

Reply No. 1

<p>Letter, December 22, 2003 To: John R. Fenn, President, National Society of Professional Surveyors From: Donald L. Hiatte, P.E. NCEES President, on NCEES letterhead</p>	<p>Response</p>
<p>Because the United States Council for International Engineering Practice (USCIEP) represents the U.S. in NAFTA discussions for engineering services, I asked USCIEP to evaluate the proposed MRD and prepare a report summarizing its opinions, concerns and recommendations.</p>	<p>Land Surveyors may be offended that an engineering group was invited to comment and not a Land Surveying group. Also USCIEP did not distinguish itself with success when negotiating on behalf of the engineers. NSPS decided at the outset that it would not incorporate a group and then give away two-thirds of its bargaining power to groups that were not members of its profession.</p>
<p>legal opinions on the MRD were obtained from two firms that counsel NCEES and USCIEP on NAFTA issues and international trade matters</p>	<p>The attorneys advise that NSPS should obtain legal advise from a law firm familiar with NAFTA is premature. When all revisions are in and the government attorneys have finished their review it might be appropriate.</p>
<p>USCIEP and attorneys have raised valid concerns that should be addressed before NSPS commits to signing the agreement. The issues pointed out by these groups lead me to believe that the MRD is too imprecise and permissive as it is currently written to be an effective and practical vehicle for cross-border practice. While wordsmithing and editing would correct some issues, minor revisions alone would not transform this into an acceptable document.</p>	<p>The MRD is based upon fairness, reciprocity, and that a license is a license provided that the processes through which the professional went in order to obtain the license is satisfactory to the jurisdictions that might consider signing on. By focusing on the process instead of the product, one follows the world model of an “ethics-based” profession that requires accreditation of only the program and not each student. This is the same formula that F.I.G. followed in developing its MRD. It is acknowledged that some wordsmithing may be required, but if the tenets of the document stray from the foregoing, Canada and Mexico will probably continue to rely on the provisions of the NAFTA without the benefit of a MRD and on the provisions of the GATS. Any other model for an MRD that requires examining the student or professional on an individual basis is redundant, as these processes are in place now in all three countries.</p>

Reply No. 2

Letter to Donald L. Hiatte, P. E., NCEES President from Dale W. Sall P.E.L.S. USCIEP Chair December 19, 2003	Response
In general, USCIEP believe the MRD is too imprecise and vague to warrant endorsement by either the USCIEP or by the NCEES.	
The USCIEP has three overarching concerns. First, the MRD proposes a two-tiered licensing system that would confer separate licenses for boundary surveying and non-boundary surveying (called “geomatics” in the MRD), which does not align with the current single-license regulatory system used by most Member Boards.	NCEES was close to including a two-tiered license in its Model Law, but pressure from West Fed influenced it to move toward an ethics-based license. The MRD proposes a two-tiered licensing system, however a single tiered license should serve the purpose of the MRD. Many professions across the world are using a true ethics-based model such as is used by the engineers. By ethics the license holder may only perform those functions for which he/she is qualified. Violation of this edict in a host jurisdiction should endanger the professional’s right to continue to practice in his/her home jurisdiction. Most land surveying licensing boards at present do not address the broad geomatics area and when their state laws are revised, they may well choose a two-tiered system. However, if they do not, they can still grant in their legislation the ability to issue a limited license to participating jurisdictions. The MRD only requires you to issue permission to practice non-boundary geomatics functions.
Second, under the provisions of the MRD, boundary surveying would be regulated while non-boundary surveying would not. Boundary land surveyors would be required to hold a license issued by or on behalf of the jurisdiction in which practice is undertaken, but non- boundary surveyors who hold a license in any jurisdiction would be permitted to practice Geomatics activities.	Where regulations exist in any jurisdiction as to the performance of non-boundary surveying or that govern the format of the delivery product, there is no intention by the framers of the MRD to interfere with that. Wordsmithing should clear that up if there is ambiguity on that issue. There are usually two main statutes that govern surveying; the “how to” statute and the “by whom” statute. It is only the latter statute that would be affected. A satisfactory comfort level must be realized by all participants. There needs to be more clarification on the use of the word “Geomatics”. The MRD uses the international meaning. The FIG definition, like the Model Law may not suit in every respect but it clarifies the point that Geomatics includes boundary surveying. Canada also interprets that “geomatics” is all inclusive, even extending to Geographical Information Management. Mexico’s understanding is the same.
Third, the MRD does not establish minimum education requirements for licensure nor does it address the types of mechanisms such as written examinations that are used to assess	Correct. The evaluation of the process by which a jurisdiction confers the professional designation will be considered by other jurisdictions before they add their names to the appropriate schedule attached to the MRD. This consideration will be

<p>minimum competence.</p>	<p>more rigorous than when a single student or professional seeks to be licensed in one of the states, but it will only be done before the jurisdiction is committed. It can be reviewed every three years.</p>
<p>This is particularly worrisome since education and examinations support uniform standards that safeguard the health, safety and welfare of the public.</p>	<p>The safeguarding of the health, safety and welfare of the public is the responsibility of state or provincial legislators and the professionals they control. An international agreement has paramouncy over state and provincial legislation and its purpose, in the case of the NAFTA is to protect the ECONOMIC INTEREST of the nation. Public protection is in the state and provincial statutes where it belongs and is working well. Nothing in the MRD is intended to alter that. The safeguarding issue is probably inconsistent with an international agreement. However, the committee is convinced that the standards for obtaining a land surveying license in Canada and Mexico are of a satisfactory level to accommodate the areas of practice to be allowed by this MRD.</p>
<p>All three NAFTA member countries allow certain geomantic activities to be conducted without a license in at least some jurisdictions</p>	<p>In these jurisdictions anyone can practice now. After nafta the person with a license will be able to market better, the public has the comfort and protection of a licensed person performing these functions even if that is not required by local law.</p>
<p>Interpreted broadly, Part III of the MRD would allow anyone who possesses a "license" for any aspect of the practice of land surveying in any ratifying jurisdiction (U.S., Canada or Mexico) to automatically obtain a license to conduct geomatics activities in other jurisdictions requiring such licenses</p>	<p>True, except that geomatics includes boundary surveys. It should read "conduct non-boundary geomatics activities".</p> <p>The intended meaning is that professionals who are licensed meaning that they abide by a Code of Ethics, already comply with both academic and experience requirements by virtue of having a license and have an historic claim to aspects of surveying which could be referred to as "scope of practice", should be competent to serve the public in a host jurisdiction, and that foreign surveyors should then receive that same privilege, provided that each jurisdiction is a signatory to the appropriate schedule of the MRD. It is possible that a foreign surveyor's rights in his home jurisdiction exceed the rights of a surveyor in a host jurisdiction. The foreign surveyor in the host jurisdiction would be limited to local practice in the non-boundary area</p>
<p>If NSPS' intent is to facilitate the unregulated practice of non-boundary surveys by Canadian and Mexican practitioners in the U.S. jurisdictions, then it seems that U.S. surveyors who are unlicensed in geomatics could demand equal treatment.</p>	<p>It must be remembered that the MRD only applies to foreign licensed surveyors who are citizens of the USA, Canada or Mexico. An un-licensed domestic or foreign surveyor cannot benefit from this agreement.</p> <p>However as each jurisdiction amends its laws to accommodate NAFTA, it may if it chooses, include other jurisdictions in its own country also.</p>

<p>In essence, the licensed practice of surveying would be relegated to that of boundary surveys only.</p>	<p>This argument does not seem to apply. If it seems to, then wordsmithing should remedy it.</p>
<p>Part III of the MRD grants full reciprocity to Canadian and Mexican surveyors who hold licenses and who want to provide geomatics services in the U.S. In this environment, then, USCIEP believes it is especially important to confirm that practitioners are academically prepared and qualified. The education requirements for licensure vary among the three countries. Questions II, E. and II, N. in the <i>Combined Answers to NAFTA Questionnaire</i> provided in the MRD package describe the mandatory education and experience for each country. Mexico responded, “The applicable education must be completed and then the appropriate cumulative exam must be taken and passed at the school attended.” In Question II, N., Mexico did not indicate that there is a set of professional exams that must be passed after satisfying the education requirement in order to obtain a license.</p>	<p>This question must be put to the Mexicans again for clarification. The Question/Answer document was first introduced at the second formal meeting in Portland Or. Although it took more than a year before answers were provided, both the Spanish and English speaking parties have become more aware of each other’s culture since then and are more comfortable at the meetings. At least five meetings transpired since then. It is appropriate to review these important questions, certainly before jurisdictions will have the comfort to sign the Schedule.</p>
<p>Based on this information, it is not clear whether some type of "license" is conferred in Mexico beyond completing an applicable education program. If a degree is essentially a licence to practice, then USCIEP believe it is important to determine whether the programs are substantially equivalent to accredited programs in the U.S. While the questionnaire states that La Direccion General De Profesiones accredits 4.year degrees in Mexico, USCIEP is not aware that there is a program or agreement to evaluate degrees conferred by the Mexican institutions to determine that they are substantially equivalent to degrees conferred by ABET-accredited U.S. programs.</p>	<p>The degree programs for surveying are restricted to fourteen Universities. Each has a Colegio, or “college” as the medical profession refers to them. This is not just a bachelor’s degree but rather a lifelong association with the University. The social and professional lives of the surveyors (Ingenieros Topogofos) revolve around the university. Many are adjunct professors and all of the NAFTA formal meetings hosted in Mexico involved, at least, a visit through a university that has a geomatics degree granting program.</p>
<p>The Monitoring Committee also noted that the MRD is silent on the prescriptive requirements for Certificates of Authorization, which are required as a part of licensure in many U.S. jurisdictions. The same may be true for some of the Canadian Provinces.</p>	<p>Certificates of Authorization are domestic issues. If any state has legislation that requires such as certificate, parts of that legislation may be <i>ultra-vires</i> the NAFTA and will have no effect. (Residency or citizenship). Some provinces in Canada, Ontario for instance, would be obliged to issue such a certificate if it is a signatory and all other requirements applicable to its domestic professionals are met.</p>
<p>Lack of collaboration with representatives</p>	<p>The member boards were represented by Rita</p>

<p>from ABET Inc. and the Member Boards have weakened the document and will likely hinder its acceptance by U.S. jurisdictions.</p>	<p>Lumos. It is not reasonable to think that information was not getting to NCEES. Some NAFTA committee members, including a member from Canada gave information presentations at NCEES meetings. The Members of the NSPS Board of Governors were charged with taking the draft MRD back to their state associations for discussion after the 4th Formal meeting in Oaxaca. Canada's accrediting board is within the professional association, and is, of course informed. It prefers to see the MRD in its final form and develop a plan in concert with ABET on how to facilitate the agreement. It takes the view that the task is the same before as it is after the agreement is made. If it fails, it has not wasted its resources.</p>
<p>USCIEP believes that the issues noted above such as the absence of minimum education requirements indicates that close collaboration between NSPS and relevant organizations such as ABET Inc., the California Land Surveyors Association, NCEES and others did not occur.</p>	<p>As stated above, a respected highly placed NCEES member was on the NSPS NAFTA negotiating team. The California Land Surveyors send a representative to the Board of Governors meetings twice yearly. The Board unanimously approved the draft MRD for circulation and study by the State Affiliates about three years ago. Unless California was absent, its governor voted in favor of the motion.</p>
<p>Their input would enable the NSPS to craft a more comprehensive document that realistically and sensitively addresses the needs of the U.S. surveying community and the public they serve.</p>	<p>Yes, but it wasn't forthcoming. However, their input would be appreciated, will be reviewed and accommodated where possible.</p>
<p>However, USCIEP members are concerned that NSPS may not be viewed by the surveying community and/or engineering community as the appropriate or authorized body to represent the surveyors' interests.</p>	<p>It has been no secret that NSPS was negotiating the MRD with Canada and Mexico. NSPS and the Canadian Council of Land Surveyors (CCLS) have a signed Memorandum of Understanding that recognizes each other as the national surveying association representing their respective countries. Each has provided liaison representatives to the other's Annual and Special Meetings for at least twenty years. NSPS is a Member Organization of the American Congress on Surveying and Mapping (ACSM). ACSM is a member of the world-wide Federation International de Geometre (FIG). NSPS is a sponsor through ACSM and therefore has representation at FIG.</p> <p>At the first Formal NAFTA meeting in Fort Worth Texas in 1996, the first motion presented was for each to identify itself as the proper and rightful representatives of the professional surveying associations and surveying professionals of its respective country and further, to accept the proclamation of credibility not only on face value of the testament but upon general knowledge of professional life in North America.</p>

	<p>No one and no association has ever challenged that.</p> <p>NSPS has received that endorsement from its Trade Representative and CCLS has likewise received a letter from the Federal Minister of Foreign Affairs and International Trade confirming that it should proceed with negotiating the MRD.</p> <p>What interest has the engineering community in our MRD?</p>
For example, ACEC stated its membership would consider NCEES to be the most qualified body to spearhead negotiation efforts.	Who is ACEC?
USCIEP fears that confusion and disagreement about NSPS authority may undermine the acceptance and implementation of the MRD.	There has never been confusion and disagreement about NSPS authority.

Legal review of proposed MRD for surveying

To assist USCIEP, NCEES obtained legal opinions from two firms, Fulbright and Jaworski, LLP and Miller and Chevalier Chartered.	<p>Response</p> <p>The present MRD is under review by the appropriate government agencies and their attorneys.</p>
Key, and what many would consider basic, provisions are not included. The MRD lacks a statement of the scope of the agreement in terms of specific professions, titles and activities covered.	Specifics usually give rise to omissions and hence, law suits. If there is better language to be suggested, it will be considered.
It's also lacks a specific listing of minimum qualifications, diplomas and licenses the parties are prepared to recognize.	That suggestion is inconsistent with the three pillars of this agreement; fairness, reciprocity and that a license, granted by a jurisdiction whose process is designed to guarantee as professional and competent member as any other signatory jurisdiction, is a license.
Also, there is no clear statement about the purpose of the agreement to promote and-	The protection of the public interest as opposed to the protection of the public from an armed aggressor or invader is not within the scope of an international agreement. As for the NAFTA, it is the Economic Interest of the nation that is paramount. Public protection is clearly a state or provincial matter and the statutes show that. It is the intention of the framers of this document that the foreign professional must adhere to local laws. How could it be otherwise? Would wordsmithing make that clearer?
clearer definitions would be helpful. As one attorney wrote, "Definitions in the draft MRD	Wordsmithing is needed here.

<p>are imprecise, resulting in ambiguous meanings of important provisions.” For example, the relationship among the terms "Land Surveying," "Boundary Line Determination" and "Geomatics" is imprecisely defined.</p> <p>The definition of the term "geomatics" in Part 1, Article II includes the term "land surveying". The terms "Ratification", "Implementation," "Document", and "Provisions" are undefined in Part 1, Article X.</p>	<p>There are many international definitions of the word “Geomatics”. The FIG modified to meet North America’s needs may be the best to refer to.</p>
<p>A definition is provided for "Practice of Land Surveying," but that term is not used elsewhere in the document. Related terms used elsewhere in the document but not defined in Part 1, Article III, include the following: "survey or geomatic activity" (Part I, Article 1 last paragraph) ,"professional surveying” (Definition of Licensing, Part I, Article II), "Land Surveying (Boundary Line Determination)" (Heading of Part II), “surveying and mapping functions” (Part II, Article I, Part II, Article I), "land surveying" (Part II, Article III, paragraph 3) "surveying or land surveying" (Part III, Article II, paragraph 3),“Expanded Areas of Surveying and Mapping (Geomatics)" (Heading of Part III)</p>	<p>Possibly more wordsmithing</p>
<p>There is no definition of or process for implementing the term "found guilty of performing boundary line determination on a limited license" found in Part I, Article VI. No processes for determining when a foreign service provider has exceeded the terms of a "limited license" are provided.</p>	<p>Needs to be studied, but why wouldn’t the process be the same for a foreign surveyor as for a domestic surveyor? The rules and methods in the host jurisdiction would prevail upon conviction after due process. As to exceeding the terms of a “limited license”, it would be the same as any professional in any ethics-based system who affronts the Code of Ethics by practicing beyond his/her competence or beyond the scope of the limitation of the license.</p>
<p>Provisions for "lawsuits" (Part II, Article V and Part III, Article III) appear to place unintended limitations on the jurisdiction of U.S. courts. For example, by providing that "lawsuits will be instigated by aggrieved persons in the jurisdiction in which loss or damage was suffered," the provision might be read not to allow a lawsuit in another jurisdiction where personal jurisdiction might</p>	<p>If one is going to practice in a foreign jurisdiction, one should be governed by local laws for the protection of the people for whom one is working in that jurisdiction.</p>

<p>be appropriate (e.g. the forum where a defendant is resident, which may not be the jurisdiction where the loss or damage was suffered.)</p>	
<p>The “Dispute Resolution” provisions of Part I, Article X may be inadequate to serve their intended purpose. For example: The MRD contains no explicit agreement for R S Os or Jurisdictions to follow the directive of a Panel, and no explicit agreement that the proper sanction for failing to do so includes removal from Schedule A or Schedule B, as appropriate. There is no procedure for applying for reinstatement to Schedule A or B, and no entity is empowered to review such an application. Procedures for establishing Panels are only cursorily provided, and only in the Definitions sections of Part I, Article II.</p>	<p>Look to Chapter 20 of the NAFTA for “Dispute Resolution”, “directive of a Panel”, “proper sanction for failing to do so”, “removal from Schedule”, “reinstatement to Schedule”, “review”, and “Procedures for establishing Panels”.</p>
<p>Revise the MRD to not only incorporate clearer definitions and address issues detailed in this letter, but also to build-in the education standards and assessment mechanisms.</p>	<p>Incorporate clearer definitions. To build-in the education standards is inconsistent with the three pillars of this agreement. The assessment mechanisms will be different in each country. For instance, the service provided by ABET is done by the professions in Canada, in accordance with the professions enabling legislation. Mexico will undoubtedly rely on the Colegios. All this can be done once it is known that we have an agreement. The educators do not have a say is to “if” there is an agreement. They have to determine how to accommodate the change.</p>
<p>If NSPS has not already done so, submit the MRD for formal legal review to attorneys specializing in NAFTA issues.</p>	<p>The USTR has indicated that its attorneys will be examining it.</p>
<p>USCIEP believes it is unwise for NSPS to sign the MRD without obtaining some formal endorsement by the majority of the U.S. licensing boards that regulate the practice of land surveying. Therefore, we suggest that NSPS submit the MRD to the NCEES Member Boards for review and request their input at a face-to-face forum such as the NCEES zone meetings or at the NCEES Annual Meeting.</p>	<p>The NAFTA provides that professional Associations may make sub-agreements to improve the cross-border trade in services. The survey associations in Canada and Mexico are masters of their destiny and have made it clear that they will negotiate in accordance with the agreement. Each of the national survey associations are free to seek advice where they want, but the CCLS and FECITEUM A.G. will only sign with NSPS. It is the final arbiter.</p>
<p>If NSPS has not already done so, contact ABET, Inc. to explore how the content of</p>	<p>Eventually the accrediting bodies for the three countries will have to meet to deal with</p>

surveying programs in Canada and Mexico could be evaluated to determine their substantial equivalency to the content of accredited programs in U.S. schools.	the new reality, if an agreement is reached.
USCIEP believes the document is too imprecise and permissive as it currently is written to be an effective and practical vehicle for cross-border practice.	NSPS welcomes constructive criticism that does not undermine the three basic premises upon which the present MRD7 was based and built the trust that allowed for the progress made to date.

Reply No. 3

Letter to: L.G. "Skip" Lewis, Jr., P.E. Chair United States Council for International Engineering Practice Council (USCIEP) From: USIEP Monitoring Committee November 20, 2003	Response
B.2.1 ---- it appears that Texas' intent is to participate in an appropriate manner with the engineers' MRD negotiated by engineering representatives of Texas, Canada and Mexico.	The NSPS hopes that the process will not become fractured in this manner.
B.2.2 --- the document that is too imprecise and vague to warrant support and endorsement by the USCIEP.	See comments above
From the committee's perspective, it appears the MRD would effectively grant the right to practice without regulatory oversight in host jurisdictions to land surveying practitioners who perform all forms of surveys except boundary surveys, which would, of course, be subject to regulatory control.	Correct, as to the granting of the right to practice. The actual practice including the public protection issues are not affected because the "how to" statutes are not involved. Controlling the right to practice has a self-serving appearance that could arouse public suspicion against a group outside the profession that seek that control.
Part III of the MRD applies to geomatics.	The entire document applies to geomatics.
It appears that geomatics is unregulated in Canada and Mexico.	Wrong. Boundary surveying (known as cadastral surveying) is regulated in Canada. All of the scope of geomatics appears to be regulated in Mexico, at least it is exclude to the licenced professional.
For purposes of our review, we interpret geomatics to mean "non-boundary surveys.	Since the interpretation by the monitoring committee of geomatics is wrong, the observations, conclusions and recommendations are probably flawed.
If NSPS' intent is to facilitate the unregulated practice of non-boundary surveys by Canadian and Mexican practitioners in the U.S. jurisdictions ----	There is confusion again by the monitoring committee between "unregulated Practice" and "unregulated entry into the profession". As to the observation that the practice of non-boundary surveys would be unregulated, it defies the ability of the NSPS NAFTA Committee to see anywhere in the document that there is a proposal to deregulate that

	<p>which is regulated or in any way permit a foreign surveyor to ignore practice regulations. Entry into the profession is, and it is intended that it should continue to be regulated in the home jurisdiction of the foreign surveyor. The host jurisdiction must have approved the process by which the foreign surveyor obtained a license, or the host jurisdiction would not have become a signatory.</p>
<p>--- then it seems that unlicensed surveyors in any jurisdiction of the U.S. could demand equal treatment with respect to non-boundary surveys.</p>	<p>This logic is based upon the lack of understanding of the MRD and the resulting premise derived from the misunderstanding.</p>
<p>The committee noted from the questionnaire answers that apparently both Canada and Mexico currently allowed the unregulated practice of non-boundary surveys.</p>	<p>Discussions with the Mexicans during the meetings since the “Questions” document was prepared indicate that the license and practice regulations apply to all geomatic activities.</p> <p>In Canada, Saskatchewan, Ontario, Quebec and the federally chartered Association of Canada Lands Surveyors (ACLS) license or register other branches such as Photogrammetrists, Geodesists, Hydrographers and Geographical Information Managers. Some practice standards are in place. The unregulated practice of non-boundary surveys is permitted elsewhere and licensing of the above branches is not mandatory.</p>
<p>If that is indeed the case, it seems imprudent to give away a surveying licence to Canadian and Mexican practitioners to undertake such activity in the U.S. when there would be no restrictions on U.S. practitioners crossing the border to undertake unregulated surveying practice in Canada and Mexico.</p>	<p>True, but that reason is inconsistent with the three pillars that have been championed by all three NAFTA Committees and make the promulgation of such an agreement possible. If this argument is of such importance to NSPS, the agreement will fail.</p>
<p>Under NAFTA there should be no restraint for U.S. surveyors who are obtaining NAFTA visas to provide unregulated professional services in Canada or Mexico.</p>	<p>That is the <i>de facto</i> situation for US surveyors looking to expand their markets in Canada and similarly in those states in the US for Canadian surveyors. The situation is not as clear for US surveyors looking to expand their markets in Mexico, but Mexican surveyors, like Canadian surveyors can expand into those US states which lack practice regulations.</p>
<p>Another feature of the Part III provisions would be that U.S. jurisdictions that sign onto the MRD would grant full reciprocity to Canadian and Mexican surveyors who hold “licenses” in those countries.</p>	<p>Yes.</p>
<p>In Mexico, it appears questionable that any credentialization other than the “diploma” would</p>	<p>See above.</p>

be needed to qualify. To the best of our knowledge there is no accreditation criteria established to evaluate the academic programs leading to a diploma in any of the degrees listed by Mexico and no program by which to determine substantial equivalency between the educational standing in Mexico with similar requirements in the U.S.	
All this seems to be at odds with the preservation and protection of the general public interest.	See above
Further, although it appears the provisions of both Part II and Part III do call for some type of license to be issued for Canadian and Mexican practitioners entering U.S. jurisdictions it would require U.S. Member Boards that issue a single land surveying licence to bifurcate their system and records into two branches: Boundary Surveys and Geomatic (Non-Boundary) Surveys. This arrangement flies in the face of most, if not all, state boards of registration for land surveyors.	Discussed above. The NCEES Model Law is not two-tiered as California argues. Instead, it resembles the “ethics-based” model of the engineers. This model would not require a “two-tiered” license, it only requires the foreign surveyor to confine his/her activities to those areas of practice in which he/she has proven competence and which are consistent with the provisions of the MRD.
The MC also noted that the MRD is silent on prescriptive requirements for Certificates of Authorization, which are required as part of licensure in many of the U.S. jurisdictions. The same may be true for some of the Canadian provinces.	See above
NSPS should, if it has not already done so, contact the TAC of ABET to explore some way the surveying program content of schools within Canada and Mexico could be evaluated to determine their substantial equivalency to the standards of U.S. programs.	The committee expects that this is a task that lies ahead for each country and that the timing for this follows the successful negotiation of an MRD that is acceptable to all three countries.

Reply No. 4

Letter to John R. Fenn, President, N.S.P.S. from California Land Surveyors Association Dated October 2, 2003	Response
We presume that it is not by coincidence that the M.R.D. and the Model Law sections regarding Surveying as proposed at the NCEES Annual Meeting, share much in common.	It probably is a coincidence.
Both reflect the N.C.E.E.S. and N.S.P.S. thinking that a two-tier license for surveyors is desirable and inevitable.	If the operative word is “thinking”, then it is not within the competence of the NSPS NAFTA Committee to know what NCEES is thinking. However, its actions are clearly the opposite. The NCEES Model Law, in its final form contains an ethics-based style of license.
While the Model Law definition provides for two-tiered licensing (non-boundary) or (boundary) ---	See above.
We find the framework of the M.R.D. to be the most plainly stated description of the two-tiered	Yes, but that issue is not critical. An ethics-based license is gaining favor in Canada, and, as stated

system ever put forth in a public document.	above, that is the type of license that the NCEES Model Law proposes. Ontario proposes to move from product-based standards to process-based standards in conformity with the world preferences. (e.g. ISO standards.)
It focuses on providing for two types of surveyors and thus two types of licenses	That can be addressed.
--- the Boundary Surveyor and the Geomatics Surveyor.	As discussed above, geomatics includes boundary surveying. Preferable to refer to “boundary or cadastral” and “non-boundary”.
1. We do not want a system that would allow insufficiently qualified individuals to obtain a license to practice in California.	The committee agrees and welcomes suggestions to make that position clear, remembering that the state surveying professionals are the final arbiter in deciding whether or not to be a signatory.
2. We do not want a system in place that would provide for licensure by reciprocity under more favorable terms than those imposed on our own citizens.	The committee agrees and welcomes suggestions to make that position clear.
3. We do not want to see an abuse of the “temporary license”, which could provide licenses of limited duration to individuals who would not have to take and pass an examination to demonstrate their competence to practice surveying.	The system in Canada requires up to two years practical experience under contract to a professional, during which period, the student’s progress is monitored and quarterly reports are handed in. The breadth of experience is examined and if not broad enough, the student is seconded to another firm where the deficiencies may be remedied. This follows a four year survey, survey science or survey engineering university program at the baccalaureate level. After the two years experience period, the student must successfully pass Statutes and ethics exams. The pass mark ranges from 65% to 75%. Mexico may need to implement such a system after the MRD is concluded. It should not be expected to alter its process if it continues to operate under the general NAFTA provisions without an MRD.
The M.R.D. is an agreement between the primary representative organizations of the three nations’ surveyors, but it is not an agreement signed by the individual licensing boards or jurisdictions of the states or provinces of the three countries.	The “jurisdictions” have the final hammer. They will or will not sign the Schedule, meaning that the MRD will or will not apply to such jurisdiction.
This begs the question of how the N.S.P.S. or any other organization of private professionals can position itself to negotiate provisions of reciprocity, which are in fact, governed by the individual states and jurisdictions.	Correct. The individual state or jurisdiction can sign on or not. It is entirely up to them.
The M.R.D. also contains provision for a panel, made up of members of the representative survey organizations, to give directive to a state or jurisdiction not acting in accordance with the M.R.D.	As set out in the NAFTA, Chapter 20.
There is no legal basis for a state or jurisdiction to adhere to such directives.	As set out in the NAFTA, Chapter 20.
At the present time, the C.L.S.A. and the	This paragraph is based upon incorrect

<p>California Board of Professional Engineers and Land surveyors are of like mind with respect to the Model Law regarding surveying. No one should be licensed in California who has not demonstrated at least minimum skills and knowledge through successfully taking and passing a professional-level examination. We generally feel the N.C.E.E.S. national examination is not rigorous enough, or includes laws, rules and regulations on California practice, to ensure a minimum level of competency to practice surveying in California. Therefore, to be licensed in this state, one must take and pass both the N.C.E.E.S. national examination and the California state specific P.L.S. examination. Therefore, we oppose those elements within the Model Law. With the N.A.F.T.A. M.R.D., so closely related to the Model Law in conceiving the two-tiered system as a shortcut to reciprocity, the C.L.S.A. opposes the M.R.D. as currently drafted.</p>	<p>information.</p>
<p>The C.L.S.A. hereby requests that the NSPS take this letter into consideration and rethink the M.R.D. C.L.S.A. further offers our assistance in amending and revising the offending portions of the M.R.D. in order to help bring the C.L.S.A., and other surveying organizations with similar concerns, back into the fold.</p>	<p>The NSPS NAFTA Committee welcomes constructive criticism that clarifies the meaning and intent of the MRD. NSPS is not interested in entering into any agreement that puts the surveying community at a disadvantage. It recognizes, however, that Canada and Mexico are of the same mind. We therefore reiterate the three pillars upon which the agreement stands; fairness, reciprocity and that an ACCEPTABLE license is a license. The word acceptable is capitalized because that point is always being missed. After the MRD has been agreed upon, the host jurisdictions will decide if a foreign license is acceptable, or which foreign license is acceptable. The MRD has a sunset clause that can be invoked after as little as 3 years and there are other withdrawal provisions</p>