



ACCELERATED PROGRAMME FOR ECONOMIC INTEGRATION

MUTUAL RECOGNITION AGREEMENT

BETWEEN

THE COMPETENT AUTHORITIES OF PROFESSIONAL ACCOUNTANTS AND AUDITORS

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PREAMBLE

WHEREAS the Republic of Malawi, the Republic of Mauritius, the Republic of Mozambique, the Republic of Seychelles and the Republic of Zambia have entered the Memorandum of Understanding for Facilitation of Movement of Business Persons and Professionals Between APEI Countries;

AND WHEREAS under Article 14 of the Memorandum of Understanding for the Facilitation of Movement of Business Persons and Professionals Between APEI Countries, APEI countries will encourage competent authorities to enter into cooperation agreements on the recognition of qualification requirements, qualification procedures and licensing, certification or registration requirements and procedures;

NOW THEREFORE the Parties have agreed to enter into this Mutual Recognition Agreement Between the Competent Authorities of Professional Accountants and Auditors (“the Agreement”):

ARTICLE 1

DEFINITIONS

In this Agreement:

“**APEI**” means Accelerated Programme for Economic Integration;

“**Accountancy**” means the theory and practice of the science of accounting, or the profession or business of a Professional Accountant or Auditor. The field of accountancy includes the study and practice of accounting, auditing, finance, financial management and/or tax;

“**Assessment or Evaluation**” means a process for reporting or comparison of achievement against criteria, standards, or benchmarks;

“**Audit**” means the independent examination of financial statements in accordance with international standards on auditing, whose purpose is to express an opinion on whether financial statements are prepared in all material respects in accordance with the financial reporting framework prescribed in the APEI Country in which the entity is registered, and “auditing” shall be construed accordingly;

“**Auditor**” means the person responsible for issuing an audit report;

“**Certification**” means the issuance of a certificate or licence to an individual who has met specified requirements for practice;

“Code of ethics” means the International Code of Ethics for Professional Accountants issued by IFAC and the code of ethics promulgated in the relevant APEI country;

“Competent Authority” means a statutorily established body, or, in absence of which, any institution designated by an APEI Country to carry out the functions required by this Agreement;

“IFAC” means the International Federation of Accountants;

“Qualification” means the professional designation in accountancy or auditing attained by an individual;

“Licence” means an authorization issued by the Competent Authority in an APEI Country enabling an individual to practice as a Professional Accountant or Auditor;

“Professional Accountancy Organization” means an IFAC membership body comprised of individual professional accountant or auditors;

“Professional Accountant” means an individual who achieves, demonstrates and further develops professional competence to perform a role in the accountancy profession and who is required to comply with a code of ethics as directed by a professional accountancy organization or a licensing authority;

“Professional Misconduct” means either:

- (i) conduct which contravenes the provision of the relevant statute governing the profession in the Receiving State;
- (ii) the unlawful disclosure or use to a Professional Accountant’s or Auditor’s advantage of any client information;
- (iii) dishonest, fraudulent or deceitful conduct;
- (iv) the conviction of a criminal under any law;
- (v) conduct that is prejudicial to the accountancy profession or is likely to bring it into disrepute;
or
- (vi) the breach or encouragement to breach by another member of the relevant code of ethics or accounting or auditing pronouncements;

“Receiving APEI Country” means the APEI Country where the Professional Accountant or Auditor seeks to acquire a licence;

“Recognition” means the process by which a Receiving APEI Country accepts the licence issued by Competent Authority of a Sending APEI Country and issues a practicing certificate;

“Register” means the record of Professional Accountants or Auditors kept by the Competent Authority in an APEI Country according to the law of that APEI Country;

“Registrar” means the Council, Board or Secretary of the Competent Authority in an APEI Country responsible for the Register;

“Registration” means the process of recording in a Register and issuance of a registration certificate; and

“Sending APEI Country” means the APEI Country where the Professional Accountant or Auditor last acquired a practicing licence.

ARTICLE 2

PURPOSE

The purpose of this Agreement is to:

- (i) facilitate the movement of Professional Accountants and Auditors among the APEI Countries as provided for in this Agreement;
- (ii) establish mutual recognition of Professional Accountants’ and Auditors’ qualifications; and
- (iii) encourage the adoption of high standards of practice and commitment to professional development in the accountancy profession in APEI Countries.

ARTICLE 3

SCOPE OF AGREEMENT

This Agreement shall apply to professional accountants and auditors who are nationals or permanent residents of an APEI Country.

ARTICLE 4

OBJECTIVES

The objectives of this Agreement are to:

- (i) facilitate mobility of Professional Accountants and Auditors through the portability of qualifications to enable the realisation of commitments made by APEI Countries for the movement of business persons and professionals;

- (ii) Encourage and support the improvement of standards of education and training, and provide advice on professional development in the accountancy profession in the APEI Countries; and
- (iii) Facilitate the exchange of information in order to promote adoption of best practices on standards of accountancy education professional qualifications and professional practice.

ARTICLE 5

RECOGNITION OF PROFESSIONAL ACCOUNTANTS AND AUDITORS

1. A person shall be recognized and registered as a Professional Accountant by the Competent Authority of a Receiving APEI Country if that person:

- (i) is a national or a permanent resident of an APEI Country;
- (ii) possesses a valid registration as a Professional Accountant issued by an IFAC member body in the Sending APEI Country;
- (iii) is a member in good standing of the Professional Accountancy Organization in the Sending APEI Country;
- (iv) until such time as the development of Common Frameworks under Article 10, passes examinations in company law and taxation as may be required by the Receiving APEI Country;
- (v) pays the prescribed fee and meets the language requirement in the Receiving APEI Country; and
- (vi) has no record of conviction for any criminal offence of an economic, financial or fiscal nature in the Sending APEI Country.

2. A person shall be recognized and registered as an Auditor by the Competent Authority of a Receiving APEI Country if that person:

- (i) is a national or permanent resident of an APEI Country;
- (ii) possesses a valid professional licence as an Auditor issued by a Competent Authority in the Sending APEI Country;

- (iii) is a member in good standing of the Professional Accountancy Organization in the Sending APEI Country;
- (iv) until such time as the development of Common Frameworks under Article 10, passes examinations in company law, taxation and/or a competence practice examination, as may be required by the Receiving APEI Country, and has audit experience for a period of no less than 7 years;
- (v) pays the prescribed fee and meets the language requirement in the Receiving APEI Country; and
- (vi) has no record of conviction for any criminal offence of an economic, financial or fiscal nature in the Sending APEI Country.

ARTICLE 6

NATIONAL TREATMENT

1. A Professional Accountant or Auditor, who has been recognized under Article 5, shall practice in accordance with the domestic laws and regulations of the Receiving APEI Country.
2. A Professional Accountant or Auditor, who has been recognized under Article 5, shall enjoy the same rights, duties and obligations as a Professional Accountant or Auditor as appropriate in the Receiving APEI Country.
3. Fees, charges and examination requirements set by Competent Authorities shall be transparent and shall not discriminate on the basis of nationality.

ARTICLE 7

PROCESSING TIMES

1. Upon receipt of an application, a Competent Authority shall determine whether the application is complete. If an application is incomplete, the applicant shall be notified immediately and shall be given the opportunity to submit another application.
2. A Competent Authority in a Receiving APEI Country shall verify, if it deems necessary, from the Competent Authority of the Sending APEI Country that the applicant is in good standing with that Competent Authority.

3. A Competent Authority from which the information in sub-article 2 above is requested, shall provide such verification within 5 working days from receipt of the request.
4. Upon receipt of a complete application, the Competent Authority shall make a decision within 20 working days.
5. When a decision is made by the Competent Authority, the applicant shall be notified of the decision within 5 working days of the decision.
6. The Competent Authority shall register an applicant and issue the licence within 5 working days from the date of the decision to register the applicant.
7. Where an application for a licence is rejected, the Competent Authority shall, within 5 working days from the date of the decision, notify the applicant of the decision rejecting the application and the reasons therefor.

ARTICLE 8

TRANSPARENCY

1. Competent Authorities shall make available on a website, a list of all the documentation required to be submitted with an application, for the application to be considered complete.
2. Competent Authorities shall develop a common website for the sharing of information and the submission of applications for recognition under this Agreement.

ARTICLE 9

IMPROVING STANDARDS

1. Competent Authorities shall encourage that accounting and auditing instructions within their jurisdiction meet the International Education Standards issued by IFAC.
2. Competent Authorities shall oversee the quality and competence of Professional Accountants and Auditors through appropriate licensing or registration, and prescribing minimum standards for initial and continuing education, and for professional conduct.

ARTICLE 10

COMMON FRAMEWORKS

1. Competent Authorities shall develop, within 5 years after the entry into force of this Agreement, common examinations for the admission of Professional Accountants and Auditors in the APEI Countries.
2. Common examinations may be subject to a uniform fee.
3. Competent Authorities shall develop, within 5 years after the entry into force of this Agreement, procedures for undertaking joint audit quality reviews.

Competent Authorities shall ensure that Professional Accountants and Auditors in the APEI Countries are required to undertake at least 120 hours of continuing professional development in a 3 year period.

ARTICLE 11

CODE OF CONDUCT AND DISCIPLINARY PROCESSES

1. Competent Authorities shall comply with the Code of Ethics.
2. In the event of alleged Professional Misconduct arising out of a Professional Accountant's or Auditor's work in a Receiving APEI Country, the Competent Authority of the Receiving APEI Country shall assume responsibility for the conduct of disciplinary proceedings against the Professional Accountant or Auditor.
3. Where a Competent Authority of the Receiving APEI Country investigates the conduct of, or takes disciplinary proceedings against, a Professional Accountant or Auditor, all Competent Authorities in APEI Countries where the Professional Accountant or Auditor is licenced shall cooperate with the investigation or disciplinary proceedings by providing all relevant information and documentation on the membership status of the Professional Accountant or Auditor being investigated.
4. Where a Competent Authority in a Receiving APEI Country initiates disciplinary proceedings against a Professional Accountant or Auditor under this Article, it shall assume full responsibility for the conduct of the proceedings and, subject to any agreement between or among the Competent Authorities, for the cost of such proceedings.

5. In any proceeding under this Article, a duly certified copy of the disciplinary decision rendered by a Competent Authority in a Receiving APEI Country against a Professional Accountant or Auditor found guilty of Professional Misconduct is proof of that individual's guilt in the Receiving APEI Country.
6. A Competent Authority in a Receiving APEI Country that finds a Professional Accountant or Auditor guilty of Professional Misconduct shall, within 5 working days of taking steps to enforce a disciplinary sanction as a result of that finding, notify the Competent Authorities of other APEI Countries of the action taken; provided that a Competent Authority so notified may not be required to take steps to enforce such disciplinary sanction where such sanction is under appeal.
7. The Competent Authorities in which the Professional Accountant or Auditor is a member shall, within 5 working days from receipt of the notification, take steps to enforce the disciplinary sanction.
8. A Competent Authority of a Receiving APEI Country shall provide a procedure for appeal of any disciplinary action, in its procedures.

ARTICLE 12

MEMBERSHIP OF PROFESSIONAL ACCOUNTANCY ORGANIZATIONS

A Professional Accountant or Auditor who has been recognized under Article 5 shall be eligible for membership of the Professional Accountancy Organization in the Receiving APEI Country.

ARTICLE 13

IMPLEMENTATION MECHANISMS

1. The APEI Professional Accountants and Auditors Committee (hereinafter referred to as the "APAAC") is hereby established.
2. Membership of the APAAC shall comprise of three members from each jurisdiction; being two representatives from the Competent Authorities and a representative from the policy Ministry.
3. The APAAC shall be led by a Chairperson, who shall be appointed by the committee at their first meeting.

4. The APAAC shall determine its own procedure including that of appointing sub-committees, convening its meetings and the conduct of business.
5. The APAAC shall have power to co-opt from time to time any person as a member of the committee as it may deem necessary.
6. The function of the APAAC shall be to oversee the implementation of this Agreement, including:
 - i. monitoring and reviewing the implementation of this Agreement, including keeping a record of Professional Accountants and Auditors that have moved under this Agreement;
 - ii. taking and recommending action where necessary;
 - iii. developing common examinations;
 - iv. developing a common website;
 - v. undertaking co-operation on training, practice standards and ethics; and
 - vi. co-ordinating the mutual exchange of information relating to the accountancy profession and the adoption of best practices.

ARTICLE 14

SETTLEMENT OF DISPUTES

1. In the event of a disagreement on the interpretation of any provision of this Agreement, or any dispute, controversy or claim arising out of, or relating to, this Agreement, the Parties to the disagreement, dispute, controversy or claim, shall use their best efforts to settle promptly such dispute through direct negotiation within 90 days.
2. Where the disputing Parties have not resolved the dispute through direct negotiations, they shall enter into binding mediation.
3. The disputing Parties shall agree on a mediator within 30 days of the conclusion of negotiations under sub-article 1. Where the disputing Parties cannot agree on a mediator within 30 days, a disputing Party may request the President of the Pan-African Federation of Accountants to appoint a mediator, provided that if the President of the Pan-African Federation of Accountants is a national of an APEI Country, then the Vice-President of the Pan-African Federation of Accountants shall appoint the mediator.
4. The mediator shall render their decision within 120 days of the start of the mediation, and the decision of the mediator shall be final and binding on the Parties to the mediation.

5. A Competent Authority who is a third party to the dispute may file notice to join a mediation involving two Parties provided that written notice to the mediator is issued within 30 days of commencement of the mediation.

ARTICLE 15

AMENDMENTS

1. A Competent Authority may request in writing, to the Chairperson of the APAAC, an amendment to this Agreement.
2. The APAAC shall consider such amendments at the sitting immediately following the receipt of such written request.
3. A decision on the adoption of any such amendment shall be made within 12 months, unless the APAAC decides otherwise.

ARTICLE 16

ACCESSION

1. Any Competent Authority in an APEI Country that has acceded to the Memorandum of Understanding for Facilitation of Movement of Business Persons and Professionals Between APEI Countries may apply in writing through the Chairperson of the APAAC, to become a Party to this Agreement.
2. The APAAC shall meet as soon as possible, but no later than 3 months after receipt of the communication, to begin the process of accepting the applicant.
3. The APAAC shall conclude the accession process within 12 months of beginning the process to accept the applicant.

ARTICLE 17

WITHDRAWAL

Any Party may withdraw from this Agreement upon written notice delivered to the other Parties at least 180 days prior to the intended date of withdrawal. By such withdrawal, no Party shall nullify obligations already incurred for performance or failure to perform prior to the date of withdrawal.

ARTICLE 18
ENTRY INTO FORCE

1. This Agreement shall enter into force on the date of signature by the Competent Authorities of three (3) APEI Countries.
2. This Agreement shall be deposited with the Minister of Foreign Affairs of the APEI Country that is the Chairperson of the APEI Committee, who shall promptly furnish a certified copy thereof to each Competent Authority.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed and sealed this agreement, each text being equally authentic.

Done at on this day of 2018

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Malawi Accountants Board
Republic of Malawi

Institute of Chartered Accountants in Malawi
Republic of Malawi

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Republic of Mauritius

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Ordem dos Contabilistas e Auditores de Moçambique

Republic of Mozambique

.....

Republic of Seychelles

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Zambia Institute of Chartered Accountants

Republic of Zambia