needs to include the adoption of a contemporary definition of what constitutes and defines the practice of architecture. It needs to establish and regularly accredit what constitutes the basic standards for architectural education. It needs to recognize that even with a five-year education to obtain an undergraduate degree, not everything that a practicing architect needs to know will be provided in the classroom. Thus the post-degree professional

practice internship represents a significant ongoing educational experience prior to securing a license. The examination administered to secure a license needs to be constantly kept current to reflect architectural practice. Securing and maintaining a professional license needs to be accompanied by adherence to a modern code of ethics and increasingly a commitment to engage in continuing professional development.

Model standards serve to aid in the further reform of architectural regulations. The only existing international recommended policy and guidelines for architectural regulatory standards are found in the 1999 UIA Accord. These standards are advisory; the UIA has no power to require their adoption by member sections. A further impediment to their application is that the UIA membership constitutes primarily the national professional bodies and not the national regulatory bodies. The UIA should be encouraged to explore whether by virtue of Article VI (5a and 5b) of the GATS, the UIA Accord could be given WTO official recognition since the UIA Accord was produced and approved by an international body whose membership is open to the relevant bodies of all members of the WTO.

In addition to international standards there are examples of national standards. For example, In the United States, the National Council of Architectural Registration Boards has developed, maintains and promotes the adoption by the individual states of a model state law for the regulation of architects. However, under the US Constitution, the states are responsible for the regulation of the profession and they are not bound to utilize this model law. Although there has been a significant degree of legal harmonization among the states, there are still state specific differences in how they regulate the profession.

While not a direct part of professional licensure, standard forms of contracts utilized by architects are of growing international interest. Use of and adherence to proper contracts is closely related to the maintenance of one's professional reputation and integrity for the purpose of the regular renewal of a professional license. The existence and use of standard forms of contracts utilized by architects in all aspects of their work, including the association with a foreign architect for a project in another country, is only recently being addressed by national professional bodies and the UIA.

Once a professional license is issued there is the ongoing matter of renewing and maintaining the license. There is a significant difference in how countries treat this matter. In some countries the license is issued just once and is good for a lifetime. In other countries and states the license is subject to regular renewal. The existence of, and the ability of a legally empowered body to monitor and enforce the provisions of the professional license is a key determinant in how effectively it is consistently applied. This is of particular concern for architects in countries lacking the capacity to enforce the registration laws, especially as it may apply to foreign architects seeking and accepting commissions in that country.

It is still generally the case that in far too many countries, neither the national professional body nor the regulatory body has yet to establish and maintain a significant level of ongoing relationships with their national trade ministries. As a consequence there is little interaction when it comes to matters of increasing either global trade in architectural services or in trade that increases business opportunities for architects.

The UIA has a specific interest in the charge to World Trade Organization's Working Party on Domestic Regulation. It has maintained an ongoing contact with the WTO secretariat in Geneva and has responded to invitations for the review and comments on the potential applicability of the adopted Disciplines in Accountancy to the profession of architecture. It awaits with interest its actions with regard to the domestic regulations of architects. At the invitation of the WTO and UNCTAD, the UIA has participated in international forums examining various aspects of professional regulation.

## REFERENCES

### Internet Web Sites

- American Institute of Architects, Washington, DC, USA [www.aia.org](http://www.aia.org)
- Architects' Council of Europe, Brussels, Belgium [www.ace-cae.org](http://www.ace-cae.org)
- Architects Registration Board, London, UK [www.arb.org.uk](http://www.arb.org.uk)
- Asia-Pacific Economic Cooperation, APEC Architect Central Council, Taipei, Taiwan  
[www.apecarchitect.org](http://www.apecarchitect.org)
- Commonwealth Association of Architects, London, UK [www.comarchitect.org](http://www.comarchitect.org)
- Department of Foreign Affairs and Trade, Australian Government  
[www.dfat.gov.au/trade/negotiations/services/np\\_architecture](http://www.dfat.gov.au/trade/negotiations/services/np_architecture)
- Engineering News Record, McGraw Hill Construction, New York, New York  
<http://construction.ecnext.com>
- European Commission, Brussels, Belgium <http://ec.europa.eu/trade/issues/sectoral/services>
- International Professional Practice Survey, Barcelona, Spain [www.coac.net/international/practice](http://www.coac.net/international/practice)
- International Union of Architects, Paris, France [www.uia-architectes.org](http://www.uia-architectes.org)
- International Union of Architects, Professional Practice Commission, Washington, DC, USA,  
[www.aia.org/about\\_uia](http://www.aia.org/about_uia)
- National Council of Architectural Registration Boards, Washington, DC, USA [www.ncarb.org](http://www.ncarb.org)  
Royal Australian Institute of Architects, Canberra, Australia [www.architecture.com.au](http://www.architecture.com.au)
- Royal Institute of British Architects, London, UK [www.riba.org](http://www.riba.org)
- Royal Institute of British Architects - United States of American, Los Angeles, CA, USA [www.riba-us.org](http://www.riba-us.org)
- World Trade Organization, Geneva, Switzerland [www.wto.org](http://www.wto.org)
- United Nations Conference on Trade and Development, Geneva, Switzerland [www.unctad.org](http://www.unctad.org)



## **Publications**

- Asher, Bernard. "Moving Towards a Borderless Market for Services," Silver Spring, Maryland, 2004.
- "Engineering New Record Sourcebook 2006," McGraw Hill, New York, New York, July 2006.
- "Draft Disciplines on Domestic Regulation in the Architectural Sector," International Union of Architects, Paris, France, 2006.
- Keune, Russell. "Applicability of the Accountancy Disciplines to Other Professional Services," Washington, DC, 2004.
- "Managing Request-Offer Negotiations Under GATS: The Case of Construction and Related Engineering Services," United Nations Conference on Trade and Development, Geneva, Switzerland, 2005.
- McGill Business Consulting Group. "Succeeding by Design," Ottawa, Ontario, Canada, 2003.
- "Moving Professionals Beyond National Borders: Mutual Recognition Agreements and the GATS", United Nations Conference on Trade and Development, Geneva, Switzerland, January 2005.
- "Report on the Offshore Outsourcing Roundtable," AIA International Committee, American Institute of Architects, Washington, DC, 2006.
- "Sixth International Conference on Architectural Registration," National Council on Architectural Registration Boards, Washington, DC, 1996.
- "Survey of UK Construction Professional Services 2001/2002," The Construction Industry Council, London, UK, 2003.
- "UIA Accord on Recommended International Standards of Professionalism in Architectural Practice," International Union of Architects, Paris, France, 1999.
- "2005 Firm Survey," The American Institute of Architects, Washington, DC, 2006.

## **Interviews**

- American Institute of Architects, Washington, DC: Kermit Baker, Ellen Delage, James Scheeler
- Bundesarchitektenkammer, Berlin, Germany: Tillman Prinz and Thomas Walter
- Commonwealth Association of Architects, London, UK: Tony Godwin
- Japan Chapter, American Institute of Architects, Tokyo, Japan: Brian Aamoth
- National Council of Architectural Registration Boards, Washington, DC: Michiel Bourdrez
- Royal Architectural Institute of Canada, Ottawa, Ontario, Canada: Jon Hobbs
- Royal Institute of British Architects, London, UK: Ian Pritchard
- Skidmore Owings and Merrill Architects, San Francisco, California: Eric Keune