

APPENDIX "B"

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MEMORANDUM OF UNDERSTANDING

BETWEEN

NATIONAL JOINT COUNCIL BARGAINING AGENTS

WHEREAS: The Canadian Human Rights Tribunal in Moore and Akerstrom, CHRC File No.: T.D. 8/96, has found that Treasury Board and member Bargaining Agents of the National Joint Council are signatories to agreements which discriminate against same-sex common-law spouses on the ground of sexual orientation:

The parties agree to the following in order to eliminate the discrimination identified by the Tribunal:

1. for purpose of this Memorandum, 'employees' shall mean all employees for which the Treasury Board is the employer and who are represented by a member of the National Joint Council as Bargaining Agent;
2. that, for greater certainty, the "benefits" referred to in the Memorandum shall be understood to include leave as well as allowances, reimbursements, perquisites and other spousal entitlements provided directly or indirectly by or on behalf of the employer to or for the benefit of an employee and, further, shall be understood to include all spousal benefits provided under collective agreements as well as spousal benefits provided outside of collective agreements;
3. all benefits to which employees in spousal relationships are entitled shall be granted without regard to sexual orientation;
4. that, it is necessary to amend existing language which on its face may discriminate on the basis of sexual orientation;
5. that, further, the elimination of such discrimination requires the recognition and appropriate interpretation of provisions which, although neutral on their face, may have the effect of providing lesser benefits to employees in same-sex spousal relationships than those benefits received by employees in opposite-sex spousal relationships;
6. that, in order to achieve the intent of paragraphs 3, 4 and 5:
  - a) any definition of spouse or spousal relationship in agreements should be written without reference to gender (see Appendix I).
  - b) the parties agree that a spousal declaration which does not feature gender specific language (see Appendix II) should be relied upon by the employer to recognize a spousal relationship for the purpose of spousal benefits;

Signed at Valleyfield, Quebec, this

day of the month of

1996.

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## APPENDIX I

### I - SPOUSE - PROPOSED DEFINITION - COLLECTIVE AGREEMENTS

spouse means the individual who has been identified by the employee as the employee's spouse in the declaration provided by the employer and signed by the employee.

### II - PROPOSED DEFINITION - FOREIGN SERVICE DIRECTIVE

spouse means the individual who has been identified by the employee as the employee's spouse in the declaration provided by the employer and signed by the employee, and attached as the Appendix to this directive; for purposes of the Foreign Service Directives, the acceptability of the spouse accompanying the employee must be authorized by the Deputy Minister of Foreign Affairs, following consultation with the Head of Mission and the deputy head of the employing department;

## APPENDIX II

### PROPOSED DECLARATION

#### Spousal Declaration

This declaration will serve to designate my spouse as a dependant for purposes of all benefits, leave, allowances, reimbursements, perquisites and other spousal provisions and entitlements provided directly or indirectly by or on behalf of the employer to or for the benefit of an employee, either under or outside of collective agreements.

I, ....., declare that

(a) I am legally married to .....

or

(b) I have co-habited with ..... for a continuous period of at least one year and continue to do so. During this time, I have publicly represented.....as my spouse and our spousal relationship has been recognized in the community or communities in which we have lived.

Signed ..... Date.....  
Employee

Signed ..... Date.....  
for the deputy head